CWSRF Permanent Stimulus Rulemaking

Presentation to EQC

October 22-23, 2009

**Background**

Since 1990, DEQ's CWSRF loan has provide $700 million to 130 communities for projects improving Oregon's water quality.

Currently, DEQ offers about $40 million in loans annually

* $10 million from an annual capitalization grant from EPA
* the balance from repayments, interest and fees from previous loans

The 2009 American Recovery and Reinvestment Act provided an additional $44 capitalization grant for Oregon's CWSRF loan program in 2009.

**Temporary Rules adopted in April**

The Commission adopted temporary rules in April that amended the CWSRF program to accommodate specific ARRA requirements:

* 50 principal forgiveness to communities,
* 75% principal forgiveness to small communities
* 0% interest loans
* 20% set aside for "green projects"
* CWSRF projects with executed loans prior to 10/1/08 not eligible for ARRA funding
* projects under construction or contract by 2/16/10

**Need for Permanent Rules**

The temporary rules adopted in April expire 10/28/09. DEQ will continue to administer ARRA funds in the immediate future so it is necessary to establish permanent rules that will ensure DEQ is able to comply with ARRA requirements.

**Permanent Rules**

The permanent rules were developed with only minor changes to the previous temporary rules. The similarities and changes between the temporary rule and the proposed permanent rules include:

* Language in 340-054-0104 was amended to better define that the use of ARRA funding only be used for increases to existing ARRA funded loans;
* The October 1, 2008 date is retained as the deadline whereby loans executed prior to this date are not eligible for ARRA funding;
* In 340-054-0106, language was added to better define an eligible project;
* The September 1, 2009 date after which any uncommitted ARRA funds could be allocated to projects above the $5 million limit was eliminated (Since these permanent rules, if adopted, will not be in effect until after that September date, there was no reason to reference that date);
* The $5 million ARRA funding limit per project is retained with DEQ determination of actual loan amounts up to that limit;
* the 20% funding set aside for green projects is retained;
* The financial terms of the loans remain the same.
  + - 0% interest rates
    - 50% principal forgiveness for communities
    - 75% principal forgiveness for small communities (5000 or less population)

**Stakeholder involvement and Public Comment**

Because a stakeholder advisory committee was convened when developing the temporary rules in early 2009, not advisory committee was used for the permanent rules.

A 30 days public comment period was provided in August which included public hearings in Bend, Medford and Portland. Three comments from the public were received (ACWA, Clackamas County and Coburg) Those comments and DEQ's response are provided in Attachment C.

**Key Issues**

The key issues were those discussed at the time the temporary rules were established:

* the level of subsidization required of the ARRA loans; and,
* project eligibility.

The important issue at this time is establishing long term administrative rules that will allow DEQ to continue to comply with ARRA requirements.

**Status of ARRA funding**

DEQ has executed loans to 13 communities (list for EQC?)

**Recommendation**

We recommend the commission adopt the proposed rules as presented in Attachment A.