**Proposed rule revisions to existing temporary rules**

**Funding under the 2009 American Recovery and Reinvestment Act (Act)**

**340-054-0098**

**Definitions**

The following definitions apply to OAR 340-054-0098 through OAR 340-054-0108:

(1) “Act” means the American Recovery and Reinvestment Act of 2009, Public Law 111-5, signed into law on February 17, 2009.

(2) “Principal forgiveness” means the portion of the total amount borrowed that is not required to be repaid.

Stat. Auth.: ORS 468.020, ORS 468.440  
Stats. Implemented: ORS 468.423 to 468.440

**340-054-0100**

**Implementation within the Clean Water State Revolving Fund Program**

(1) OAR 340-054-0098 through OAR 340-054-0108 prescribe the use of Act funds through the Clean Water State Revolving Fund (CWSRF) when such funds are available to the department.

(2) When Act funds are available to the department, these funds must be awarded to public agencies in accordance with the Act and are subject to the requirements of the Clean Water State Revolving Fund.

(3) All requirements for projects funded under the Act not specifically addressed in OAR 340-054-0098 through OAR 340-054-0108 are subject to OAR 340-054-0001 through OAR 340-054-0065.

Stat. Auth.: ORS 468.020, ORS 468.440  
Stats. Implemented: ORS 468. 423 to 468.440

**340-054-0102**

**Project Eligibility under the Act**

(1) Eligibility for funding under the Act is the same as prescribed in OAR 340-054-0015(1) except planning, as defined in OAR 340-054-0010(38), is not eligible.

(2) The acquisition of land for any purpose, or the development or purchase of an easement are not eligible under the Act.

Stat. Auth.: ORS 468.020, ORS 468.440  
Stats. Implemented: ORS 468.423 to ORS 468.440

**340-054-0104**

**Use of Funds, Intended Use Plan under the Act**

(1) Funding purpose. Notwithstanding OAR 340-054-0020, funding provided under the Act may be used only for the following CWSRF purposes:

(a) To make loans, or purchase bonds,

(b) To pay CWSRF program administration costs to the extent allowed by federal law,

(c) To earn interest on fund accounts.

(2) Loan Increases. Notwithstanding OAR 340-054-0025(6)(c), loan increases using Act funding will only be made to loans funded by the Act.

(3) Existing loan agreement. A borrower with a loan agreement executed prior to October 1, 2008 is not eligible to receive funding under the Act for the project funded with that existing loan.

(4) Loan reserve. Notwithstanding OAR 340-054-0065(2)(c)(B), the required reserve of any individual loan cannot be funded with CWSRF loan proceeds provided from the Act.

(5) Intended Use Plan (IUP):

(a) A project must be listed in the Intended Use Plan to be eligible for funding under the Act.

(b) Notwithstanding OAR 340-054-0025(5)(d), the department must provide at least 14 days for public comments on the draft Intended Use Plan.

Stat. Auth.: ORS 468.020, ORS 468.440  
Stats. Implemented: ORS 468.423 to 468.440

**340-054-0106**

**Allocation of Act Funds**

Notwithstanding OAR 340-054-0025(6), funds made available by the Act must be allocated as follows:

(1) Funds will be offered to an applicant on the project priority list in rank order.

(2) An applicant on the project priority list may not be allocated more than $5 million of funds available under the Act.

(3) Increases. If there are no applicants on the project priority list, a borrower that has received funding under the Act may be allocated additional funding. The department may allocate the remaining funds to a borrower based on rank order not to exceed 25 percent or $2 million, whichever is greater. If funds still remain after reallocation, the balance of any remaining funds must be allocated in rank order.

(4) Recovered funds. The funds of projects not able to meet the loan agreement requiring the project being under construction or contract by February 17, 2010, will be recovered from those projects and be provided as an increase to other Act funded projects. This transfer of funds will occur by December 31, 2009 and will be offered to partially funded projects in rank order.

(5) Green Project Reserve. The department must establish a green project reserve with 20 percent of the funding received under the Act for projects to address green infrastructure, water or energy efficiency improvements or other environmentally innovative activities. If the department determines and certifies there are insufficient eligible projects for funding under this reserve, the reserve may be allocated to other eligible projects under the Act.

(6) Funding categories. Funds available under the Act may not be used to establish an Expedited Loan reserve, a Small Community reserve or a Planning reserve.

Stat. Auth.: ORS 468.020, ORS 468.440  
Stats. Implemented: ORS 468.423 to 468.440

**340-054-0108**

**Financial Terms**

Notwithstanding OAR 340-054-0065, the following financial terms apply to any loan funded under the Act.

(1) Interest rates. A loan may be provided at a zero percent interest rate.

(2) Principal forgiveness.

(a) A loan made to a small community as defined in OAR 340-054-0010(48) must include 75 percent principal forgiveness on the total amount borrowed.

(b) All other loans must include 50 percent principal forgiveness on the total amount borrowed.

(c) Principal forgiveness is granted upon execution of the loan agreement.

Stat. Auth.: ORS 468.020, ORS 468.440  
Stats. Implemented: ORS 468.423 to 468.440