



State of Oregon Department of Environmental Quality

# Clean Water State Revolving Fund

## 2020 Advisory Committee

### Meeting 1 Materials

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# Clean Water State Revolving Fund

## Rulemaking Advisory Committee Agenda

### Meeting #1

**Tuesday, Jan. 14, 2020**

#### **DEQ Headquarters**

700 NE Multnomah, Room 610  
Portland, Oregon 97232

**Conference Line:** 888-363-4734

**Access Code:** 1910322

<b>Time</b>	<b>Topic</b>
1:00 p.m.	Introductions
1:20 p.m.	Review Advisory Committee Charter
1:50 p.m.	Clean Water State Revolving Fund Program Overview
2:05 p.m.	Break
2:15 p.m.	Senate Bill 884 and Rulemaking Scope
2:30 p.m.	Request for Input: Creditworthiness and securities <ul style="list-style-type: none"><li>• Creditworthiness and securities</li><li>• Loan structure</li><li>• Maintaining the fund's perpetuity</li></ul>
3:30 p.m.	Public Comment period, if committee chooses. Committee has discretion whether to allow public participation. Public is allotted three minutes per person. Meeting continues if no or few comments.
4:00 p.m.	Adjourn Meeting

#### **Alternative formats**

DEQ can provide documents in an alternate format or in a language other than English upon request. Call DEQ at 800-452-4011 or email [deqinfo@deq.state.or.us](mailto:deqinfo@deq.state.or.us).



State of Oregon  
Department of  
Environmental  
Quality

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[www.oregon.gov/DEQ](http://www.oregon.gov/DEQ)

*DEQ is a leader in restoring, maintaining and enhancing the quality of Oregon's air, land and water.*



State of Oregon Department of Environmental Quality  
**Clean Water State Revolving Fund**  
**2020 Rulemaking**  
**Lending to Community Development Financial Institutions**

Contact: Lee Ann Lawrence  
503-229-5622

Senate Bill 884 requires DEQ to establish procedures and requirements for a new type of lending. DEQ will accomplish by adopting a new rule in OAR chapter 340, division 054 and by amending existing rules. DEQ's Clean Water State Revolving Fund is the implementing program for the new rule. This document describes the existing loan program and explains the considerations and potential impacts of the change.

## **Background**

Senate Bill 884 expanded Oregon's CWSRF definition of eligible borrowers. The change added nonprofit Community Development Financial Institutions, certified by the US Department of Treasury. The change was made specifically to allow lending to individual homeowners for:

- Septic repair
- Septic replacement
- Connection to a public sewer system

Lending to a CDFI that lends to homeowners (pass-through lending) will allow individuals access to the fund that is currently only available for certain public agencies. This is a new type of lending for DEQ and requires careful consideration to mitigate the risks associated with lending to non-governmental agencies.

A CDFI's mission is expanding the economic opportunity for underserved people and communities. Many CDFIs are community development corporations, credit unions and nonprofit loan funders. There are more than 1,000 CDFIs nationally and 18 registered in Oregon.

## **Current Lending Practices**

All Oregon CWSRF borrowers are public agencies as defined in Oregon Revised Statute 468.423(2). Oregon's CWSRF has been operating for 30 years and has only had one minor loan default. It has been Oregon CWSRF's experience that with appropriate underwriting, public agencies are low-risk borrowers.

Given this long history of successful lending, DEQ can more safely take risks when funding essential pieces of public infrastructure, such as sewers, stormwater infrastructure, and irrigation piping. Additionally, DEQ retains a "municipal intercept." This means that, if a public agency defaults on their CWSRF loan, DEQ may withhold any other promised state funding until the borrower is out of default.

DEQ uses several criteria to evaluate a borrower's ability to repay. Most public agencies offer a revenue obligation. For this, DEQ:

- Analyzes the borrower's financial fund statements (generally wastewater/sewer rate funded)
- Reviews ordinances that will increase user rates over time
- May make allowances for reduced operating costs
- May make allowances for debt that will be paid off in the short term, before the CWSRF loan will move into repayment

If a borrower offers a general obligation, DEQ:

- Analyzes the borrower's unrestricted funding for the entity as a whole
- Reviews current tax revenue available to service debt
- Reviews voter resolutions to increase taxes

DEQ considers other factors to determine creditworthiness, such as a public agency's financial trends over time, liquid assets, and projected population growth or decline.

## **A New Type of Borrower**

CDFIs represent a non-governmental borrowing pool that bears the risk of their own lending programs. DEQ must have a full understanding of a CDFI's financial ability to lend and repay a loan. This is so that public money is well secured, and repayment is certain, in order to ensure the perpetuity of the CWSRF loan fund.

