

DEPARTMENT OF ENVIRONMENTAL QUALITY
Chapter 340
Proposed Rulemaking
STATEMENT OF NEED AND FISCAL AND ECONOMIC IMPACT

Clean Water State Revolving Fund - Use of Federal Funds

This form accompanies a Notice of Proposed Rulemaking

Title of Proposed Rulemaking	OAR Chapter 340, Division 54 Clean Water State Revolving Fund - Use of Federal Funds
Statutory Authority or other Legal Authority	The Oregon Department of Environmental Quality (DEQ) and the Environmental Quality Commission (EQC) have the statutory authority to address this issue under ORS 468.020 and 468.423 - 468.440.
Statutes Implemented	These proposed rules implement ORS 468.423 - 468.440.
Need for the Rule(s)	<p>Congress recently included additional provisions with funding appropriated to the Clean Water State Revolving Fund loan program. State CWSRF loan programs are required to offer their borrowers additional subsidization, and are required to establish a financial reserve to fund "green projects," such as, green infrastructure, water or energy efficiency improvements, and other environmentally innovative activities.</p> <p>The Oregon Department of Environmental Quality must amend the CWSRF loan program administrative rules to accommodate the federal requirements. Without these rule revisions, Oregon's CWSRF loan program will not be eligible for federal capitalization grants.</p>
Documents Relied Upon for Rulemaking	<p>This rulemaking was developed based on the provisions required by federal funding. The principal documents relied upon in preparing this rulemaking include:</p> <ul style="list-style-type: none"> • The October 2009 Interior Appropriations Conference Summary (PDF) • H.R.2996 – Making appropriations for the Department of the Interior, environment, and related agencies for the fiscal year ending September 30, 2010, and for other purposes. • Oregon Administrative Rules Chapter 340, Division 54. <p>Copies of these documents can be reviewed at DEQ's office at 811 S.W. Sixth Avenue, Portland, Oregon. Please contact Larry McAllister ((503) 229-6412, or toll free in Oregon at 1 800 452-4011 x6412) for times when the documents are available for review. These documents are also available online at: http://www.deq.state.or.us/wq/loans/loans.htm</p>
Requests for Other Options	Pursuant to ORS 183.335(2)(b)(G), DEQ requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing negative economic impact of the rule on business.
Fiscal and Economic Impact, Statement of Cost Compliance	
Overview	<p>Adoption of the proposed rule amendments will allow DEQ's CWSRF program to address certain requirements contained in the congressional appropriation. If adopted, the Department's loan program will offer additional subsidization in the form of principal forgiveness to eligible borrowers and establish a financial reserve for green projects. Actual loan awards depend on the availability of program funds and funding priorities as established in rule.</p> <p>Providing principal forgiveness will reduce capital project costs for a small number of Oregon communities, resulting in less financial impact to rate payers for wastewater infrastructure. Establishing the financial reserve for qualifying green projects will result in increased funding for communities investing in sustainable wastewater projects.</p>

	<p>These loans will be available to public agencies (cities, counties, Indian tribal governments, sanitary districts, soil and water conservation districts, irrigation districts, various special districts and intergovernmental entities).</p>	
<p>Impacts on the General Public</p>	<p>The adoption of the proposed rules will have no direct impact on the general public. Borrowers are limited to public agencies. Eligible public agencies will benefit from the additional subsidization when financing their water quality projects. For example, a \$3 million loan made to a qualifying community could include a subsidy of up to a maximum of \$1 million in principal forgiveness. In this example, only \$2 million of a \$3 million loan would have to be repaid to DEQ for the qualifying community.</p> <p>The public will benefit from the water quality improvements made possible by public projects receiving CWSRF loans. Due to variables such as the type and size of the project and a community's population, quantifying specific fiscal impacts to the public from this rulemaking is beyond the scope of this fiscal analysis.</p>	
<p>Impacts to Small Business (50 or fewer employees –ORS183.310(10))</p>	<p>Small businesses are not eligible for the CWSRF loan program, so the proposed rules will have no direct impact on Oregon's small businesses.</p> <p>Providing principal forgiveness may enable some communities to implement water quality improvement projects that may not have been affordable without this incentive. These additional projects may increase the demand for some services provided by Oregon's small businesses such as consulting and construction services.</p>	
<p>Cost of Compliance on Small Business (50 or fewer employees – ORS183.310(10))</p>	<p>a) Estimated number of small businesses subject to the proposed rule</p>	<p>Small businesses are not eligible applicants to the CWSRF program and are not subject to the proposed rules.</p>
	<p>b) Types of businesses and industries with small businesses subject to the proposed rule</p>	<p>There are various types and numbers of companies who might indirectly benefit from the proposed rules. These primarily include consultants and contractors who would be employed to design and construct funded projects.</p>
	<p>c) Projected reporting, recordkeeping and other administrative activities required by small businesses for compliance with the proposed rule, including costs of professional services</p>	<p>There are no additional reporting requirements associated with the proposed rule revisions.</p>
	<p>d) The equipment, supplies, labor, and increased administration required by small businesses for compliance with the proposed rule</p>	<p>No additional equipment, supplies, labor or increased administration is associated with the proposed rulemaking.</p>
	<p>e) A description of the manner in which DEQ involved small businesses in the development of this rulemaking</p>	<p>Because small businesses are not eligible stakeholders within the CWSRF loan program, small businesses were not involved in the development of the proposed rules.</p>
<p>Impacts on Large Business (all businesses that are not "small businesses" under ORS183.310(10))</p>	<p>Businesses are not eligible for the CWSRF loan program. If adopted, the proposed rules are not expected to have any measurable direct impact on Oregon's large businesses.</p>	
<p>Impacts on Local Government</p>	<p>Local governments are the primary borrowers of CWSRF loans. The proposed rule revisions will ensure the CWSRF loan program provides the required additional subsidization to local governments.</p> <p>Providing principal forgiveness to qualifying loans will result in measurable project savings compared to most other financing options available. A city with a qualifying median household income level could be</p>	

	<p>eligible for up to \$1 million in principal forgiveness. This level of subsidization should beneficially impact city sewer rates.</p> <p>Determining specific fiscal impacts to local governments requires information on variables that is beyond the scope of this fiscal analysis.</p>
Impacts on State Agencies other than DEQ	It is not expected the proposed rules will have a measurable impact on other state agencies.
Impacts on DEQ	Adoption of the proposed rule amendments will have no significant impact on DEQ's CWSRF program or other programs within the Department. Providing the additional subsidization and establishing a green project reserve will require additional project evaluation and reporting, but these activities will be addressed with current DEQ resources.
Assumptions	The proposed permanent rules are critical for DEQ to successfully implement the requirements contained in the congressional appropriation. The permanent rules will ensure Oregon's CWSRF loan program continues to address the requirements of the federal appropriation after the temporary rules expire.
Housing Costs	DEQ has determined that this proposed rulemaking will have no measurable effect on the cost of development of a 6,000 square foot parcel and the construction of a 1,200 square foot detached single family dwelling on that parcel.
Administrative Rule Advisory Committee	An advisory committee was not used in developing this permanent rulemaking as this rulemaking does not address new policy issues. A financial work group provided policy direction during the development of the earlier temporary rule language.

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