

Advisory committee meeting #4

## Clean Water State Revolving Fund 2020 rulemaking

April 21, 2021

Oregon Department of Environmental Quality

Webpage: <https://www.oregon.gov/deq/Regulations/rulemaking/Pages/rcwsrf2020.aspx>

# Welcome back

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# Meeting logistics

## Zoom meeting

Hear the audio either through your computer or by calling in by phone with the phone number provided in the email and upon registration.

- Presenters will pause after each topic for discussion and to answer questions
- During the public comment portion, if you are listening by phone, press \*9 to raise your hand or \*6 to mute or unmute.
- Please remember to state your first and last name and organization for the record.



# Meeting logistics

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## Zoom meeting functions

- Chat will be monitored so that content questions can be discussed during pauses
- Use the chat function to let the facilitator and group know:
  - When you cannot hear or there is a technical challenge
  - When you would like to speak or ask a question
  - You want to indicate agreement with other speakers
  - That you would like the speaker to clarify something
  - You need a break/need to step away



# Review agenda

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1. Review Meeting #4 goals
2. Review rulemaking process, schedule and next steps
3. Recap and follow up from Advisory Committee Meeting #3, public notice, and EQC informational presentation
4. Presentation and discussion: Lending to Community Development Financial Institutions, CDFI
5. Review and discuss the Draft Fiscal Impact Statement
6. Public comment period
7. Wrap-up

**Webpage** <https://www.oregon.gov/deq/Regulations/rulemaking/Pages/rcwsrf2020.aspx>

***Break will happen on time, regardless of where we are in the presentation.***

# Meeting #4 goals

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1. Review the CDFI lending framework as originally proposed.
2. Review and provide input on DEQ's updated CDFI lending framework:
  - Tiered interest rates and principal forgiveness awards determined by sub-borrowers' household income and passed through to sub-borrowers
  - Risk management and creditworthiness measures
3. Review updated draft Fiscal Impact Statement

# Rulemaking process and next steps

Rulemaking Advisory Committee Meeting #1	1/14/20
Rulemaking Advisory Committee Meeting #2	2/26/20
Rulemaking Advisory Committee Meeting #3	8/5/2020 and 8/6/2020
File public notice of Draft Rules/Begin public comment period	10/9/20
Public Hearing	11/17/20
End public comment period	12/18/20
Informational Presentation to EQC	1/21/2021
Re-scoping effort	1/25/2021 – 4/8/2021
Rulemaking Advisory Committee Meeting #4	4/21/2021
File public notice of Draft Rules/Begin public comment period	5/1/2021
Public Hearing	6/1/2021
End public comment period	6/2/2021
Present draft rules to EQC for adoption	7/22/2021 or 7/23/2021

# Recap and follow up

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This rulemaking is to update the Clean Water State Revolving Fund program's administrative rules, [OAR chapter 340, division 054](#) in response to Senate Bill 884 (2019).

The bill expands the definition of eligible CWSRF borrowers. The expansion adds nonprofit CDFI, certified by the U.S. Department of Treasury, for the specific purpose of lending to individual homeowners for:

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



# Recap and follow up

CDFI lending framework requirements:

- **Base rate/market rate:** Prime rate
- **DEQ' below-market rate:** 50 percent of prime rate\*
- **Maximum loan amount:** \$1M per CDFI, per year/\$5M per state fiscal year\*
- **CDFI rate** (on sub-loans): DEQ rate plus two percent (maximum)
- **Project period** (loan disbursement period): One year from date of loan signature
- **DEQ annual fee:** 0.5 percent on loan balance
- **Loan term:** Maximum 20 years; must match the sub-loan terms
- **Principal forgiveness:** 50 percent or \$500,000, whichever is less\*
- **CDFI program income/profit:** Restrict the asset to the CDFI's septic lending program exclusively; Cannot be used to fund other CDFI grant or loan programs
- **Fully amortized CDFI loan and sub-loan:** CDFI loans and sub-loans must be fully amortized with equal installment payments.\*

*\* Represents a requirement that's been updated recently*

# Recap and follow up

CDFI lending framework risk management and creditworthiness parameters:

- **Security position:** DEQ's loan must be superior to other septic loan program debt\*
- **Loan security:** DEQ will consider a suite of loan security options such as:
  - Net assets pledge whether unrestricted, or restricted but available for such use
  - Security interest in sub loan portfolio
  - Security interest in a deposit account such as the loan loss reserve
  - Other asset pledge acceptable to the department
- **Asset to Liability Ratio:** Not to exceed .50\*
- **Debt service coverage ratio:** 1.25\*
- **Loan loss reserve:** CDFIs must maintain a loan loss reserve appropriate to the borrower profile and the total sub loan portfolio.
- **Debt service reserve:** The lesser of 10 percent of the loan principal balance or one year's payments.

