

Applicant Guide to the State Environmental Review Process (SERP)



State of Oregon
Department of
Environmental
Quality

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Revolving Fund**

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*DEQ is a leader in
restoring, maintaining
and enhancing the quality
of Oregon's air, land and
water.*

Applicant Guide to the SERP

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Contact DEQ's Office of Communications & Outreach, Portland, at (503) 229-5696, or toll-free in Oregon at 1-800-452-4011, ext. 5696.

Applicant Guide to the SERP

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1. Intent

The intent of the State Environmental Review Process (SERP) is to ensure that Oregon Department of Environmental Quality (DEQ) - Clean Water State Revolving Fund (CWSRF) loan applicants consider environmental impacts early in the planning process. Considering environmental impacts is done by complying with applicable environmental laws, consulting with appropriate environmental agencies, and integrating any mitigation measures required by the environmental agencies consulted.

In this guide you will find information on how to demonstrate compliance with federal cross cutting authorities, obtaining a categorical exclusion, doing an environmental assessment or an environmental impact statement, and when DEQ may accept environmental reviews from other agencies.

1.1 Applicability

Applicants requesting DEQ CWSRF funding include municipal wastewater collection and treatment systems (Clean Water Act section 212 projects), non-point source pollution control (section 319 projects), and estuary protection projects (section 320 projects). All proposed projects must demonstrate environmental compliance with the federal cross cutting authorities. All proposed section 212 projects must also obtain an environmental determination within the appropriate SERP environmental track.

CWSRF projects are required to demonstrate compliance with federal cross cutting authorities. Cross cutters, as they are often called, refer to applicable environmental laws and executive orders. Federal and other state agencies with cross cutting authority determine compliance with these laws or executive orders. It is the responsibility of CWSRF applicants to consult with these cross cutting agencies to evaluate impacts to resources including historical or cultural properties, wetlands, farmland, water bodies, flooding, endangered and threatened species, air quality, water quality, and land use compatibility.

Applicants seeking interim loans for projects funded by a Federal or other state agency must meet DEQ's CWSRF SERP requirements. If an environmental report has been completed previously by a different agency and an environmental determination has been issued within the past five years, this may show environmental compliance.

DEQ will identify the appropriate track for and extent of environmental analysis required. The environmental track is based on the proposed project's potential environmental impacts.

Some of the factors that will be used to determine the significance of these effects include the existence of sensitive resources, the potential for irreversible impacts, the duration and frequency of effects, the potential for secondary and cumulative impacts and the uniqueness of potentially affected resources.

After review of the environmental documentation DEQ will issue a CE, a Finding of No Significant Impact (FONSI) based on an EA, or a Record of Decision (ROD) based on an EIS. A mandatory 5-year reevaluation of the project is necessary if the applicant requests reaffirmation or a modification of a previously issued CE, EA FONSI, or a decision contained in a previous EIS or ROD.

1.2 DEQ Contacts

A CWSRF Project Officer in your DEQ region will assist you, when you have questions. You will find contact information for CWSRF Project Officers on the DEQ website at <http://www.deq.state.or.us/wq/loans/docs/regionalcontacts.pdf>.

2. Summary

Oregon's CWSRF SERP is comprised of three tracks: the Categorical Exclusion (CE) track, the Environmental Assessment (EA) track and the Environmental Impact Statement (EIS) track. Each of these three tracks requires an environmental review document describing the project, and its impacts to resources (if any).

3. Demonstrating Compliance With Federal Cross Cutting Authorities

Cross cutters refer to the applicable federal environmental laws and Executive Orders. Federal and other state agencies with cross cutting authority determine compliance with these laws or Executive Orders. It is the responsibility of CWSRF applicants to consult with these cross cutting agencies to evaluate impacts to resources. The table below outlines each cross cutter and the necessary steps an applicant must take to demonstrate compliance. A separate contact list for cross cutter agencies is on the DEQ website at: <http://www.deq.state.or.us/wq/loans/envreview.htm>

3.1 Historic/Cultural Resources - (NHPA) 1966 & (AHPA) 1974

1. When all work of the project is within the footprint of an existing facility on previously disturbed land, such as equipment upgrades at an existing pump station or treatment plant, there is no need for a Section 106 consultation. Make sure submitted environmental documentation provides information from which DEQ can make this determination.

OR,

2. Review National Register for listed districts, sites, buildings, structures, and objects in the proposed project area that are significant in American history, architecture, archeology, engineering, and culture. <http://www.nps.gov/nr/>.

