

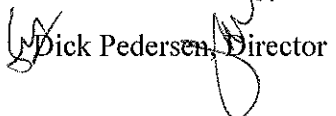
State of Oregon

Department of Environmental Quality

Memorandum

Date: Oct. 14, 2013

To: Oregon Environmental Quality Commission

From:  Dick Pedersen, Director

Subject: Informational item: Director's report
Oct 16-17, 2013, EQC meeting

Learn to Burn event in Klamath Falls

Officials from Klamath Falls and Lakeview recently held an event for the public to spread the word about ways to limit woodstove smoke emissions. The event, called Learn to Burn, was associated with the Regional Solutions air quality project currently underway in those communities. Officials handed out brochures and talked to residents about ways to burn better, including properly drying wood, using biomass bricks and switching to non-smoke alternatives.

Fish consumption health advisory on the Columbia River

Oregon and Washington health officials collaborated last month in issuing a fish consumption advisory for certain resident species from two sections of the Columbia River due to elevated levels of mercury and PCBs. Officials do not know how long the advisories will last. People are urged to avoid consuming any resident fish species taken from Bonneville Dam to Ruckle Creek. Health officials also recommend eating no more than one meal per week of any resident fish species taken from the river between Ruckle Creek and McNary Dam, a 150-mile stretch of the river. Officials do not know how long the advisory will last. DEQ's Columbia River mid-Columbia Ecological Assessment, featured last year on an OPB Oregon Field Guide segment, provided the scientific basis for the health advisory.

Gable Funeral Chapel and Burial Care, previously Cremation and Burial Care of Oregon

This funeral home, located in a residential area near a school in northeast Portland, started cremation operations six months ago. DEQ has received a large number of complaints regarding the facility about visible smoke and odors. Media outlets, legislators and locally-elected officials have contacted DEQ about the issue.

Since the facility stated operations, DEQ has conducted three announced compliance inspections and two unannounced observations of operations and determined that the facility is in compliance with its air permit. DEQ is continuing to monitor and communicate with the operators and the residents about our efforts to ensure compliance with permitting requirements.

At a Montavilla Neighborhood Association meeting on September 23, approximately 30 residents

attended to discuss the facility. Facilitated by the association chair, the dialogue was respectful and solution-oriented, with several advocacy groups, a City of Portland noise control representative, Representative Alissa Keny-Guyer, and staff from Senator Dingfelder's, Commissioner Amanda Fritz's and Mayor Hales' offices. After the meeting, all agreed to stay engaged in additional meetings and conversations.

Intel Title V permit renewal

DEQ is currently going through the public process for the issuance of a new Title V permit for Intel. Intel had previously been permitted under an Air Contaminant Discharge Permit, DEQ's state permitting program. The facility became subject to Title V because greenhouse gas emissions became regulated pollutants and their greenhouse gas emissions are above triggering thresholds. As part of the more stringent Title V permit process, Intel discovered that they also had fluoride emissions that should have been included in previous permits. DEQ is responding to comments and inquiries about the implications this may have, including potential enforcement, and has discussed these issues with Intel. Fluoride is addressed in the current draft of the Title V permit.

There is continued public and media attention surrounding the permit issuance, particularly around fluoride emissions and the timing of DEQ's approval for the facility expansion. DEQ attended a meeting held by local community organization in July. Since then, DEQ held an information meeting September 10, and a public hearing September 16. In response to multiple comments from the public, DEQ extended the public comment period through October 14.

North Portland odor event: Sept. 17-20, 2013

DEQ, Portland Fire Department and NW Natural Gas received a high volume of odor complaints from the North Portland area between September 17 and 20. Complainants described the odor as petrochemical, sulfuric, oily, tar-like and pungent.

NW Natural Gas had crews out in the area confirming that there was no natural gas leak from any of its customers. Some of its crews suggested that venting of ships or rail cars may have been the cause of the odors. Some complainants contacted the Oregon Emergency Response System. Most of those calls were routed to the Portland Fire Department. Some complainants contacted the fire department directly. At least one Oregon Emergency Response System report identified venting ships as a potential source of odors but made no definitive identification of an odor source.

While responding to citizens and investigating the odors, DEQ was unable to pinpoint the source. DEQ staff theorizes that stagnant air and temperature inversions could have combined to allow odors to build up and evening inversions pushed the odors down to ground level.

DEQ followed up on the complaints by sending inspectors to the Overlook Neighborhood area and contacting businesses with DEQ air quality permits in the Swan Island area and across the river in the Northwest Industrial District to determine if they were experiencing period of excess emissions, or any

other activity that could be creating a significant odor impact. DEQ also contacted many businesses in those areas that currently are not required to have a DEQ air quality permit to get similar information.

