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

Assume the permanent revisions to these rules will only address the 2009 ARRA. If there is a later Act (2010) than none of these rules will apply – we can’t foresee what acts may be impact the CWSRF program in the near future.

**340-054-0098**

**Definitions**

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

(1) “Act” means the 2009 American Recovery and Reinvestment Act, 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. I question whether we should indicate 0065 here, or include through all rules-0097

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.

(This language needs to be updated. Something like: “Loan increases using Act funding will only be made to loans initially 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. We would not change the intent of this rule, but thought the wording could be clearer

(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. Do we need to state the federal citation here?

(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. This rule was of little help with the current IUP because that IUP includes applicants for both ARRA and standard SRF funds (30 day public comment). We could either delete this rule, amend 340-054-0025(5)(d), or reword this rule like: “the department must provide at least 14 days for public comments on any draft IUP containing applications to ARRA funds or applications to a combination of ARRA and standard CWSRF funds.”

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) Project fund limit. An applicant on the project priority list may not be allocated more than $5 million of funds available under the Act in an initial loan agreement.

(2) Additional funding. If Act funds remain after committing funds to all eligible applicantsthe 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.

(3) 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.

(4) 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. Based on discussions at EQC, do we want to establish a SC reserve in permanent rule?

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