3. Consult with Oregon's State Historic Preservation Office (SHPO) to determine whether any information exists to indicate that the project area is likely to contain cultural resources.

- If not, document the SHPO response in the environmental report for the project.
- If the area does or could contain cultural resources, SHPO may suggest that a cultural resources survey be performed prior to beginning work, and/or that cultural resources monitoring occur during the project.

4. Contact Karen Quigley, Executive Director of Oregon's Legislative Commission on Indian Services (Karen.Quigley@state.or.us) using the Applicant Guide to the SERP Attachment 1 template for this communication. Karen will reply with the appropriate tribal governments for you to notify.

5. Review the Legislative Commission on Indian Services web site at www.leg.state.or.us/cis/ to find contact information for Cultural Resource Coordinators for each federally-recognized tribe. Based on feedback from Karen Quigley, contact the appropriate Tribal Cultural Resource Coordinator(s) using the Applicant Guide to the SERP Attachment 2 template for this communication. Attach a description of the project and maps [preferably a vicinity map and a detailed USGS map, if available] showing the project location.

Many tribal nations have limited resources and multiple priorities for the cultural resources work, and it is important to provide sufficient time for review by interested tribes. If you haven't received a response from the tribal cultural resources coordinator 30 days after sending this communication, follow-up by calling them to let them know that your community will move forward with the proposed work unless they have any information or concerns to share with you. Document this communication for the files. If a tribal cultural resources coordinator requests more time to review the project, accommodate the request if at all possible.

In some cases, a tribe might be more willing to share information about cultural resources at a site with DEQ or EPA, rather than with the applicant. Stay in touch with your DEQ Regional SRF Project Officer to know if this occurs. Using the Applicant Guide to the SERP templates will clarify for the tribe that the request is linked to federal cultural resource protection requirements. Information provided by a tribal nation may suggest that a cultural resources survey be performed prior to beginning work, and/or that cultural resources monitoring occur during the project.

6. Submission to DEQ.

- a. Documentation supporting the historic/cultural resources cross cutter is:

Information from which DEQ can verify the basis for the Historic and Cultural Resources determination, including copy of all concurrence letters and/or environmental determinations if received from SHPO and the Tribes related to this project;

- b. Separately listed mitigation measures including:
- the Archeological and Historic Preservation Act (AHPA) provision for construction requiring coordination with Department of Interior if historic properties are discovered after the project has begun and potential adverse effects may occur; and
 - any additional measures required by SHPO and/or the Tribes.

3.2 Protection of Wetlands - EO 11990 (1997)

1. Print wetland inventory map(s) from the Oregon Division of State Lands (DSL) website for the project area. <http://www.oregonstatelands.us/DSL/WETLAND/swwi.shtml> Compare the wetland map to the project map. If wetlands will not be affected by the construction, staging, or result of the project the DEQ CWSRF Project Officer can make a No Effect determination requiring no further consultation.

OR,

2. Complete a Wetland Determination Request form and submit to DSL (allow 30 days response). The form is located at:
http://www.oregonstatelands.us/DSL/PERMITS/docs/wetland_determ_req.pdf

3. Submit the form to:

Wetlands Team Leader
Wetlands and Waterways Conservation Division
Department of State Lands
775 Summer Street NE, Suite 100
Portland, OR 97301

4. After reviewing the form, DSL will determine if additional investigations or mitigation measures are required.

5. Submission to DEQ.

Documentation supporting the wetlands cross cutter is:

- a. Copy of all printed wetlands inventory maps with a comparison to project maps of the same location(s) related to this project;
- b. Copy of response from DSL Wetlands and Waterways Conservation Division, if one was requested; and
- c. Separately listed mitigation measures (if any) required by DSL.

3.3 Flood Plain Management - EO 11988 (1977) & EO 12148 (1979) 1

1. When all work of the project is within the footprint of an existing facility, there is no need for consultation. (For example, equipment upgrades at an existing pump station or treatment plant.) Make sure environmental document provides information from which DEQ can make a determination.

OR

2. Contact City or County Floodplain Manager to inquire if a permit is required. The Planning Director may also be the Floodplain Manager.

3. Review Federal Emergency Management Agency (FEMA) for local Flood Insurance Rate Maps (FIRM) <http://www.fema.gov/hazard/map/firm.shtm>

4. Determine if project is within or will affect a 100-year floodplain.

a. If project is outside a 100-year floodplain and no impact has been identified, the action may proceed without further consideration of the remaining procedures. Documentation within the file should include at a minimum of FIRM plate maps references.

b. If project is within a 100-year floodplain, complete the following actions:

- i. Create and distribute early public notice of proposed project.
- ii. Create a floodplain assessment,
- iii. Explain alternatives, mitigation measures or design modifications,
- iv. Submit findings to DEQ for preliminary finding,
- v. DEQ submits findings to FEMA to solicit recommendations or modifications to project design.