No businesses identified any unusual actions or upset conditions. DEQ is gathering more detailed information about business operations during the odor event and contacting potential odor sources and other agencies or companies that responded. DEQ has developed a web page:

<http://www.deq.state.or.us/nwr/northportland.htm> where people can go to get updated information.

DEQ approves start of remedial investigation field work at the Astoria Marine Manufacturing Company Superfund Deferral site

In order to sample sediments, upland soils and groundwater before winter weather conditions set in, DEQ approved several field tasks to move forward for the Astoria Marine Construction Company cleanup project. DEQ and several state agencies and tribal governments reviewed and provided comments on the AMCCO draft Remedial Investigation Work Plan to AMCCO's team in early September. The revised work plan was submitted to DEQ September 23 and final review will occur over the next several weeks.

In September, DEQ received notice from the Yakama Nation that they had not finalized a funding agreement with AMCCO and that they could no longer participate in the cleanup. Yakama Nation asked that DEQ not allow any field work to move forward until they were able to successfully gain a funding agreement to participate in the project. On September 24, DEQ decided, after substantial consideration, to allow field work to proceed in the interest of making progress on the project and to collect essential data needed for additional decision making.

EPA issues decision to suspend payment of stipulated penalties relating to the Baseline Human Health Risk Assessment for Portland Harbor

In April 2013, the U.S. Environmental Protection Agency issued a stipulated penalty of \$125,000 to the Lower Willamette Group for non-compliance issues related to completion of the Portland Harbor Baseline Human Health Risk Assessment. This assessment has since been completed and approved by EPA. On Sept. 30, 2013, EPA decided to suspend payment for this penalty pending continued demonstration of "good faith" cooperation of the Lower Willamette Group. This decision to suspend penalty payment does not affect the EPA's previous legal findings regarding the penalty.

Petition for reconsideration of Daimler Title V Air Quality permit

DEQ placed the Title V permit renewal for Daimler, a truck manufacturing and painting facility in north Portland, on public notice Jan. 31, 2013, held a public hearing March 7, 2013, and closed the comment period April 15, 2013. After developing response to comments and allowing the Environmental Protection Agency to review the proposed permit, DEQ issued the Title V permit renewal July 10, 2013.

Neighbors for Clean Air and others submitted a petition for reconsideration of the permit renewal on Sept. 6, 2013. The petition focuses on three specific permit areas: Nuisance Conditions, Highest and Best Practicable Treatment and Control of Odors, and Alternative Compliance Demonstration for National

Emission Standards for Hazardous Air Pollutants subparts MMMM and PPPP. DEQ has 60 days to respond to the petition and, in consultation with the Oregon Department of Justice, DEQ will develop a response to the comments and issues raised by the petitioners regardless of acceptance or denial of the petition.

DEQ's nuisance odor strategy

DEQ accepted input from the public through June 17, 2013, on its proposed strategy to respond to complaints about nuisance odors from permitted facilities. DEQ is in the process of reviewing and considering the feedback, and is planning to have final strategy and implementation plans later this fall. Training and certification for staff that will be implementing the new strategy is planned for the Air Quality inspector's forum in early October.

Oregon LNG

DEQ has received several air and water quality permit applications for the bidirectional, import and export, liquefied natural gas terminal. DEQ has also received a 1200-C Stormwater and Water Quality 401 Certification permit application relating to the pipeline projects serving the terminal. The terminal national pollutant discharge elimination system and air contaminant discharge permit applications were accompanied by an approved City of Warrenton Land Use Compatibility Statement. Provided the applications are technically complete, DEQ will proceed with a Category 4 public involvement process, scheduling information meetings and doing significant outreach about the permit applications. For the Section 401 Certification and the 1200-C permit for the pipeline, DEQ is awaiting land use determination findings from Clatsop, Tillamook and Columbia counties as required by DEQ rule. The U.S. Army Corps of Engineers received and has begun processing a Section 404 water quality certification application, and the Federal Energy Regulatory Commission has issued a formal Notice of Application. In late August, a group of environmental organizations asked DEQ to convene a meeting with their groups and all the agencies with a regulatory role regarding the proposed LNG projects in Oregon. The Governor's Natural Resource office will be coordinating this meeting in the coming months.