*\* Represents a requirement that's been updated recently*

# Recap and follow up

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- [Public Notice](https://www.oregon.gov/deq/Regulations/rulemaking/Pages/rcwsrf2020.aspx) and RAC meeting summaries available on the CWSRF 2020 Rulemaking webpage:  
<https://www.oregon.gov/deq/Regulations/rulemaking/Pages/rcwsrf2020.aspx>
- Public comments: Craft3 and Aeris Insight
- EQC informational presentation and feedback
- Re-scoping
- Restart the public process

# Discussion questions

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For each proposed requirement, DEQ would like the rulemaking advisory committee to consider the following questions:

1. Do the proposed requirements adequately safeguard the loan fund's perpetuity?
2. Do the proposed requirements ensure affordability for CDFIs as well as sub-borrowers?
3. What are other considerations DEQ should consider?

# Proposed updates to the CDFI lending framework

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- Offer CDFIs tiered interest rates and principal forgiveness awards based on the CDFIs' sub-borrowers' household income (five income tiers)
- Require a CDFI to structure interest rates based on its sub-borrowers' household income
- Require a CDFI to pass-through 100 percent of its principal forgiveness award to its sub-borrowers according to the sub-borrowers' household income

# Proposed updates to the CDFI lending framework

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DEQ determined the U.S. Census median household income data to be the best household income data source.

U.S. Census: Oregon Median Household Income (2.6 people) = \$67,058

- 75 percent median household income \$50,294
- 50 percent median household income \$33,529
- 25 percent median household income \$16,765

# Proposed updates to the CDFI lending framework

The lending scenarios are based on these assumptions:

- A \$1 million DEQ loan
- DEQ rate = 3.25%
- 15 year term
- 37 sub loans at \$27,000 each

See document - *Lending to Community Development Institutions Part 4, updated April 20, 2021, page 3.*

Lending Parameters	median household income & above	100 - 75% median household income	75% - 50% median household income	*50% - 25% median household income	25% & below median household income
DEQ principal forgiveness (% of loan)	Zero PF	Zero PF	25% PF	50% PF	50% PF
DEQ rate (% of prime rate)	prime	75% prime 2.44%	50% prime 1.62%	50% prime 1.62%	25% prime .813%
CDFI rate on sub-loans (DEQ rate +2% max)	5.25%	4.44%	3.63%	3.63%	2.81%
CDFIs' Costs and Proceeds					
Cost of CWSRF loan over term	1,336,105	1,258,396	891,253	599,581	558,941
P&I proceeds from sub-loan portfolio	1,445,533	1,351,655	1,369,920	1,296,568	1,225,695
Net proceeds after allowing for 3% loss	1,402,167	1,311,105	1,257,671	1,257,671	1,188,924
Total proceeds on sub-loan portfolio	66,062	52,709	366,418	658,090	629,983
Annual proceeds from sub-loan portfolio (profit/program income)	4,404	3,514	24,428	43,873	41,999
Sub-loan monthly payment	217	203	206	195	184
Principal forgiveness applied to the sub-loans					
CDFI principal forgiveness (percent of sub-loans)	Zero PF	Zero PF	25% PF	50% PF	50% PF
Cost of CWSRF loan over term			891,253	599,581	558,941
P&I proceeds to CDFI with PF applied to sub-loans			972,426	648,284	612,848
Net proceeds to CDFI after 3% loss			943,253	628,835	594,463
Total proceed on Sub loans with PF applied			(52,000)	(29,254)	(35,522)
Profit (Loss) to CDFI over term of sub loans			(3,467)	(1,950)	(2,368)
Sub-loan monthly payment			146	97	92

# Proposed updates to the CDFI lending framework

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## **Additional subsidization (principal forgiveness)**

CDFIs that receive State of Oregon legislative budget allocations or grants and also borrow CWSRF loan funds:

- Will not be eligible for principal forgiveness, and
- Must pass down the State of Oregon legislative budget allocations or grants to its sub-borrowers as principal forgiveness in its sub-loans

Or

- May be eligible for principal forgiveness if CDFI uses the State of Oregon legislative budget allocations or grants solely to cover its septic loan program's operating costs



# Update: annual CDFI lending limits

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Annually, DEQ sets limits on loan and subsidization amounts based on funds available, which safeguards the fund's perpetuity. This ensures that the fund is accessible and affordable to all eligible borrowers and will continue to be accessible for decades to come.

Proposed limits on CDFI borrowers:

- DEQ determined that a maximum lending limit of **\$2M** per loan per CDFI each year should be set to mitigate potential loan loss
- The total aggregated CWSRF loan reserved for CDFI lending will remain at **\$10M**.

# Update: fully amortized sub-loans and sub-loan deferrals

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- Previous proposal: CDFI loans and sub-loans must be fully amortized with equal installment payments with no long-term deferrals on sub-loans.
- Updated proposal: DEQ no longer proposes this requirement on sub-loans.

# Update: security position

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- Previous proposal: DEQ will have first position or parity lien.
- Updated proposal: DEQ will have **first** priority position or parity lien.