## **Creditworthiness and Security**

Creditworthiness can mean different things to different lenders. Essentially all lenders, including DEQ, must weigh the risk of default for its program. The standard of creditworthiness is appropriately less demanding for subsidized lenders than it is for DEQ. Credit risk must be compared against a lender's objectives to set a standard for creditworthiness. Credit risk ultimately controls whether a loan is approved or denied.

Lending decisions are not precedents. Determinations must be case-by-case and decisions made on the merits of the project and the borrower. In determining whether to make a loan, DEQ must evaluate:

- Capital adequacy
- Asset quality
- Management
- Earnings
- Liquidity
- Borrower experience
- Sensitivity to market risk

In order to engage in this new type of lending, rulemaking decisions include CWSRF proposed strategies to mitigate risk. At a minimum, DEQ is considering:

- Revised underwriting concepts to reflect the non-government nature of a CDFI
- Types and levels of acceptable collateral
- Appropriate security documents
- Appropriate default provisions

## **Loan Structure**

The loan structure for CDFIs could be similar to the existing Local Community Loan type. This is DEQ's pass-through lending tool. A qualifying CDFI would be able to borrow from the CWSRF to capitalize their own loan fund. The proposed rules will include:

- Interest rates
  - DEQ is mandated to offer below-market rates. Controls will be necessary to ensure that a CDFI's sub loans are also below-market rate.
- Loan terms
  - The sub loans should have the same loan term as the CWSRF loan term. The Local Community Loan is currently offered at a 10-year term.
- Start for loan repayment
  - The Clean Water Act requires loan repayment to begin within one year of project completion. The definition of a complete project will need to be evaluated to determine when repayment begins.
- Limitations on funds allocated for non-government lending

## **CDFI Business Model Evaluation**

DEQ assumes it will employ a revised loan structure of the existing Local Community Loan type for CDFI's to implement. New and amended rules will need to consider:

- Submission of anticipated number of sub loans and sub loan amounts
- CDFI underwriting and loan requirements
- Project specific pro-forma and cash flow estimates
- Whether the CDFI fund is revolving fund or dependent upon cash infusion, such as grants

DEQ will need to outline the expectations for CDFI sub loan agreements to ensure:

- Compliance with water quality benefit requirements
- Fairness for sub loan recipients, including the rate and term
- Compliance with EPA regulations requiring loans to be fully amortized

DEQ will procure a neutral third-party financial advisor to analyze the structure and model and assure the agency that proposed risk mitigation strategies are sound and fair.

## **Maintaining the perpetuity of the CWSRF loan fund**

- DEQ will model various scenarios to establish appropriate lending limits for CDFIs
- DEQ will determine what constitutes an acceptable loss in the event of default before the CWSRF loan fund is jeopardized
- DEQ will determine what lending reserve limits the CDFI may need to maintain, and at what level