5. Other federal agencies and DEQ engineers may have other mitigation requirements if the project is within a 500-year floodplain.

6. Submission to DEQ.

- a. Documentation supporting the flood plain cross cutter is:
- b. Copy of all printed FIRM maps with a comparison to project maps of the same location(s) related to this project;
- c. Copy of response from Floodplain Manager, if one was requested;
- d. Verification supporting required permits have been obtained; and

- e. Separately listed mitigation measures (if any) required by Floodplain Manager, other federal agencies or DEQ engineers.

3.4 Farmland Protection Policy Act (1981)

1. There is no need for consultation with the Natural Resource Conservation Service (NRCS) when all work of the project is either:
 - a. On previously disturbed land within the footprint of an existing facility *or*
 - b. Inside the incorporated limits of a city.Make sure the environmental document provides information from which DEQ can verify the basis of the determination.
2. Initiate contact with the county planning department to:
 - a. Determine whether the project site is within an adopted and approved urban growth boundary and,
 - b. Determine whether the project site is within an Exclusive Farm Use (EFU) zone and
 - c. Apply for the use as “utility facilities necessary for public service” as provided in ORS 215.283(d) or 215.213(d) and meet the standards of ORS 215.275.Make sure the environmental document provides information from which DEQ can verify the basis of the determination.
3. Obtain the input of the Natural Resource Conservation Service (NRCS):
 - a. Download and complete parts I and III of Form AD-1006 (<http://www.nrcs.usda.gov/programs/fppa/>) and submit toat*and*
 - b. Request that the NRCS complete parts II, IV and V (Land Evaluation) of Form AD-1006 and offer any advice on further action that should be taken *and*
 - c. Complete parts VI and VII of Form AD-1006 (Site Assessment), requesting input from the county planning department *and*
 - d. Provide the county planning department completed Form AD-1006 for its use in evaluating the proposed project against the standards of ORS 215.275.Make sure the environmental document provides information from which DEQ can verify the basis of the determination.
4. If the county planning department, hearings officer or planning commission deny the proposed project, the option exists to:
 - a. Apply to the county planning department for a “reasons” exception to Goal 3 (Agricultural Lands) under ORS 197.732, using the completed NRCS Form AD-1006 and making an argument for why the use should be sited on agricultural land even though it was determined by the county not to be necessary for public service.Make sure the environmental document provides information from which DEQ can verify the basis of the determination.
5. Submission to DEQ.

Documentation supporting the farmland cross cutter is:

 - a. Copy of all printed maps comparing city boundaries to location(s) related to this project;

- b. Copy of response from county planning department and NRCS if these were requested; and
- c. Separately listed mitigation measures (if any) required by county planning department and/or NRCS.

3.5 Coastal Zone Management Act (1972)

1. Coastal zone management act applies to Clatsop, Columbia, Tillamook, Washington, Yamhill, Lincoln, Polk, Benton, Lane, Douglas, Coos, and Curry counties. When a project is outside of these counties there is no need for consultation. Make sure environmental document provides information from which DEQ can make a determination.

OR,

2. Review coastal zone management plan map at <http://www.coastalatlus.net/> to determine if project is in a coastal management area*.
3. 3. If within coastal zone, contact Department of Land Conservation and Development (DLCD) to obtain consistency determination. DLCD needs information on consistency with local comprehensive plan. If permits are required, DLCD needs completed applications for water quality and air quality permits sent to DEQ and completed application for Removal-Fill permit sent to DSL.
4. Submission to DEQ
Documentation supporting the coastal zone cross cutter is:
 - a. Statement declaring the county in which the project will be built and if a coastal zone management applies;
 - b. Copy of response from DLCD, if one was requested;
 - c. Verification supporting required permits have been obtained; and
 - d. Separately listed mitigation measures (if any) required by DLCD, DSL and DEQ.

*Coastal zone management act applies to Clatsop, Columbia, Tillamook, Washington, Yamhill, Lincoln, Polk, Benton, Lane, Douglas, Coos, and Curry counties.

