**CWSRF Temporary Rule**

**Presentation to EQC**

**4/17/09**

**Background**

* The Clean Water State Revolving Fund was established nationally in 1989 with the intention to fund water quality improvements. The program is administered by the U.S. EPA. Oregon’s first loan was made in 1990.
* Currently DEQ offers about $40 million for loans annually
* about $10 million annual capitalization grant from EPA
* the balance from repayments and interest from previous loans
* To date, DEQ has provided $700 million to 130 communities (230 loans total)

**Overview**

The 2009 American Recovery and Reinvestment Act signed into law on Feb. 17, 2009 provides $4 billion in stimulus funding to states through the Clean Water State Revolving Fund loan program.

Key components:

* Minimum 50% subsidization-grants,
* Green project reserve (20%)
* Requires prevailing wages, American iron, steel and manufactured goods (addressed in loan agreement)
* The purchase land or easements not eligible
* Reallocation of funds not under contract within 12 months of enactment

$44 million - Oregon’s share of $4 billion available nationally for CWSRF programs

DEQ must comply with the federal requirements that currently govern the CWSRF program and the new requirements of the Act

Primary changes needed in DEQ’s CWSRF program to accommodate act requirements:

* A minimum 50% of grant for additional subsidization
* 20% of grant be used for “green projects” (green infrastructure, water and energy efficiency, or other innovative activities)

**DEQ approach**

The Act requires all funds be committed to eligible project by Feb 2010 (projects must be committed to contracts for construction or be under construction).

Due to the Act’s expedient nature:

* DEQ has been in constant communication with applicants and prospective communities.
* DEQ is working closely with the Oregon Association of Clean Water Agencies (ACWA).
* DEQ has notified ACWA, League of Oregon Cities, Association of Oregon Counties, Oregon Water Resources Congress and Oregon Association of Conservation Districts and Special Districts Association of possibility of additional funds.

To determine the level of incentive called for by the Act, DEQ convened a Financial Work Group: Doug Waugh, Clackamas County, Mark Yeager, City of Albany, Ray Bartlett, Financial and Economic Analysis.

The Work Group made recommendations regarding effective and appropriate incentives for the stimulus funds given DEQ’s statutory limits, the timeframe of the Act, and the interest in providing as many loans as reasonable to as many communities as possible.

DEQ analyzed various scenarios recommended by the Work Group

 (do we want Rick to put together a couple slides on power point?)

1) Current proposed scenario with 50% and 75% principal forgiveness at 0% interest

2) List of categories of the various projects

3) Handout that expands current applicants list

The following financial incentives and financial elements are being proposed:

* 50% principal forgiveness on all loans
* 75% principal forgiveness on small community loans (serving less than 5,000)
* 0% interest
* Green project reserve – 20% ($8.8 million) reserve/set aside
* $5 million limit on loan amount

**Why principal forgiveness as incentive**

* Allowed by CWSRF administrative rules and statutes
* Recommended by Financial Work Group
* Loan allows additional increase if needed

**Zero Percent interest rates**

* Substantial incentive
* Lowest interest rate possible under current statute
* Recommended by Financial Work Group

**Why we chose not to provide grants**

* Providing grants would require the CWSRF program to comply with federal grant requirements.
* Given the timing of the stimulus funds, DEQ determined the effort to set up a grant program was not in best interest of public given the timeframe of the Act.

**Small Community incentive**

* Determined that an “affordability” threshold (such as median community income) is not always the most effective screening for “needs”
* The rule revisions provide a substantial incentive (75% principal forgiveness) to assist small communities with the cost of projects.
* Readiness to proceed to loan agreement is critical factor for all applicants, including small communities

**October 1, 2008 date**

* EPA General Counsel determined that loans and subsequent debt had to be executed after this date.
* Projects with executed loans after this date can reapply for stimulus funds – required to be listed on IUP to be eligible for loan.
* Agrees with loan structures being established by other state agencies (OECDD, Ecology)

**4% administrative funds not being used by DEQ**

* DEQ administrative costs are funded by fees. The 4% of stimulus funds available for administrative costs will instead be used to provide $1.75 million in additional loans.

**Response from public**

* 140 applications (tenfold increase)
* About $700,000 in proposed projects

**DEQ’s Process**

* Since late 2008, Regional DEQ staff has encouraged communities to apply.
* March – April, applications scored
* Late April, the program’s Intended Use Plan revised
* Early-May, Intended Use Plan out for public comment
* Mid-May, application for $44 million grant submitted to US EPA, Region 10
* Mid-June, grant awarded
* Mid-June execute loans

**Summary**

DEQ intends to follow this temporary rulemaking with a permanent rulemaking to ensure these revisions are available to address any stimulus funds available to DEQ in the future. The permanent rulemaking is scheduled to come before the commission in October.

We recommend the commission adopt the proposed rule revisions as presented in Attachment A and the findings in Attachment B.