

Clean Water State Revolving Fund 2022 Rulemaking

Advisory Committee Charter

June 8, 2022



**Clean Water State
Revolving Fund**
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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

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.

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Objectives and Scope

Background

The federal Bipartisan Infrastructure Law (H.R. 3684: Infrastructure Investment and Jobs Act) was signed into law November 15, 2021 and includes additional funding for State Revolving Fund programs annually over five years with new requirements to increase the amount of principal forgiveness for eligible borrowers. The law took effect in May 2022 and Oregon CWSRF anticipates receiving BIL supplemental funding in early 2023. The rule change will focus on ensuring the program meets new federal requirements to provide financing water pollution control projects and increase the amount of principal forgiveness for eligible borrowers, including disadvantaged communities in Oregon.

The Oregon Department of Environmental Quality Clean Water State Revolving Fund program will conduct a rulemaking to modify state requirements for the Clean Water State Revolving Fund program, Oregon Administrative Rules (OAR) Chapter 340, Division 54. The rule changes will allow the program to provide more principal forgiveness for loans to finance water quality infrastructure projects throughout Oregon. Principal forgiveness is defined in OAR [340-054-0010](#) Definitions, (29): “Principal forgiveness” means additional subsidization that allows a borrower to repay only a specified portion of the loan principal. Oregon CWSRF can provide principal forgiveness to eligible borrowers that meet affordability criteria, projects that meet green project eligibility based on EPA criteria, or to address ratepayer hardship. Principal forgiveness is an incentive, particularly for disadvantaged communities, to utilize CWSRF financing for water quality and infrastructure improvement projects.

The Oregon CWSRF defines “disadvantaged communities” based on affordability criteria as required by the Clean Water Act Section 603(i)(2) and adopted under Oregon Administrative Rule 340-054-0065(c). The program also seeks input from the Advisory Committee on how to better meet needs of disadvantaged communities including, but not limited to, environmental justice and public health considerations. DEQ will also revisit sections in rule regarding scoring criteria and Intended Use Plan.

The CWSRF 2022 Rulemaking process will ensure that the proper rules and procedures are in place to allow the program to provide more principal forgiveness and further meet the needs of disadvantaged communities defined by affordability criteria as required by the Clean Water Act for CWSRF programs.

Purpose and Goals

DEQ’s goal is to use the community health, infrastructure, water quality, and financial subject matter expertise of the Advisory Committee to review and provide input to proposed rule changes to allow more principal forgiveness defined by affordability criteria and consider additional environmental justice metrics to incorporate into evaluating and scoring projects.

The Advisory Committee’s purpose is to:

- Provide review and input into CWSRF program rule amendment recommendations to DEQ
- Develop these recommendations through a collaborative process that considers the program goals and priorities
- Make recommendations that reflect adequate integration of regulatory, financial, technical, environmental and policy information in rulemaking
- Help ensure the loan program continues to meet state and federal requirements, including perpetuity of the fund, through proposed rule changes
- The rulemaking Advisory Committee will continue to serve as a standing CWSRF program Advisory Committee for at least 18 months to inform and CWSRF regarding program aspects beyond rulemaking including policy considerations, information to be included in program documents, guidance on best practices and implementation.

Specific sections of **Oregon Administrative Rule** that will be addressed include:

- **340-054-0065 Clean Water State Revolving Fund Loans to Public Agency Borrowers: Loan Types, Terms and Interest Rates**

DEQ seeks input from the Advisory Committee regarding proposed rule language to allow for more flexibility to award more principal forgiveness to meet federal requirements including the Bipartisan Infrastructure Law.

DEQ seeks input from the Advisory Committee regarding considerations to amend rule language related to CWSRF affordability criteria, including incorporation of environmental justice metrics.

The program is determining what information needs to be included in rule and what can be included in program documents. The program will use input from the Advisory Committee to further inform decisions regarding principal forgiveness and affordability criteria in rule and program documents as appropriate.