3.6 Wild & Scenic Rivers 1968

1. Review the National Wild and Scenic Rivers System and determine if proposed project is geographically located within a designated wild & scenic river basin. <http://www.rivers.gov/wildriverslist.html#or> If the proposed project is not within a designated wild & scenic river basin, there is no need for consultation. Make sure environmental document provides information from which DEQ can make a determination.
2. If the proposed project may affect a designated or study river, contact the appropriate agency with jurisdiction including: National Park Service, USFS, BLM, and USFWS.
3. Submission to DEQ
Documentation supporting the wild and scenic rivers cross cutter is:
 - a. Copy of all printed maps comparing wild and scenic river basin to location(s) related to this project and a statement declaring if the project will, or will not, be built within a wild and scenic river basin.

- b. Copy of response from appropriate agency with jurisdiction, if one was requested;
- c. Separately listed mitigation measures (if any) required by the appropriate agency with jurisdiction.

3.7 Endangered Species & Habitat 1973 And Essential Fish Habitat 1976

1. Applicant's Determination

- a. Find out if ESA-listed species, designated critical habitat, and/or essential fish habitat (EFH) exist near or downstream of the project area. Print a recent list of ESA-listed species, designated critical habitat, and EFH for the county/region where the project is proposed. Then determine if any of those species/habitat are present within the action area of the project. The "action area" of the project is defined as all areas that may be directly or indirectly affected by the action. The action area can often extend well beyond the physical project boundaries (i.e., downstream water quality). Use the following websites for your documentation. Submitting printed screens from these sites can expedite the process. Printing and submitting unnecessary website screens will delay the review process. Submitting website screens alone will not substitute for your analysis and determination of effects, and will delay the review process. ESA websites are:

- Oregon Biodiversity Information Center for listings of threatened or endangered plants. <http://oregonstate.edu/ornhic/index.html> or
- US Fish and Wildlife Service (USFWS) to get of list of ESA species in the project area. USFW is responsible for terrestrial and freshwater species. http://ecos.fws.gov/tess_public/pub/stateListing.jsp?status=listed&state=OR
- National Oceanic and Atmospheric Administration (NOAA) National Marine Fisheries Service (NMFS) to get a list of ESA species in the project area. NMFS is responsible for most marine species. <http://www.nmfs.noaa.gov/pr/species/esa/>

EFH website is <http://www.psmfc.org/efh/efh.html>

- b. Analyze the potential impacts to ESA-listed species, designated critical habitat, and EFH (identified in item a. above) as a result of the proposed project, and make your determinations of effect in a written Biological Evaluation (BE). Determinations must be scientifically defensible and should be supported with applicable studies, analysis, and the best available science, tailored to the magnitude and complexity of the project and anticipated impacts. Providing sufficient and defensible information and analysis to support the determinations of effect is the ultimate responsibility of the applicant. Support your determinations with information found in item a. above.
 - i. For ESA the BE needs to determine, for each ESA-listed species and designated critical habitat, either:
 - No Effect
 - May Affect/Not Likely to Adversely Affect (MA/NLAA) or
 - May Affect/Likely to Adversely Affect (MA/LAA)
 - ii. For EFH the BE needs to determine one of the following:

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- No Adverse Effect (made if there is no designated EFH in the action area and no designated EFH that may be impacted downstream).
- May Adversely Affect (made if there is designated EFH or designated EFH that may be impacted downstream).

2. Submission to EPA

Community submits one cover letter and three (3) hard copies of the BE with supporting documentation to EPA Region 10. If the ESA/BE packet is insufficient EPA and the community will coordinate, as necessary, to complete the review. Ultimate responsibility for providing sufficient information and analysis in the BE resides with the applicant.

- a. The **cover letter** must include applicant contact information and a clear statement of what EPA is being asked to do.
 - i. Applicant contact information is:
 - Applicant contact name;
 - Applicant address;
 - Applicant contact email address;
 - Applicant contact phone number; and
 - DEQ Project Officer by name, email address and phone number (helpful but optional)
 - ii. A clear statement of what EPA is being asked to do will consist of:
 - A request to make ESA and EFH determinations pursuant to this project being funded by the Oregon CWSRF; AND
 - the stated determinations made by the applicant as a result of the attached Biological Evaluation.
- b. The **supporting documentation** must include:
 - i. Type of project
 - ii. Detailed project description/proposed action;
 - iii. Project location, including map;
 - iv. ESA-listed species, designated critical habitat and any EFH in the action area;
 - v. Potential impacts to ESA-listed species, designated critical habitat, and EFH;
 - vi. The preliminary analysis of effects;
 - vii. Determination for ESA-listed species, designated critical habitat, and EFH; and
 - viii. Primary Contact information.

