

Summary of Public Comment and Agency Response

Title of Rulemaking: Amend the Clean Water State Revolving Fund – Permanent Rules

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Date: August 25, 2009

Comment period

The public comment period opened on July 23, 2009, and closed at 5 p.m. on August 24, 2009. DEQ held three public hearings:

- August 17, 2009 at 6 p.m. at the Jackson County Courthouse auditorium in Medford, Oregon. One person attended this hearing. No comments either orally or written were received at this hearing.
- August 18, 2009 at 6 p.m. at the eastern region DEQ office in Bend, Oregon. No one attended this hearing.
- August 19, 2009 at 6 p.m. at the DEQ Headquarters in Portland, Oregon. No one attended this hearing.

During the public comment period, DEQ received two comments by email and one oral comment during the public forum agenda at the August 21 Environmental Quality Commission meeting in Newport, Oregon.

Organization of comments and responses

Summaries of individual comments and the Department's responses are provided below. The persons who provided each comment are referenced by a letter. A list of commenters and their reference letter follows the summary of comments and responses.

Summary of Comments and Agency Responses	
Comment 1 Commenter A	<p>I would like to thank the DEQ SRF program staff for their hard work in allocating the ARRA (American Recovery and Reinvestment Act) funding. The SRF loan received by CCSD No.1 and its initial funding from ARRA will help provide much needed sanitary sewer service to a portion of Clackamas County that has long wanted this service.</p> <p>CCSD No.1 will need additional allocations to this first loan to assure successful financing of the entire project. Does the source of funds for the initial allocation under this SRF loan agreement have any impact on the ability of CCSD No. 1 to receive additional allocations to this agreement from other funds available to the SRF program? Is this initial allocation, funded by the ARRA, a "one-time" thing and once spent, requires that either the funded project be completed or, if not, be resubmitted to the SRF program for another review and ranking in order to obtain the remaining funding necessary?</p>



<p>DEQ Response</p>	<p>An initial allocation funded by ARRA does not restrict a borrower from requesting an increase of funding from conventional SRF funding. Once funded, a project with the original scope of work does not have to be resubmitted, reviewed and ranked again to acquire an increase in funding.</p> <p>Because the program has limited funds to provide increases to projects, any increases are allocated based on a project's rank and the availability of funds to provide such increases.</p> <p>No changes were made in response to these comments.</p>
<p>Comment 2 Commenter B</p>	<p>ACWA supports the proposed rules. We appreciate our strong working relationship with Oregon DEQ and its willingness to involve local governments in developing this approach to the additional federal stimulus dollars dedicated to clean water infrastructure projects in Oregon.</p> <p>ACWA members are very interested in green infrastructure projects, and many communities are incorporating green elements into their wastewater and stormwater utility improvements including green infrastructure, energy efficiency and renewable energy projects.</p> <p>Loans at 0% interest and the principle forgiveness provisions are very important to the communities that are able to secure a loan under the State Revolving Loan Fund rules. 0% interest rates and principle forgiveness translate into direct savings for rate payers in the communities receiving those funds.</p>
<p>DEQ Response</p>	<p>Comments noted. No changes were made in response to these comments.</p>
<p>Comment 3 Commenter C</p>	<p>DEQ's proposed permanent rules frustrate the intent of Congress and the American Recovery and Reinvestment Act of 2009 (ARRA) by conservatively interpreting how ARRA funds can be spent. ARRA restrictions indicate funds cannot be used to refinance or restructure loans existing before October 1, 2008. ARRA does not restrict states from providing supplemental ARRA funded loans to communities with existing Clean Water State Revolving Fund loans.</p> <p>Congressional intent in establishing ARRA was to fund projects that are ready to proceed and provide the best opportunity to stimulate the local economy. DEQ is proposing that funding be limited to new projects only. Existing projects, evidently because they have arranged for potential funding and completed preliminary ground work, will not be eligible for ARRA funding under the DEQ rule. Inhibiting funding from existing projects will result in a lost opportunity to stimulate the economy.</p> <p>The proposed rules will frustrate the intent of ARRA and the opportunities meant for cities like Coburg. DEQ should follow regulations intended by Congress and the Environmental Protection Agency and not propose additional restrictions on the use of ARRA funds.</p>

DEQ Response	<p>DEQ consulted with EPA in developing the rules and wrote rules to support the intent of the Act to fund new projects that would provide and create jobs. DEQ's intent was not to provide a better loan deal to existing projects, but rather fund new projects, and therefore developed rules based on the agency's appropriate discretion in developing policy to address the use of ARRA funds for new projects.</p> <p>No changes were made in response to these comments.</p>
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<i>List of Commenters and Reference Letter</i>				
Reference Letter	Name	Organization	Address	Submittal Date
A	Doug Waugh, Finance Manager	Water Environment Services, Clackamas County	150 Beaver Creek Road, Oregon City, OR 97045	July 29, 2009
B	Janet Gillaspie, Executive Director	Oregon Association of Clean Water Agencies	537 SE Ash, Suite 12, Portland, OR 97214	August 19, 2009
C	Milo Meacham, Attorney	Lane Council of Governments, representing the City of Coburg	859 Willamette Street, Suite 500 Eugene, OR 97401-2910	August 21, 2009