Oregon continues to press for strong national wood stove standards

On September 25, DEQ and a coalition of states from the West, Midwest and Northeast met with analysts from the federal Office of Management and Budget who are reviewing EPA's draft residential wood heating regulations. OMB approval is needed before EPA can propose the rules for public comment. Because a new wood stove will last for 30 years or more, it is important that federal standards require new stoves to be as clean as possible. However, the federal standards for new wood-burning heating devices have not been updated in 25 years despite a Clean Air Act requirement to update them every eight years. The states described the significant economic and public health reasons that updated regulations are needed. Residential wood heating is the largest cause of violations of the 24-hour fine particulate air quality standard. These violations mostly occur in small, rural communities due to low temperatures and inversions in the winter along with lack of access to natural gas, ready access to wood from forest land and a high percentage of uncertified older wood stoves. The resulting nonattainment designation raises costs for new and expanding businesses, making it harder for these communities to

attract new employers and make up for losses in the tax base caused by restrictions on logging and reductions in federal timber payments. At the same time, local government and state costs increase to operate wood heating curtailment programs and subsidize the replacement of uncertified stoves for low income persons. The states urged OMB to factor this information into the cost benefit analysis for the rule, rather than simply looking at the cost to manufacturers per ton of emissions reduced.

In addition to urging OMB to approve EPA's rules for public notice, Oregon and six other states sued EPA October 9, alleging that the agency has failed to adequately limit air pollution emissions from new residential wood stoves and heaters. This is a follow-up to the 60-day notice of intent to sue filed on August 1. The states, Connecticut, Maryland, Massachusetts, New York, Oregon, Rhode Island and Vermont, along with the Puget Sound Clean Air Agency, allege the EPA's 25 years of inaction on woodstove emission standards violates the Clean Air Act. The states allege EPA's existing emissions limits are outdated and leave out popular types of residential woodstoves and heaters.

Residential wood heating is the primary cause of federal fine particulate air quality violations in several Oregon communities, and replacing older wood stoves with the best currently available stoves is key to attaining and maintaining compliance with the fine particulate standard.

California wins Low Carbon Fuel Standard case

The Ninth Circuit Court ruled in favor of California late September in an appeal of a lower court ruling that the Low Carbon Fuel Standard violates the commerce clause. Oregon filed an amicus brief in this case supporting California because an unfavorable ruling could have harmed Oregon's ability to implement the Clean Fuels Program, which is modeled after California's Low Carbon Fuel Standard.

The Ninth Circuit found that the program does not discriminate against out-of-state commerce because there are many options for out-of-state ethanol producers to lower their carbon scores. Opponents of Oregon's Clean Fuel Program have argued that the Ninth Circuit ruled that states other than California are preempted by the federal Clean Air Act from regulating the carbon content of fuel.

Mercury emission reductions

In 2004, DEQ discovered under reporting of mercury emissions at Ash Grove's Durkee, Oregon, cement plant due to a calculation error. DEQ determined that Ash Grove Cement was the largest mercury emitter in the state and its emissions peaked in 2006 at 2,581 pounds. DEQ subsequently facilitated an advisory committee process to recommend ways to reduce the plants mercury emissions and Ash Grove voluntarily entered into a Mutual Agreement and Order to reduce its emissions by installing state of the art controls. The plant emitted only 41 pounds of mercury in 2012 and became the most well-controlled plant in the country. EPA recently adopted stringent federal standards, which Ash Grove is better prepared to comply with having previously-installed controls.

PGE Boardman Plant's mercury air emissions peaked in 2005 at 281 pounds. In 2006, EQC adopted emission standards significantly more stringent than the federal rule requiring an approximate 92 percent

reduction by 2013. As a result, PGE has installed controls and emitted only 17 pounds of mercury in 2012.

DEQ to propose new financing terms for Clean Water State Revolving Fund loans

DEQ intends to propose new rules in early 2014 that, if approved, would allow longer-term financing terms for treatment works projects under the Clean Water State Revolving Fund loan program. The change would allow communities to select a repayment term of up to 30 years, which extends the previous limit of up to 20 years. The longer repayment terms would benefit communities by providing more affordable payments for water pollution prevention and mitigation projects.

The Clean Water State Revolving Fund Advisory Committee provided DEQ recommendations for longer-term financing options that are summarized in the attached recommendations report. All new borrowers would have the option of the traditional loan for terms up to 20 years or the new financing option of a bond purchase agreement with financing for up to 30 years for a treatment works project. Fourteen existing borrowers that are considered the most in need of financial assistance would be eligible for refinancing their existing treatment works projects and would be offered the option as a one-time offer.

DEQ program staff will contact eligible existing borrowers at the beginning of the public comment period to make them aware of the proposed option and the deadline for their commitment to accept the offer. There would not be an option for other existing borrowers to refinance in the future. The rulemaking comment period begins Nov. 1, 2013, and ends Dec. 2, 2013. DEQ is planning to propose rule adoption to the commission during a special conference call at the end of January 2014.