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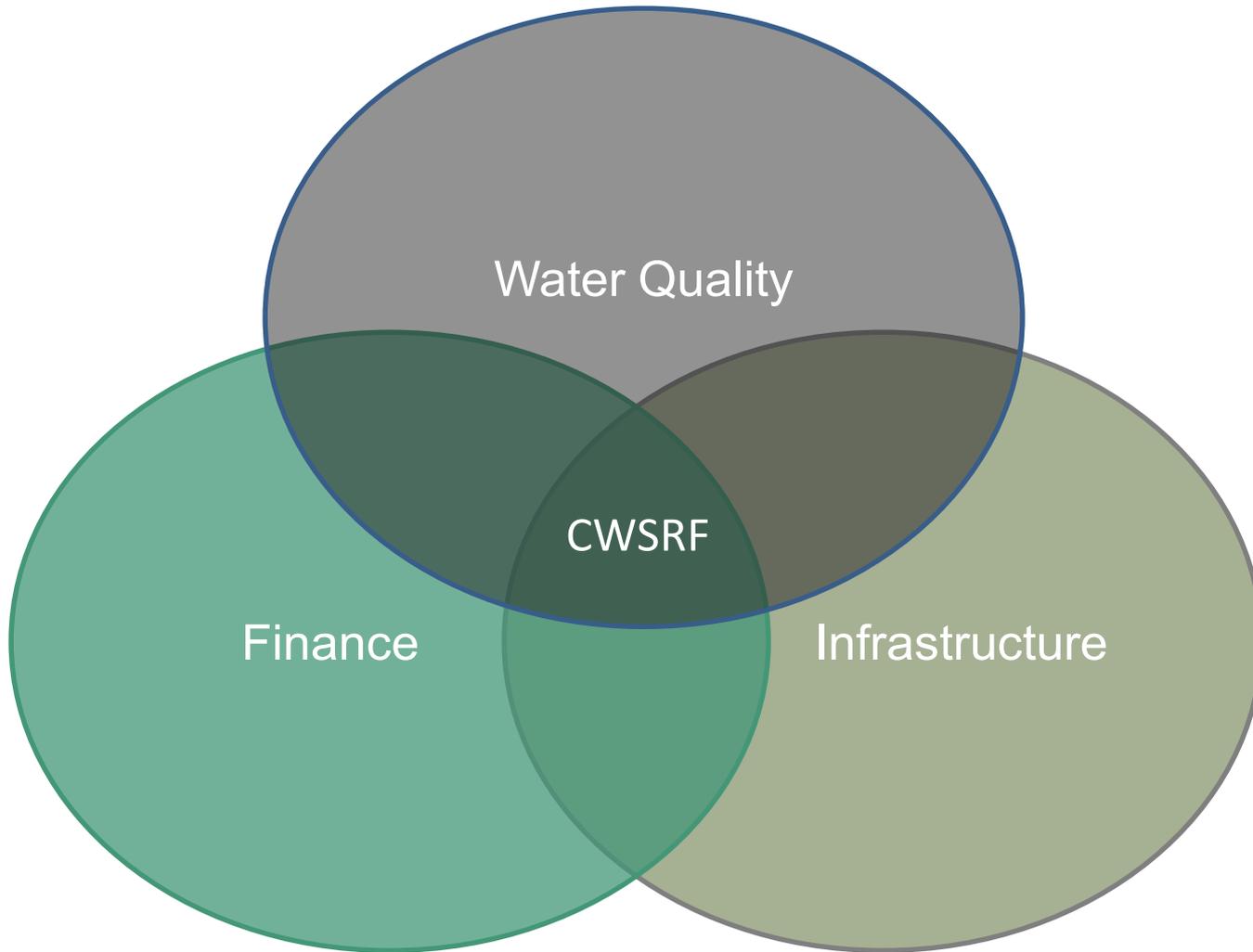
# Clean Water State Revolving Fund

2020 CWSRF Rulemaking Advisory Committee Meeting #1



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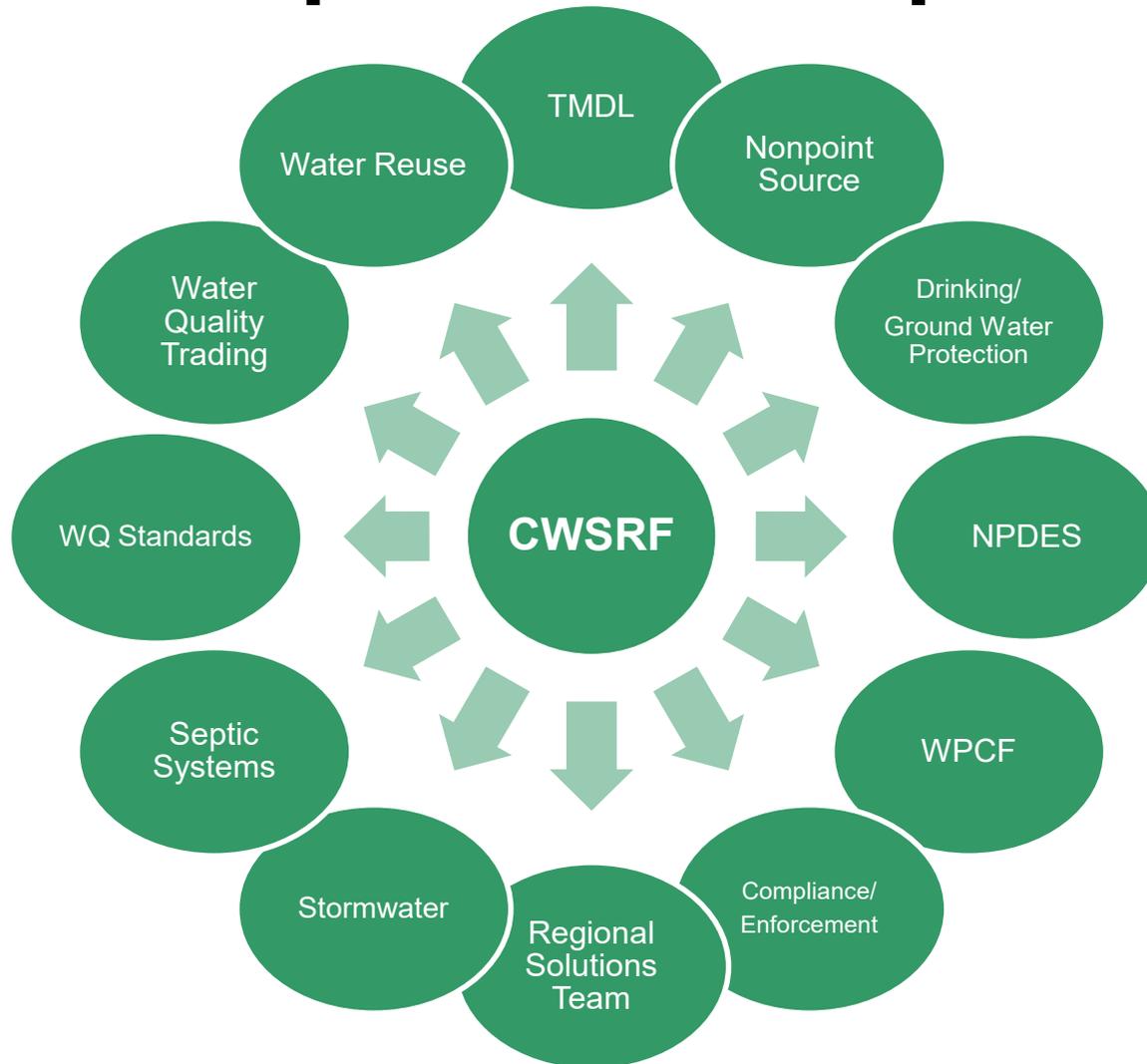
# The Basics