# Update: asset to liability ratio

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- Previous proposal: Not to exceed 50 cents on the dollar, which means that a CDFI must have at least 50 cents for every dollar of debt owed. If a CDFI has \$1M of debt, a CDFI would need to demonstrate \$500,000 of assets in the form of reserves or loss accounts.
- Question: Should DEQ consider “a level appropriate” to the CDFI instead of the 0.50:1? What is an appropriate ratio?

# Update: debt service coverage ratio

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- CWSRF will allow a 1.05:1 ratio, instead of 1.25:1 as originally proposed, which is the same as the debt service coverage ratio for municipalities.
- The same as with municipalities, a CDFI must have a fully funded debt service reserve to qualify for this lower DSCR percentage.
- DEQ will look for a \$1.05 of cash for every dollar of debt service after expenses.

# Discussion questions

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For each proposed requirement, DEQ would like the rulemaking advisory committee to consider the following questions:

1. Do the proposed requirements adequately safeguard the loan fund's perpetuity?
2. Do the proposed requirements ensure affordability for CDFIs as well as sub-borrowers?
3. What are other considerations DEQ should consider?

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**10 minute break**  
**11 a.m. – 11:10 a.m.**



# Fiscal Impact Statement

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- A statement of fiscal impact: Identifying state agencies, units of local government, small and large businesses and the public
  - That adopting, amending or repealing the rule may economically affect
  - An estimate of that economic impact on state agencies, units of local government and the public
- A projection of any significant economic impact on businesses
- A cost of compliance for affected small businesses



# Draft Fiscal Impact Statement: review and discuss

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Will the proposed CDFI lending requirements have a fiscal impact?

- If yes, what is the extent of that impact?

Will the rule will have a significant adverse impact on small businesses?

What can DEQ do to reduce any adverse impact on small businesses?

# Draft Fiscal Impact Statement

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If the committee finds the rule will have a significant adverse impact on small businesses, DEQ will need recommendations on:

1. Establishing differing compliance or reporting requirements or time tables for small business
2. Clarifying, consolidating or simplifying the compliance and reporting requirements under the rule for small business
3. Utilizing objective criteria for standards
4. Exempting small businesses from any or all requirements of the rule
5. Otherwise establishing less intrusive or less costly alternatives applicable to small business

# Public comment period

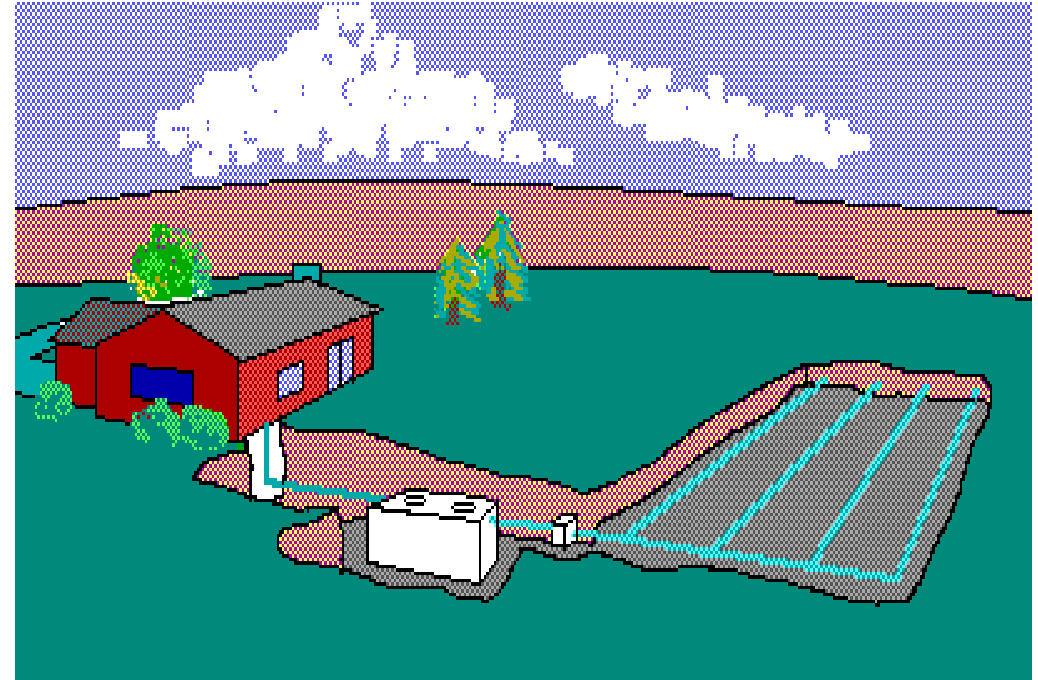
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## Protocols:

- Each member of the public will have three minutes to comment.
- DEQ will not respond to comments during the meeting.
- DEQ will include comments in the meeting summary.
- Meeting continues if no or few comments.

# Wrap-up and summary of next steps

- Issue public notice - May 1, 2021
- Rulemaking public hearing - June 1, 2021
- End public comment - June 1, 2021
- EQC rule adoption - July 22 or 23, 2021



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Thank you!

**Adjourn Meeting**