Recommendations on Clean Water State Revolving Fund Rule Amendments for Longer-Term Financing



State of Oregon
Department of
Environmental
Quality

Submitted to: Oregon Environmental Quality Commission

By: DEQ Clean Water State Revolving Fund Advisory Committee

September 2013



CWSRF Advisory Committee Report

This report prepared by:

Oregon Department of Environmental Quality
811 SW 6th Avenue
Portland, OR 97204
1-800-452-4011
www.oregon.gov/deq

Contact:
Katie Foreman
(503) 229-5622

CWSRF Advisory Committee Members

Ms. Emily Ackland
Environmental Coordinator/Policy
Manager, Association of Oregon Counties
Salem

Mr. Robert Ault
Program and Policy Coordinator
Infrastructure Finance Authority
Salem

Mr. Raymond J. Bartlett
Principal
Economic and Financial Analysis
Vancouver

Mr. Tom Elliott
Energy Analyst
Oregon Department of Energy
Salem

Mr. Sam Goldstein
Community Programs Director
USDA Rural Development
Portland

Mr. Jason Green
Executive Director
Oregon Association of Water Utilities
Independence

Ms. Teresa Huntsinger
Program Director
Oregon Environmental Council
Portland

Mr. Chris Marko
Rural Development Specialist
Rural Community Assistance Corporation
Portland

Mr. Todd Miller
Assistant Project Manager – City of Springfield
League of Oregon Cities
Springfield

Mr. Tom Salzer
District Manager – Clackamas County SWCD
Oregon Association of Conservation Districts
Oregon City

Ms. April Snell
Assistant Director
Oregon Water Resources Congress
Salem

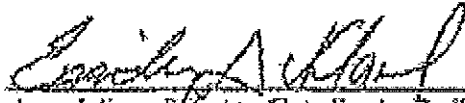
Mr. Carl Tappert
Manager – Rogue Valley Sewer Services
Special Districts Association of Oregon
Central Point

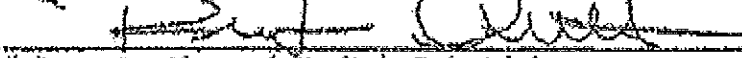
Mr. Doug Waugh
Financial Services Manager – Water Environment
Services, Oregon Association of Clean Water
Agencies, Oregon City

Mr. Joe Whitworth
President
The Freshwater Trust
Portland

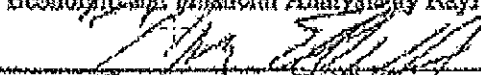
Members are listed by their position with current employer, the organization they represent and employer location.

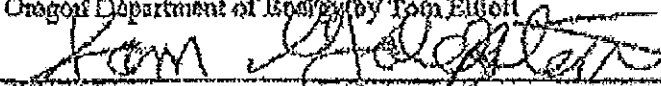
Concurrences


Association of Oregon Counties by Emily A. Clark

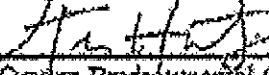

Infrastructure Finance Authority by Robert Ault


Economic and Financial Analysis by Raymond J. Bartlett

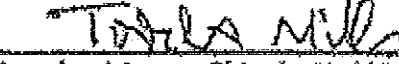

Oregon Department of Housing by Tom Elliott

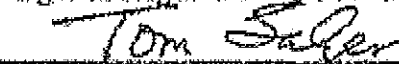

U.S. Department of Agriculture - Rural Development by Sam Goldstein


Oregon Association of Water Utilities by Jason Green


Oregon Environmental Council by Teresa Huntsinger

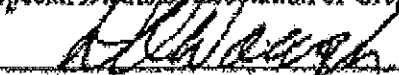

Rural Community Assistance Corporation by Chris Marko


League of Oregon Cities by Todd Miller


Oregon Association of Conservation Districts by Tom Saizer


Oregon Water Resources Congress by April Snell


Special Districts Association of Oregon by Carl Tappert


Oregon Association of Clean Water Agencies by Doug Wain


The Freshwater Trust by Joe Whitworth

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Executive Summary

Oregon's Clean Water State Revolving Fund loan program provides low-cost loans to public agencies for funding of water quality pollution prevention and improvement projects including wastewater treatment facility construction and upgrades, stormwater controls, sewer improvements and replacement, irrigation improvements and stream restoration. Since 1990, these DEQ-administered loans have provided more than \$1 billion to 148 Oregon communities for water quality improvement projects. Low-interest rates and loan terms make this program an attractive alternative to borrowing from higher-interest bond markets.

DEQ updated the CWSRF Oregon Administrative Rules in 2012 with input from the CWSRF Advisory Committee. These rules made the CWSRF loan program more affordable to communities by reducing loan interest rates and annual fees and offering incentives for smaller- and lower-income applicants. During the 2012 rulemaking process, the committee identified a debt term up to 30 years as an option to assist future borrowers and make water quality improvements more affordable. Oregon administrative rules currently only allow use of the CWSRF for loans with terms up to 20 years. The federal Clean Water Act and state statute do, however, allow use of the fund for the purchase or refinance of debt obligations in the form of revenue bonds for terms up to 30 years. This option would especially benefit smaller and lower-income communities by spreading the debt repayment over a longer period of time, thereby decreasing the financial burden on residents if utilities are able to mitigate the need for large rate increases. The committee asked DEQ to pursue the longer-term financing option, including review of state statute and identifying how to proceed through the process for obtaining approval by the U.S. Environmental Protection Agency. EPA concurrence is necessary to allow longer-term financing in CWSRF programs.