3. EPA Response

EPA will respond directly to the Community for the ESA and for EFH.

- a. ESA
 - i. If EPA provides a written ESA “No Effect Determination” letter, consultation is complete and the project can proceed. Make sure to include a copy of the EPA ESA “No Effect Determination” letter in your environmental documentation to DEQ.
 - ii. If EPA determines that the proposed project MA/NLAA ESA-listed species or designated critical habitat, EPA will send a request for concurrence letter to the respective Services.
 - iii. If EPA determines that the proposed project MA/LAA ESA-listed species or designated critical habitat, EPA will coordinate with the applicant and initiate formal consultation with the respective Services.
- b. EFH
 - i. If EPA concurs with your “No Effect to EFH” it will provide a written EFH

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- concurrence letter. Include a copy of the concurrence letter in your environmental documentation to DEQ.
 - ii. If EPA determines that the project may adversely affect EFH, EPA will coordinate with the applicant and initiate EFH consultation with NMFS.
4. Submission to DEQ
- Documentation supporting the ESA/EFH cross cutter is:
- a. Copy of all concurrence letters and/or environmental determinations from EPA and the Services related to this project;
 - b. Separately listed mitigation measures (if any) required by EPA and/or the Services; and
 - c. Biological Evaluation with supporting documents.

3.8 Clean Air Act 1977

1. Consult with Oregon DEQ Air Quality (AQ) Staff when determining if the project will impact air quality.
 - a. Call the appropriate Regional Air Quality contact person to discuss the details of the project.
 - b. Tell him/her that you are fulfilling a Clean Air Act consultation requirement specifically for a Clean Water SRF loan.
 - c. Request a written (email) reply.
 2. The DEQ AQ staff may request that you complete a Notice of Intent to Construct (NC) if there will be direct or indirect emissions during construction or during operations. The form is found at: <http://www.deq.state.or.us/aq/permit/acdp/admin.htm>.
 3. AQ staff will determine if the emissions occur in attainment/non-attainment areas, whether the emissions are de minimus or regulated, and depending on this status what, if any, controls are needed.
 4. Submission to DEQ
- Documentation supporting the clean air act cross cutter is:
- a. Copy of the printed reply from DEQ AQ or Regional Air Quality authority related to this project;
 - b. Separately listed mitigation measures (if any) required by DEQ Regional Air Quality authority

3.9 Safe Drinking Water – 1974

1. Determine if there is a direct and indirect discharge to groundwater from the proposed project.
2. If there is direct and indirect discharge to groundwater from the proposed project, determine if the project is in the vicinity of a sole source aquifer by consulting the following EPA website <http://yosemite.epa.gov/r10/water.nsf/sole+source+aquifers/SSA>
3. If the proposed project is not within a sole source aquifer print a map locating the project relative to sole source aquifers in the state will document this.

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4. If the proposed project is within a sole source aquifer, contact the Oregon Department of Human Services* (DHS) which will assist if further investigations are required to determine whether the aquifer may be contaminated by the project, and in determining alternative sites or devising adequate mitigation measures.
5. If mitigation is necessary with the selected alternative, provide information to DEQ which will coordinate with EPA. EPA may require additional mitigation measures, to be integrated into the project proposal.
6. Submission to DEQ
Documentation supporting the Safe Drinking Water cross cutter is:
 - a. Applicant's determination of direct or indirect discharge to groundwater from the proposed project.
 - b. Copy of the printed map locating the project relative to sole source aquifers in the state and a statement declaring if the project will, or will not, be built within a sole source aquifer.
 - c. Copy of response from DHS if requested.
 - d. Separately listed mitigation measures (if any) required by DHS or EPA.

*Under agreement with EPA, the Department of Human Services is the Primary Agency for safe drinking water in Oregon.

4. Environmental Determinations

The environmental determination is a decision by the CWSRF Project Officer that categorizes the environmental impacts of the resulting project as well as constructing the project. The environmental determinations that can be made and the process for obtaining each are: Categorical Exclusion (CE) for minor rehabilitation of existing facilities and no extraordinary circumstances; a Finding of No Significant Impact (FONSI) through an Environmental Assessment (EA); or a Record of Decision (ROD) concluding the Environmental Impact Statement process. More information on each is provided under separate headings below.

All projects that request CWSRF funding must provide adequate information for the CWSRF Project Officer to make an environmental determination. The process to demonstrate compliance with federal cross cutters informs your CWSRF Project Officer when making his/her environmental determination.

If you have previously completed an environmental report for your project through a different agency please provide that report to your CWSRF Project Officer. Completing an environmental review through a different agency does not preclude you from completing cross cutters.