# CWSRF brief overview

- Funding authorized under the Clean Water Act in 1987
- Below-market rate loans
- \$1.34 billion to 170 borrowers in Oregon over 30 years
- \$750 million loan portfolio value at any given time
- Planning, design and construction

# CWSRF: A part of water protection



# Loans in the public interest

- Below market-rate loans
  - Current interest rates: 0.79 percent and 2.75 percent
- Interest accrues only on the disbursement amounts, not the full amount upfront
- Repayment begins six months to one year after project completion
- Great source of match
- Fund reliability

# Four loan types: Many possible projects

## Below-market rate loans for planning, design and construction

The Oregon Clean Water State Revolving Fund helps protect public health, restore natural areas and promote economic development. We can help you decide which treatment approach and loan type will meet your water quality needs.



### Point Source

- Any single identifiable source of water pollution discharge
- Common types are factories, sewage treatment plants and other industries



### Nonpoint Source

- Pollution carried by rain, snowmelt, seepage or drainage, including:
- Oil
  - Animal waste
  - Bacteria
  - Agricultural chemicals
  - Stormwater



### Planning

- Data collection and measurement
- Evaluation, analysis and security
- Report preparation
- Environmental review and any other activity leading to a written document



### Local Community

- Enables communities to develop their own water quality loan program
- Projects may include septic work, estuary management and irrigation projects



# 10 minute Break

# 2019 Senate Bill 884 overview

Senate Bill 884 changed Oregon's Clean Water State Revolving Fund definition of eligible borrowers from solely public entities to allow lending to non-profit Community Development Financial Institutions (CDFIs), certified by the US Department of Treasury, for the specific purpose of lending to individual homeowners for:

- Septic repair
- Septic replacement
- Connection to a public sewer system

# Senate Bill 884 overview, *continued*

- Lending to a CDFI that lends to homeowners (pass-through lending) will allow individuals access to the fund that is currently only available for certain public agencies.
- The bill addresses nonpoint source pollution, a leading cause of water quality contamination, caused by privately owned failing septic systems.
- DEQ will develop the criteria and processes through careful analysis, stakeholder engagement, and rulemaking to ensure that the proper rules and procedures are in place to safeguard the integrity and perpetuity of the loan fund.