This report to the Oregon Environmental Quality Commission reflects the CWSRF Advisory Committee's recommendations for implementation of longer-term financing. The committee recommends DEQ amend the CWSRF program rules to allow the longer-term financing option for up to 30 years. The committee did not recommend DEQ include an option of combining the traditional 20-year loan with longer-term financing. EPA has several requirements that DEQ must address to allow longer-term financing and the recommendations reflect these considerations. DEQ will consider this report's recommendations when updating the CWSRF program rules. The following summarizes the committee's recommendations for conditions associated with longer-term financing including: eligibility, interest rates and funding allocation and priorities.

Eligibility

- All new borrowers should be eligible for longer-term financing.
- Eligibility should be very limited for existing borrowers to refinance their loans. The most disadvantaged communities should be allowed to refinance as specified by economic status and loan characteristic criteria. Refinancing should be a one-time offer and available only for a finite period of time.

Interest rates

- Interest rate premiums should be added to current base rates to protect the CWSRF fund's perpetuity.
- Premiums should be added in a three-tiered structure based on borrowers' economic status, with the most disadvantaged communities paying the lowest rates and least disadvantaged paying the highest rates. These premium rates should apply to new and eligible existing borrowers, and range from 0 to 0.5 percent.

Clean Water State Revolving Fund Advisory Committee Report

Funding allocation and priorities

- The amount of CWSRF funds allocated for longer-term financing should not be limited.
- Prioritization should not be considered in allocating the new financing option other than what is stated in current rules.
- Allocation and priority setting for incentives such as the green project and small community reserves and principal forgiveness should not change from current rules.

The committee engaged in facilitated discussions of program issues, specifically focusing on longer-term financing and financial aspects. The members represented their organizations while developing thoughtful solutions they believed were best for Oregon's CWSRF program and water quality protection. Recommendations in this report reflect their expertise and shared vision for the program.

DEQ staff appreciates the members' time and effort in making these recommendations to the Oregon Environmental Quality Commission. Their efforts provide a reasonable, proactive approach to enhance Oregon's CWSRF program that will continue to benefit Oregon communities striving to protect water quality.

Background

Program Overview

The Oregon Department of Environmental Quality has administered Oregon's Clean Water State Revolving Fund loan program since 1989. The program is administered under Title VI, State Water Pollution Control Revolving Funds, of the Clean Water Act, and Oregon Revised Statute 468.423 to 468.440. DEQ operates the program under an agreement with the U.S. Environmental Protection Agency, Region 10. The CWSRF program provides low-interest loans to public agencies for the planning, design and construction of various projects that will prevent or mitigate water pollution. Eligible public agencies include federally recognized Indian tribal governments, cities, counties, sanitary districts, soil and water conservation districts, irrigation districts and various special districts, and certain intergovernmental entities.

The Oregon Environmental Quality Commission adopted Oregon Administrative Rules, Chapter 340, Division 54, in March 1989, that establish and prescribe how Oregon's CWSRF program is implemented, including loan and financial requirements. The program continues to evolve and address changing federal regulations, the changing economy and state water quality program priorities. Since 1990, DEQ has loaned more than \$1 billion to assist 148 Oregon communities for water quality improvement projects. This amount includes approximately \$400 million in federal capitalization grants DEQ has received from EPA. To date, 93 percent of funded projects address point source improvements such as wastewater treatment facility upgrades and 7 percent address nonpoint source projects such as stream restoration. DEQ recognizes external needs and the demand to obtain program funds and strives to maintain the program's financial integrity. DEQ administers and implements the CWSRF program to provide funding for projects that achieve water quality protection and restoration benefits while ensuring lending policy protects the program's financial integrity and perpetuity. DEQ last made extensive rule amendments to the program in 2012.

During the 2012 rulemaking process, the CWSRF advisory committee identified the option of offering longer-term financing that was more than 20 years as a way to help make water quality improvement projects more affordable for borrowers and requested DEQ to further examine this. DEQ followed up with the committee's recommendation and determined the CWSRF program administrative rules could be amended to address conditions for how the program will allow longer-term financing for up to 30 years. DEQ convened the committee and asked for their input to make recommendations for longer-term financing conditions including: the maximum allowable term, criteria defining eligibility, interest rates and funding allocation and priorities.