Applicants seeking interim loans for projects funded by a Federal or other state agency must meet DEQ's CWSRF SERP requirements.

4.1 Categorical Exclusion

A Categorical Exclusion (CE) is determined when the project will not affect the quality of the environment; and will not change the upstream or downstream function of the project or the receiving waters. There will be no environmental impacts resulting from project and no impacts during construction of the project. Obtaining a CE environmental determination from the CWSRF Project Officer concludes the SERP.

Projects may receive a CE determination if it is limited solely to the minor rehabilitation of existing facilities, the replacement of equipment, or the construction of related facilities that do not affect the degree of treatment or the capacity of the facility.

Examples of projects that generally receive a CE determination include:

- Correction of infiltration and inflow
- Construction of small structures on existing sites
- Replacement or rehabilitation of existing equipment and structures
- Modification or expansion of solids processing, storage, or disposal facilities that do not expand liquid treatment capacity
- Process substitution or enhancement that does not expand liquid treatment capacity, such as adding chemical dechlorination, replacing chlorination with ultraviolet disinfection, or adding effluent irrigation facilities
- Installation of groundwater monitoring
- Construction of new collection lines to serve existing development with failing on-site systems
- Minor expansion or upgrade of existing water pollution control facilities of a system serving fewer than 10,000 people.

Examples of projects that will generally not be eligible for a CE will include:

- Construction of new collection lines to serve undeveloped areas
- Construction of a new discharge point or relocation of an existing discharge point
- A substantial increase in the volume or loading of pollutants
- Expansion of treatment capacity sufficient to serve a population that exceeds the existing population by 30 percent or more
- Known or expected impacts to cultural resources, historical and archaeological resources, threatened or endangered species, or environmentally sensitive areas
- Construction of facilities that are known or expected to be highly controversial.
- The proposed action is known or expected to cause significant adverse air quality effects.

If you think your project will qualify as a CE proceed with the steps below, otherwise go directly to the Environmental Assessment section.

Step 1

Establish which federal cross cutters apply to your project. Those that don't apply will require downloading a map or other documentation from a website verifying that the cross cutter does not apply. Federal cross cutting authorities that do apply will require you to contact them in order to demonstrate compliance. The CWSRF Project Officer in your region can assist you with this.

Step 2

Contact the federal and other state agencies for applicable cross cutters and obtain a written

communication from them. We recommend that you use the CE Candidate Project Packet, or something similar, to describe the project, send transmittal memos to the appropriate agencies. Be sure to include the STATE/FEDERAL AGENCY REVIEW form to be completed by the Federal or other state agency and returned to you. The documents in this “packet” are tools to help you demonstrate compliance with federal cross cutting authorities and assemble the information DEQ needs to document a CE determination. A CE Candidate Project Packet form can be found on DEQ’s website at: <http://www.deq.state.or.us/wq/loans/envreview.htm>

Step 3

Assemble the completed and returned STATE/FEDERAL AGENCY REVIEW forms, the transmittal memos, and the Project Description for CE Candidate with any other supporting documents into a single file for the proposed project.

Step 4

Determine if the project includes any extraordinary circumstances, under authority of 40 CFR6.204(b). If any of these circumstances are present the project will not be eligible for a CE and the applicant must follow the EA track. If none of the following circumstances are present, continue to **Step 5**.

- The proposed action is known or expected to have potentially significant environmental impacts on the quality of the human environment either individually or cumulatively over time.
- The proposed action is known or expected to have disproportionately high and adverse human health or environmental effects on any community, including minority communities, low-income communities, or federally-recognized Indian tribal communities.
- The proposed action is known or expected to significantly affect federally listed threatened or endangered species or their critical habitat.
- The proposed action is known or expected to significantly affect national natural landmarks or any property with nationally significant historic, architectural, prehistoric, archeological, or cultural value, including but not limited to property listed on or eligible for the National Register of Historic Places.
- The proposed action is known or expected to significantly affect environmentally important natural resource areas such as wetlands, floodplains, significant agricultural lands, aquifer recharge zones, coastal zones, barrier islands, wild and scenic rivers, and significant fish or wildlife habitat.
- The proposed action is known or expected to have a significant affect on the pattern and type of land use (industrial, commercial, agricultural, recreational, residential) or growth (population growth that exceeds the existing population by 30 percent or more) and distribution of population including altering the character of existing residential areas, or may not be consistent with state or local government, or federally-recognized Indian tribe approved land use plans or federal land management plans.
- The proposed action is known or expected to cause significant public controversy about a potential environmental impact of the proposed action.
- The proposed action is known or expected to be associated with providing financial assistance to a federal agency through an interagency agreement for a project that is

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known or expected to have potentially significant environmental impacts.