- **340-054-0026 CWSRF Project Ranking Criteria for Non-planning Loans**
- **340-054-0027 CWSRF Project Ranking Criteria for Planning Loans**

DEQ seeks input from the Advisory Committee regarding project ranking criteria for non-planning and planning loans and considerations regarding environmental justice metrics in evaluating and scoring projects.

The program is determining what information needs to be included in rule and information that can be included in program documents. The program will use input from the Advisory Committee to further inform decisions regarding project ranking criteria in rule and program documents as appropriate.

- **340-054-0025 Intended Use Plan (IUP) and Project Priority List**

DEQ seeks input from the Advisory Committee regarding adjustments to the Intended Use Plan process and language in rule as a “housekeeping” item.

The program is determining what information needs to be included in rule and information that can be included in program documents. The program will use input from the Advisory Committee to further inform decisions regarding the Intended Use Plan in rule and program documents.

In making recommendations for program rule amendments, the Advisory Committee will strive to ensure DEQ’s loan program achieves a fair, objective, and transparent funding process for water quality improvement projects. The Advisory Committee will meet to discuss fiscal and programmatic considerations that DEQ should address within the rulemaking.

Fiscal and Economic Impact

ORS 183.333 requires that DEQ ask the committee to consider the fiscal and economic impact of the proposed rules including:

- Whether the rules will have a fiscal impact, and if so, what the extent of that impact will be.
- Whether the rules will have a significant adverse impact on small businesses, and if so, how DEQ can reduce the rules’ negative fiscal impact on small businesses, as ORS 183.333 and 183.540 require.

Roles

Facilitator

The facilitator:

- Encourages open, candid and robust dialogue toward a productive meeting
- Uses effective tactics to engage and elicit input from each RAC member
- Starts and ends the meetings and agenda items on time
- Encourages innovation by listening to all ideas
- Recognizes when the discussion is outside the scope of the meeting and steers the discussion back to the primary focus

Committee Members

Advisory Committee members must attend each meeting to ensure continuity throughout the process. An alternate may be assigned if needed. However, it is each committee member’s responsibility to fully brief their alternate on all relevant issues and prior committee discussions in order to meet the meeting objectives and keep the project on schedule. The primary and

alternate members of the committee cannot participate in the same meeting. The committee member *:

- Prepares for and sets aside time for the meetings
- Provides DEQ staff with copies of relevant research and documentation cited during the meeting
- Stays focused on the specific agenda topics for each meeting
- Contributes constructively and in good faith
- Consults regularly with constituencies to inform them on the process and gather their input
- Treats other participants and staff with respect
- Allows one person to speak at a time
- Is courteous by not engaging in sidebar discussions
- Avoids representing to the public or media the views of any other committee member or the committee as a whole

* See “Advisory Committee Member Description” for additional details regarding expectations.

If a member’s absence is unavoidable, please notify Chris Marko, CWSRF Program Coordinator, chris.marko@deq.oregon.gov or 503-229-6412.

Non-Committee Member Attendees

Attendees who are not members of the committee may observe but not actively participate. DEQ may allow time during the meeting for their comments.

DEQ Staff

DEQ is committed to making the most effective use of committee member’s time by:

- Providing relevant meeting materials at least two weeks prior to scheduled meeting
- Giving committee members reasonable access to staff
- Encouraging all members to take part in discussions
- Providing a clear description of members’ roles, the committee timeline, the level of agreement expected and feedback on how members’ input is used

DEQ Support and Website

DEQ will post agenda and meeting materials on the Advisory Committee website at least two weeks in advance. DEQ administrative staff will provide meeting summaries that highlight committee discussions, different perspectives and input of committee members. DEQ will not prepare a formal committee report. Final meeting minutes will be posted to the Advisory Committee website and will be part of the public record.

The Advisory Committee charter, a full roster of the committee, meeting agendas and minutes and background materials will all be located on the Advisory Committee webpage.

Committee Meetings

1. All committee meetings will be:
 - Open to the public. The committee has discretion to allow public participation and comment under limits the committee sets for each meeting.
 - Advertised on DEQ’s webpage calendar two weeks before the meeting at: [DEQ Event Calendar](#)
 - Noticed by email to the Clean Water State Revolving Fund and DEQ Rulemaking GovDelivery lists
 - Meetings will be held virtually

2. Meeting materials and agenda will be posted to the rulemaking webpage at least two weeks before the scheduled meetings.