CWSRF Advisory Committee

The CWSRF Advisory Committee was established in 2011 to address program issues and provide input to DEQ for the 2012 rulemaking. After the committee last met in 2012, DEQ's director appointed a standing CWSRF Advisory Committee which included many of the same individuals as the previous committee and represent CWSRF interests from federal and state agencies, local governments, water and wastewater districts and utilities, watershed organizations, environmental advocacy groups, local conservation districts, and the financial sector. DEQ convened the committee for this rulemaking in early 2013 and met with the committee between June and September 2013 to obtain recommendations on how the CWSRF program should implement longer-term financing. Leah Feldon, manager for DEQ's Office of Compliance and Enforcement, facilitated the meetings.

The primary purpose of the advisory committee meetings was to make CWSRF program rule amendment recommendations for the longer-term financing option to DEQ. In developing these recommendations, the committee considered regulatory, administrative, financial, technical and policy program information.

Clean Water State Revolving Fund Advisory Committee Report

DEQ program staff presented background information to the committee on specific topics, including examples of how other state CWSRF programs have administered and implemented longer-term financing.

The committee members agreed to conduct themselves according to the CWSRF Advisory Committee Charter and Operating Principles adopted at the July 18, 2013 meeting. The Charter and Operating Principles documented the committee's purpose, structure, participation and responsibilities, as well as procedures by which the committee governed its discussions, deliberations and recommendations. The committee strived to make decisions by consensus, with the understanding that all members agree with the recommendation or decision. Committee members voted on recommendations for rule amendments that are included in this report. There were no significant minority opinions to express in this report. Committee meetings were open to the public and DEQ recorded detailed information on the committee's discussions in meeting summaries. DEQ staff kept committee and rulemaking information up to date on its CWSRF rulemaking web page.

This report to the Oregon Environmental Quality Commission is the CWSRF Advisory Committee's final product and reflects their recommendations on CWSRF program rule amendments. DEQ will consider this report's recommendations when amending the CWSRF program administrative rules.

Longer-term Financing Rulemaking Issues

DEQ updated Oregon's CWSRF administrative rules in 2012 with input from the CWSRF Advisory Committee. These rules made the CWSRF loan program more affordable to communities by reducing loan interest rates and annual fees and offering incentives for smaller- and lower-income applicants. During the 2012 rulemaking process, the committee identified a debt term up to 30 years as an option to assist future borrowers and make water quality improvements more affordable. The committee asked DEQ to pursue the longer-term financing option, including review of state statute and identifying how to proceed through the process for obtaining EPA approval. Oregon administrative rules currently limit the use of the CWSRF to loans with terms not to exceed 20 years after project completion. However, the federal Clean Water Act and state statute do allow use of the fund for the purchase or refinance of debt obligation for terms up to 30 years.

DEQ asked the committee to provide recommendations on issues associated with longer-term financing including: the maximum allowable term, criteria-defining eligibility, interest rates, and funding allocations and priorities. DEQ staff provided information to the committee about potential demand for and benefits of longer-term financing to existing and new borrowers, including:

- Characteristics of Oregon CWSRF borrowers and loans
- Oregon community demographics
- Impact of longer-term financing on community sewer rates for existing and potential new borrowers
- Other CWSRF state programs that have implemented longer-term financing

Committee members representing infrastructure funding agencies also provided information on their programs and how longer-term financing is administered. Based on the committee's discussion of different eligibility, interest rate and priority-setting criteria, DEQ presented modeling scenarios reflecting the impact of those criteria on the fund's perpetuity.

As the committee discussed these issues, several key themes emerged that informed the overall recommendations:

- Longer-term financing should focus on funding future projects rather than existing projects.
- Criteria and conditions should be simple and consistent with related current rules.
- Smaller and lower-income communities should benefit as much as possible.
- Conditions for longer-term financing should be desirable enough to communities to make it worth their potential extra effort and expense to issue a revenue bond for longer-term financing.
- Recommendations should achieve a balance between ensuring the CWSRF is used to its maximum potential without negatively affecting the fund's perpetuity.
- DEQ should evaluate how effective the amended rules are in meeting the objectives of these recommendations and adjust as needed in the future.