- The proposed action is known or expected to conflict with federal, state or local government, or federally-recognized Indian tribe environmental, resource-protection, or land-use laws or regulations.

Step 5

Submit a copy of the assembled documents listed in Step 3 above to the CWSRF Project Officer in your DEQ region.

CE determinations require DEQ to publish a public notice with a 30-day comment period. The final determination as to whether a project qualifies for a CE rests with the DEQ. If the project does not qualify for a CE, DEQ will require the applicant to prepare an EA. Information prepared and compiled to demonstrate a CE can be used to develop an EA report, if required. See this information below.

4.2 Environmental Assessment

The FONSI determination requires a broader environmental analysis of the proposed project known as an Environmental Assessment (EA). It will include alternatives considered in addition to the proposed project.

The DEQ CWSRF has compiled information to assist applicants with developing an EA. It should be prepared in accordance with Section 6 and Appendix C of the document: Guidelines for the Preparation of Facilities Plans and Environmental Reviews for Community Wastewater Projects and Rural Utilities Service (RUS) Bulletin 1794A-602. Both can be found on DEQ's website: <http://www.deq.state.or.us/wq/loans/envreview.htm>

For the purpose of this SERP, applicants referring to the RUS Bulletin 1794A-602 should contact DEQ instead of RUS as the Bulletin indicates.

Clean Water Act Section 212 municipal wastewater projects are typically developed through a wastewater facilities plan which may contain an EA chapter. It is ideal to complete the facilities plan, including the environmental assessment portion, to allow environmental impacts to be a consideration when evaluating potential alternatives and in selecting the final alternative. When the facilities plan does not include an EA, it will be necessary to prepare a freestanding EA, or amend the facilities plan to include an EA chapter.

There are six steps in the EA process:

Step 1

Prepare a detailed environmental review, including an analysis of a no action alternative, in addition to other reasonable alternatives considered.

Step 2

Establish which Federal cross cutting authorities you will be required to contact to demonstrate compliance with the cross cutters. A CWSRF Project Officer in your DEQ region will assist you as necessary. You will find contact information for CWSRF Project Officers on the DEQ website at <http://www.deq.state.or.us/wq/loans/docs/regionalcontacts.pdf>.

Step 3

Contact the appropriate Federal cross cutting agencies for their review and comment. Be sure to obtain a written reply from each agency you contact. The cross cutter section in this guide will assist applicants in providing the necessary documentation to Federal and state agencies to evaluate impacts to resources covered under the cross cutter authorities.

Step 4

Include a chapter demonstrating compliance with any applicable Federal cross cutting authorities in the proposed project's facility plan, or in a separate environmental report. This is the environmental review document for the project, and it should explain action taken by the applicant, include studies and analyses compiled for each cross cutter and any "no affect" letters or letters explaining acceptable mitigating measures received from an authorizing federal or state agency.

Step 5

Incorporate acceptable mitigating measures into the project plans.

Step 6

Submit the EA document to the CWSRF Project Officer in your DEQ region.

DEQ will independently review the EA. DEQ's acceptance of an EA and issuance of a FONSI may be conditioned on implementation of mitigation measures that will be required of the applicant and upon which the loan agreement will be conditioned. These mitigations and conditions will be designed to ensure the project will be environmentally sound and performed consistent with DEQ's findings. These mitigation measures and the steps being taken to ensure their effective implementation will be identified in the FONSI.

All EAs require DEQ to publish a notice of availability with a 30-day public comment period before the EA process is considered complete and the EA can be accepted. DEQ will not execute a design and/or construction loan agreement or otherwise take action on the project until the EA process is complete.

A public hearing or meeting will generally not be held for projects having little or no environmental effect. After completion of the public review period, DEQ will issue the final FONSI.

4.3 Environmental Impact Statement

The Record of Decision is made at the conclusion of an Environmental Impact Statement (EIS) process. Notice of the EIS must include contact information, how to obtain the EIS and any environmental documents incorporated into the EIS.

DEQ's decision to require an EIS will be based on the EA or other information which demonstrates that significant impacts will occur that will not be reduced or eliminated by changes to or mitigation of the proposed action. DEQ might also determine that an EIS is needed based upon information prepared by the applicant or based upon issues raised by the public or agencies with expertise.