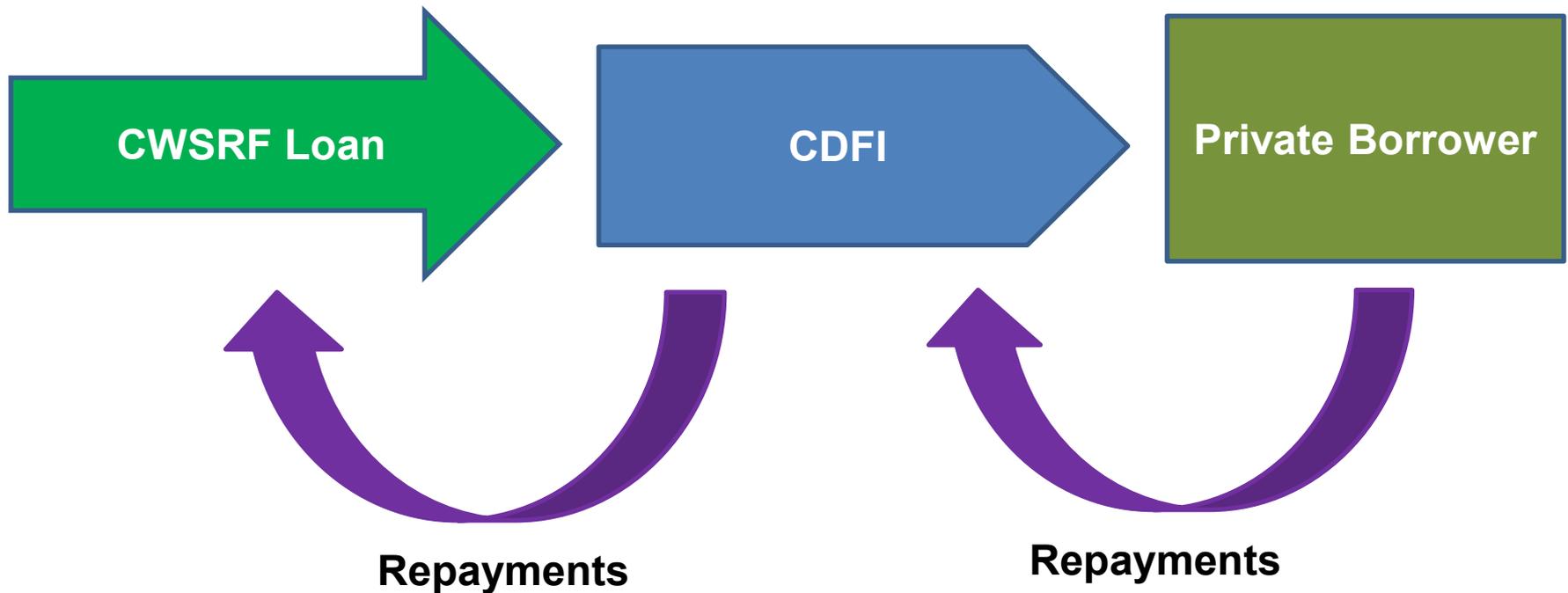
# What is a Community Development Financial Institution?

- Specialized community-based financial institutions with a primary mission to promote economic development by providing financial products and services to people and communities underserved by traditional financial institutions, particularly in low income communities
- CDFIs include community development banks and credit unions, and non-regulated institutions such as non-profit loan funds or venture capital funds
- Regulated and assisted by the U.S. Department of the Treasury
- There are more than 1,000 CDFIs operating nationwide
- There are 18 CDFIs registered in Oregon

# Pass-through lending: How this could work

- CWSRF would loan funds to a CDFI
- CDFI then lends to a private landowner or homeowners association to repair or replace their septic system, or connect to an available sewer system
- The CDFI repays DEQ the original CWSRF loan with interest and fees

# Pass-through lending: How this could work



# Pass-through lending parameters

- DEQ could use something like the existing pass-through loan structure to lend to CDFIs
- Parameters under consideration:
  - Underwriting
  - Creditworthiness and Securities
  - Loan terms
  - Interest rate
  - Loan requirements

# TOOLS for EFFECTIVE CONVERSATIONS

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## DISCUSSION PROTOCOLS

- ◆ Approach the discussion with a willingness to hear others' views so you may solve problems together
- ◆ When you do speak:
  - Speak as though you are right
  - Listen as though you may be wrong
  - Maintain a professional tone and approach to the discussion
- ◆ Separate the people from the problem: be hard on the problem and easy on the people
  - Speak for yourself/your organization and let others do the same
- ◆ Treat each other with respect by listening to each other's thoughts without interjecting words—or body language
- ◆ Let the facilitator or chair know when you would like to speak or ask a question
- ◆ Focus on what is important to you and what you need, rather than on an argument for the sake of arguing
- ◆ Speak again only after others who want to have done so
- ◆ If your question or comment has already been said, don't say it again unless you need further clarification or unless you want the group to know that more than one person shares a point of view
- ◆ Give others a chance to finish their statements before asking or interjecting something new
- ◆ Hold side conversations at the break...or in the hall
- ◆ Put your cell phones and other tools into silent or vibrate mode and look at them only if you are expecting an emergency
- ◆ Other?