

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY

Relationship to Federal Requirements

Amend the Clean Water State Revolving Fund – Permanent Rules

Answers to the following questions identify how the proposed rulemaking relates to federal requirements and the justification for differing from, or adding to, federal requirements. This statement is required by OAR 340-011-0029(1).

1. Is the proposed rulemaking different from, or in addition to, applicable federal requirements? If so, what are the differences or additions?

DEQ's Clean Water State Revolving Fund (CWSRF) is administered in Oregon under the federal Clean Water State Revolving Fund program authorized by title VI of the Clean Water Act. This rulemaking will amend DEQ's CWSRF program to also address requirements of the American Recovery and Reinvestment Act of 2009.

The proposed amendments are not different from or in addition to requirements of either the Clean Water Act or the American Recovery and Reinvestment Act. Both federal programs allow states flexibility in how federal program requirements are implemented. DEQ is exercising this flexibility both in defining eligible projects and the level of incentives to be incorporated in loans.

The American Recovery and Reinvestment Act (the Act) provides economic stimulus funds to states to be incorporated into their CWSRF programs. The U.S. Environmental Protection Agency (EPA) determined funds may not be used to provide assistance for the purchase or refinancing of municipal debt or restructuring outstanding CWSRF loans unless the initial debt was incurred on or after October 1, 2008. DEQ is imposing limitations beyond the Act, making any project funded by the CWSRF loan program prior to the October 1, 2008 date ineligible.

Another important provision of the Act requires at least fifty percent of the grant received by a state provide "additional subsidization" to eligible recipients. Yet, the Act allows each state to decide if that additional incentive will be offered as a negative interest rate, grants, principal forgiveness or a combination of these. DEQ chose to provide principal forgiveness. So the proposed amendments to DEQ's CWSRF loan program will establish incentives different from the incentives offered by other states, but allowed under the flexible requirements of the Act.

If adopted, the proposed amendments will align DEQ's CWSRF program with the requirements of both the Clean Water Act and the American Recovery and Reinvestment Act.

2. If the proposal differs from, or is in addition to, applicable federal requirements, explain the reasons for the difference or addition (including as appropriate, the public health, environmental, scientific, economic, technological, administrative or other reasons).

The proposed amendments are not different from, or in addition to, either the Clean Water Act or the American Recovery and Reinvestment Act. Describing any reasons here for any differences is not necessary.

3. If the proposal differs from, or is in addition to, applicable federal requirements, did DEQ consider alternatives to the difference or addition? If so, describe the alternatives and the reason(s) they were not pursued.

DEQ considered the alternatives available within the Act in providing an additional subsidization, but no alternatives outside the Act itself were considered.