Meeting	Week of	Objective/Topics
Meeting #1	July TBD	<ul style="list-style-type: none"> • Committee Membership Introductions • Review AC Charter, roles, responsibilities • Overview of: <ul style="list-style-type: none"> ○ CWSRF and key requirements ○ Bipartisan Infrastructure Law ○ Scope of 2022 Rulemaking ○ Introduction of affordability criteria and metrics ○ Environmental justice for the purpose of this rulemaking
Meeting #2	July/August TBD	<ul style="list-style-type: none"> • Review summary from last meeting • Provide input on proposed rule language regarding: <ul style="list-style-type: none"> ○ Principal forgiveness ○ Affordability criteria ○ Project ranking criteria ○ Intended Use Plan

		<ul style="list-style-type: none"> • Provide input on proposed environmental justice, health metrics to incorporate into affordability criteria
Meeting #3	August/September TBD	<ul style="list-style-type: none"> • Present program proposal for rule language revisions • Discuss Fiscal Impact Statement • Public Notice (October 2022) • Environmental Quality Commission meeting (January 2023) • Review topics for continued Advisory Committee input

Membership

In convening this committee, DEQ selected members that reflect the range of stakeholders the proposed rules affect, both directly and indirectly. Representatives should be able to consider the policy and fiscal and economic impact of the proposed rules on the business or organization they represent.

Name	Affiliation	Sector Represented
April Snell	Oregon Water Resources Congress	Nonprofit association
Charlotte Bentley	USDA, Rural Development	Federal agency, rural programs
Karen Lawotsky	Oregon Environmental Council	Nonprofit, environmental
RosAnna Noval	Rural Community Assistance Corporation	Nonprofit, rural community focus
Rose Ojeda	CASA of Oregon	Nonprofit, farmworker and underserved communities focus
Joy Aldrich	Oregon Housing and Community Services Department	State agency, affordable housing, community, energy and water services
Jason Green	Oregon Association of Water Utilities	Nonprofit association, water and wastewater utilities
Tamra Mabbott	Morrow County	Local government, rural
Celeste Davis	Northwest Portland Area Indian Health Board	Tribal health
Tracy Rainey	League of Oregon Cities/Association of Clean Water Agencies/Special Districts Association of Oregon	Nonprofit, local governments, utilities, districts

Ben Dair	Sustainable Northwest	Nonprofit, sustainability, water, environment
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Travel Expenses

DEQ is able to reimburse any in state, out-of-town committee members for travel expenses, if DEQ approves them in advance. Members must use the DEQ travel expense reimbursement form and submit expenses monthly. Reimbursement will be made to the extent the budget allows. DEQ plans to convene Advisory Committee meetings virtually.

Public Records and Confidentiality

Committee communications and records, such as formal documents, discussion drafts, meeting summaries and exhibits are public records and are available for public inspection and copying. DEQ does not assume responsibility for protecting proprietary or confidential business information shared during committee or subcommittee meetings. However, the private documents of individual committee members generally are not considered public records if DEQ does not have copies.

Information Exchange

Committee members will provide information as far in advance as possible of the meeting at which such information is used. The members will also share all relevant information with each other to the maximum extent possible. If a member believes the relevant information is proprietary in nature, the member will provide a general description of the information and the reason for not providing it.

Public Involvement

All meetings will be open to the public. The public is entitled to attend, but not to participate in, Advisory Committee meetings. The committee has discretion to permit public participation under limits the committee sets.

Once the committee process is complete, DEQ will develop draft rules and conduct a public rulemaking process. That process will include a specified period during which the public can submit comments on the proposed rules. DEQ will also hold a public hearing during which any member of the public can submit written or verbal comments. Individual committee members may provide comments to DEQ on the full draft rule at this time. DEQ may modify the final proposed rules based on public comment. DEQ intends to take a final proposed rule to the EQC for consideration in as soon as possible after the public hearing and public comment period close.