Recommendations

The federal Clean Water Act and state statute allow the use of the CWSRF for various purposes, including loans with terms not to exceed 20 years after project completion. Current administrative rules only allow use of the fund for loans up to 20 years. The federal Clean Water Act and state statute do allow use of the fund for the purchase or refinance of debt obligations in the form of revenue bonds for terms up to 30 years. The Advisory Committee recommended that rules should be amended to allow the CWSRF to be used for longer-term financing that cannot exceed the lesser of the useful life of the underlying asset or 30 years. Borrowers would have the option between the traditional 20 year loan and the longer-term financing without the option of a combination of the two types of financing. There were discussions about the process for selling a revenue bond and that it may require more effort and upfront costs to communities than is required for a traditional loan. The committee made recommendations on conditions for the new financing option with the intent of making the option as affordable as possible given potential extra upfront costs communities may incur. In general, the committee thought that for some communities, loan terms associated with shorter repayment periods present a hardship for ratepayers. They agreed that an option for longer-term financing would especially benefit smaller and lower-income communities by spreading the loan repayment over a longer period of time, thereby decreasing the financial burden on residents if utilities are able to mitigate the need for large rate increases.

Eligibility

The committee considered who should be eligible for longer-term financing and focused on existing borrowers and new borrowers. DEQ explained to the committee that EPA concurrence is necessary to allow longer-term financing in CWSRF programs. EPA's approval process could take longer if longer-term financing is made available to communities that are not considered "disadvantaged" by the state ("EPA Extended Term Financing Guidance, based on CWSRF Extended Financing Review Checklist, Oct. 18, 2006). The committee considered information on existing borrowers and all Oregon communities including community size, median household income, and debt burden. This information helped the committee gauge the characteristics of potential new and existing borrowers who might take advantage of the longer-term financing option. DEQ staff also presented information on eligibility criteria used by other states who have implemented longer-term financing.

Recommendation

The committee recommended the following eligibility criteria and conditions for new and existing borrowers:

- **New borrowers** - There should be no limiting criteria for new borrowers to be eligible for longer-term financing.
- **Existing borrowers** - Longer-term financing for existing borrowers should be allowed only to the most disadvantaged communities as specified by economic status and loan characteristic criteria. Refinancing should be a one-time offer with borrowers having to commit to the refinancing option within 90 days of rule adoption. Borrowers should have two years after their commitment to complete the process of selling DEQ a revenue bond. Existing borrowers that are eligible must meet all the following criteria:
 - Median household income less than 70 percent of the Oregon statewide median household income
 - Loan term remaining is 10 years or greater
 - Loan repayments are currently not in default
 - Loan does not include American Recovery and Reinvestment Act or principal forgiveness funding
 - Total term of the extended loan not to exceed the life of the asset or 30 years, whichever is less

Issues Addressed

The committee discussed the need to encourage more communities to use the Clean Water State Revolving Fund and believed that allowing another financing option for all new borrowers would encourage more use of the fund. There was concern that the amount of funds available through the CWSRF program could be jeopardized by many large communities taking advantage of longer-term financing and thus decreasing availability of program funds to smaller, lower income communities. The committee acknowledged that current rules do not allow all program funds to be committed to the larger communities, and thus leaving smaller communities at a disadvantage to pursue longer-term financing. The committee also noted that the program should encourage large communities to take advantage of the new option because one of the program goals is to make the CWSRF program more desirable as a funding option for everyone.

The committee also discussed which existing borrowers should be eligible for refinancing existing loans. In general, the committee believed that longer-term financing should only be available to future borrowers, although it thought a few existing borrowers in most need of financial assistance would benefit from this option. The committee considered the administrative burden and long-term financial impacts to DEQ's program if a large group of existing borrowers wanted to pursue this option. It believed it is important to assist communities experiencing economic hardship by offering this option to a certain number of borrowers at a level protective of the fund's long-term financial viability. Based on these considerations and the criteria established in the recommendation, potentially 14 borrowers comprising about 10.5 percent of the fund may be eligible for refinancing.

Interest Rates

CWSRF loan interest rates are calculated as a percentage of a base rate, which is based on the average national municipal bond rate as published by the Federal Reserve. Different interest rates apply to different types of loans and to loans of differing repayment periods, with smaller disadvantaged communities paying a smaller percent of the base rate. Rates are adjusted quarterly; however, once a loan is signed the interest rate is fixed for the life of the loan. Interest rates are significant in financing affordability and there are no provisions for longer-term financing interest rates in the current rules [OAR 340-054-0065(4)(e)]. EPA concurrence includes a provision that states must charge slightly higher interest rates to offset the longer repayment term in order to protect the perpetuity of the fund. DEQ asked for recommendations from the committee to determine interest premiums for new and existing debt obligations.