If your proposed project requires an EIS, follow these steps:

Step 1

The applicant must publish a notice of intent to prepare an EIS in a state-wide circulation publication and a local newspaper and allow a 30-day public comment period before initiating an EIS.

Step 2

The applicant will also contact affected local, state, and federal agencies, tribes and other interested parties for comments regarding the appropriate scope of the EIS. Include DEQ in the scoping process and to address the Federal cross cutting authorities during the development of the EIS. You will find contact information for SRF Project Officers on the DEQ website at <http://www.deq.state.or.us/wq/loans/docs/regionalcontacts.pdf>.

Step 3

The applicant will prepare a Draft EIS that conforms to the requirements articulated at 40 C.F.R. §1502 and §6.207(d) (2)-(7). The Draft EIS shall address the alternatives and issues identified during the scoping process.

Step 4

Submit the Draft EIS to the CWSRF Project Officer for review and approval.

Step 5

Once it is approved by DEQ the applicant will:

- a. submit the approved draft EIS to agencies with jurisdiction and expertise for their review and comment;
- b. publish notice of availability of the draft EIS in a state-wide publication and a local newspaper, allowing a 45-day public comment period; and
- c. conduct a public hearing on the draft EIS.

Step 6

The applicant will prepare a Final EIS, based on the comments on the Draft EIS, under the DEQ's technical direction. The final EIS must include or summarize all substantive comments received on the draft EIS, respond to those substantive comments, and explain any changes to the draft EIS and the reason for the changes

Step 7

Submit the Final EIS to DEQ with a request for proposed action.

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Upon receipt of satisfactory final EIS, the DEQ will publish it and make copies available to all who commented on the draft EIS as well as to the general public. After a 30-day “wait period” the DEQ will issue a ROD. During the “wait period” no action shall be taken on the project that will have adverse environmental impacts or limit the choice of alternatives. The ROD is DEQ’s final action prior to implementation.

5. Environmental Reviews from Other Agencies

Sometimes applicants seek CWSRF funding for a project for which an environmental review has already been completed by a federal or other state agency. It is the CWSRF program's practice to accept the environmental review document prepared for and accepted by, and the environmental determinations made by, Federal and other state agencies pursuant to their respective NEPA (National Environmental Policy Act) procedures. To do that, the DEQ Project Officer will need:

1. a copy of the other agency environmental determination AND
2. the environmental review documents from which the determination was made WITH
3. a cover letter asserting that;
 - a. the agency's determination was made pursuant to their NEPA procedures; AND
 - b. the agency completed the federal cross cutting authority requirements.

Prior to the CWSRF program accepting another agency's review document and environmental determination two conditions must be met: (1) the scope of project must remain largely unchanged from that which was accepted by the other agency; and (2) the other agency's determination must have been made within the previous five years. The final environmental determination of the project rests with DEQ.

All EAs and CEs adopted from another agency require DEQ to publish a notice of intent to accept another agency's determination with a 30-day public comment period before the EA or CE process is considered complete and the EA or CE can be accepted. DEQ will not execute a design and/or construction loan agreement or otherwise take action on the project until the EA or CE process is complete.

Attachment 1

Legislative Commission on Indian Services communication template

Karen Quigley
Executive Director
Oregon Legislative Commission on Indian Services
Karen.Quigley@state.or.us
(503)986-1068
(via email, or letter)

Karen,

[Community name] is preparing to use federal Clean Water State Revolving Funds (SRF) through the Oregon Department of Environmental Quality to [build/upgrade a waste water treatment facility, etc.] at the following site:

Project name:
Property address:
County:
Nearest city:

[Community name] is constructing a [project description] to [solve what problem].

In accordance with state law, I would like to notify the appropriate tribal governments of DEQ's proposed action and request their review of this project from a cultural resources perspective. Attached is a description of the project and maps [preferably a vicinity map and a detailed USGS map, if available] showing the project location. Could you please let me know which tribal governments to contact for a cultural resources review? If you need additional information about this site, its history or [Community name] proposed work, please let me know.

I am requesting this information as directed by Oregon DEQ as part of an application for the SRF program, which is funded by the EPA and subject to requirements of the National Historic Preservation Act. If you would like more information about the SRF program and/or federal cultural resource protection requirements related to the SRF, please contact [DEQ Regional SRF Officer and their phone number] or David Carcia, EPA CWSRF Coordinator at (206) 553-0890. Thank you for your assistance.

[signed by the Manager]

City Manager (or other appropriate title)
[community]
[address]
Telephone: [phone]
Fax: [fax]
[email]