Recommendation

The committee wanted to ensure that disadvantaged borrowers would benefit from longer-term financing. It recommended providing lower interest rate premiums as an incentive to disadvantaged borrowers, and that new and eligible existing borrowers opting for longer-term financing pay interest rate premiums that should be added to current base rates established in the rules. These premiums should be established in a three-tiered structure based on the economic status of borrowers, with the most disadvantaged communities paying the lowest rates and least disadvantaged paying the highest rates:

- No interest premium - small communities with less than statewide median household income
- 0.25 percent premium - communities other than small communities with less than statewide median household income
- 0.5 percent premium - communities with equal to or more than statewide median household income

Issues Addressed

Key guiding principles for interest rate premium criteria were that the committee wanted to keep the rate structure and premiums simple to understand, affordable to communities, and benefitting the most disadvantaged borrower. The committee agreed that interest rate premiums should protect the fund's

perpetuity but also not deter borrowers from pursuing longer-term financing. The committee stressed that new borrowers need to understand even though interest rates will be higher, smaller incremental repayment amounts could decrease sewer bills and a borrower's financial burden. Affordability of monthly payments and less burdensome utility bills are important driving factors in community decision-making for water quality improvement projects.

Consensus was that a tiered interest rate structure should be established for new borrowers and that eligible existing borrowers should be able to refinance their loans using the same interest rate offered to new borrowers. Offering new rates to eligible existing borrowers might increase affordability of their projects, as in most cases interest rates will be less than their current loan rates. The committee discussed a two-tiered interest rate structure similar to what is currently in OAR 340-054-0065(4)(e) that provides small disadvantaged communities an interest rate less than all other borrowers. However, it decided a three-tiered rate structure that provides lower interest rate premiums to disadvantaged communities based on community size (small and large) would provide better financial assistance to disadvantaged communities. This structure assists the most disadvantaged borrowers by applying no premium to small communities with less than statewide median household income, a minimal premium amount to other communities with less than statewide median household income and a larger premium to all other communities. The committee decided a flat-rate premium (versus a percent of the base rate premium) was easy to implement and understand, and was most protective of the fund's long-term perpetuity.

Funding Allocation and Priorities

Oregon Administrative Rules 340-054-0036(1) require reserves, or set-asides, from available CWSRF funds for specific purposes including small community, planning and "green" projects. Federal regulations require states to allocate a certain amount of their annual capitalization grant to "green" projects and provide additional subsidization which is defined in OAR 340-054-0065(11). OAR 340-054-0036(2) requires funding increases to existing loans before funding new projects that are ready to proceed according to the project priority list. Currently there are no provisions allocating funds for a longer-term financing reserve or establishing priority funding for longer-term financing. DEQ asked the committee to make recommendations about the reserves and allocations, reallocation and current priorities for longer-term financing allocation.

Recommendation

The committee made the following recommendations:

- The amount of CWSRF funds allocated for longer-term financing should not be limited.
- Prioritization should not be considered in allocating the new financing option other than what is stated in current rules.
- Allocation and priority setting for incentives such as the green project and small community reserves and principal forgiveness should not change from current rules.

Issues Addressed

The committee discussed how it wanted the Clean Water State Revolving Fund to be used to its highest potential in a balanced manner. Modeling demonstrated that if all future borrowers pursued longer-term financing without limitations, the fund's perpetuity was still protected. The committee wanted to ensure longer-term financing would provide a financial benefit to smaller disadvantaged communities. There was concern that many large, higher-income communities would take advantage of longer-term financing and the fund availability would decrease to smaller, lower-income communities in the most need of financial assistance. The committee acknowledged that based on the current rules it is unlikely that funds available would all be allocated to larger, higher-income communities. The rules limit the amount of the total fund allocated to one borrower and also establish a small community reserve and project ranking criteria for small communities. DEQ awards principal forgiveness on a priority basis to small communities first.

Impact of Recommendations on Program

Offering longer-term financing to all new borrowers and a few eligible existing borrowers will make the Clean Water State Revolving Fund more attractive to borrowers thus potentially increasing the number of applications DEQ will receive for funding. DEQ may incur some additional staff time to administer the longer-term financing process, although the CWSRF program's revenue and expenses for administration should not be affected.

Reduced repayment amounts associated with longer-term financing and reduced interest rates in the case of refinancing will have an impact on the amount of program funds available in the future. To offset the impact of longer-term financing on the fund's perpetuity, premiums should be added to interest rates in effect at the time of signing a new debt agreement or refinancing an existing loan. The three-tiered interest rate structure will still make longer-term financing desirable to communities. Assuming all future borrowers opt for longer-term financing and potentially eligible existing borrowers refinance their existing loans, the projected percent difference in binding commitments over a 60-year modeled period represents only a 7 percent decrease. EPA has determined that 10 percent is the threshold to ensure perpetuity of the fund.

Conclusion

The committee thoroughly discussed the policy and financial aspects of longer-term financing and the impacts this would have on borrowers and DEQ's CWSRF program. The members reviewed and analyzed information DEQ presented to them. They respected different viewpoints and developed solutions that were best for the viability and perpetuity of the program. Members made thoughtful, meaningful and implementable recommendations to the Oregon Environmental Quality Commission. The recommendations in this report reflect their expertise and shared vision for the program.