



Advisory Committee Meeting

Bipartisan Infrastructure Law Implementation

Oregon Department of Environmental Quality
Clean Water State Revolving Fund
Feb. 22, 2023

Agenda

- Welcome and introductions (Martina Frey – 5 minutes)
- CWSRF program and priorities for BIL implementation post rulemaking (Chris Marko—10 minutes)
- Oregon CWSRF program Bipartisan Infrastructure Law implementation overview (Chris Marko – 15 minutes)
 - Principal forgiveness (Oscar Orejel – 10 minutes)
 - Affordability criteria (Chris Marko – 10 minutes)
 - Environmental justice metrics overview (Alli Miller – 10 minutes)
 - Project ranking and scoring (Alli Miller – 10 minutes)
 - Intended Use Plan (Chris Marko – 10 minutes)
- BIL Implementation Timeline and Milestones (Chris - 5 minutes)
- Oregon CWSRF Program BIL implementation and future considerations (Discussion with Committee – 30 minutes)
- Wrap up and next steps (Chris and Group – 5 minutes)

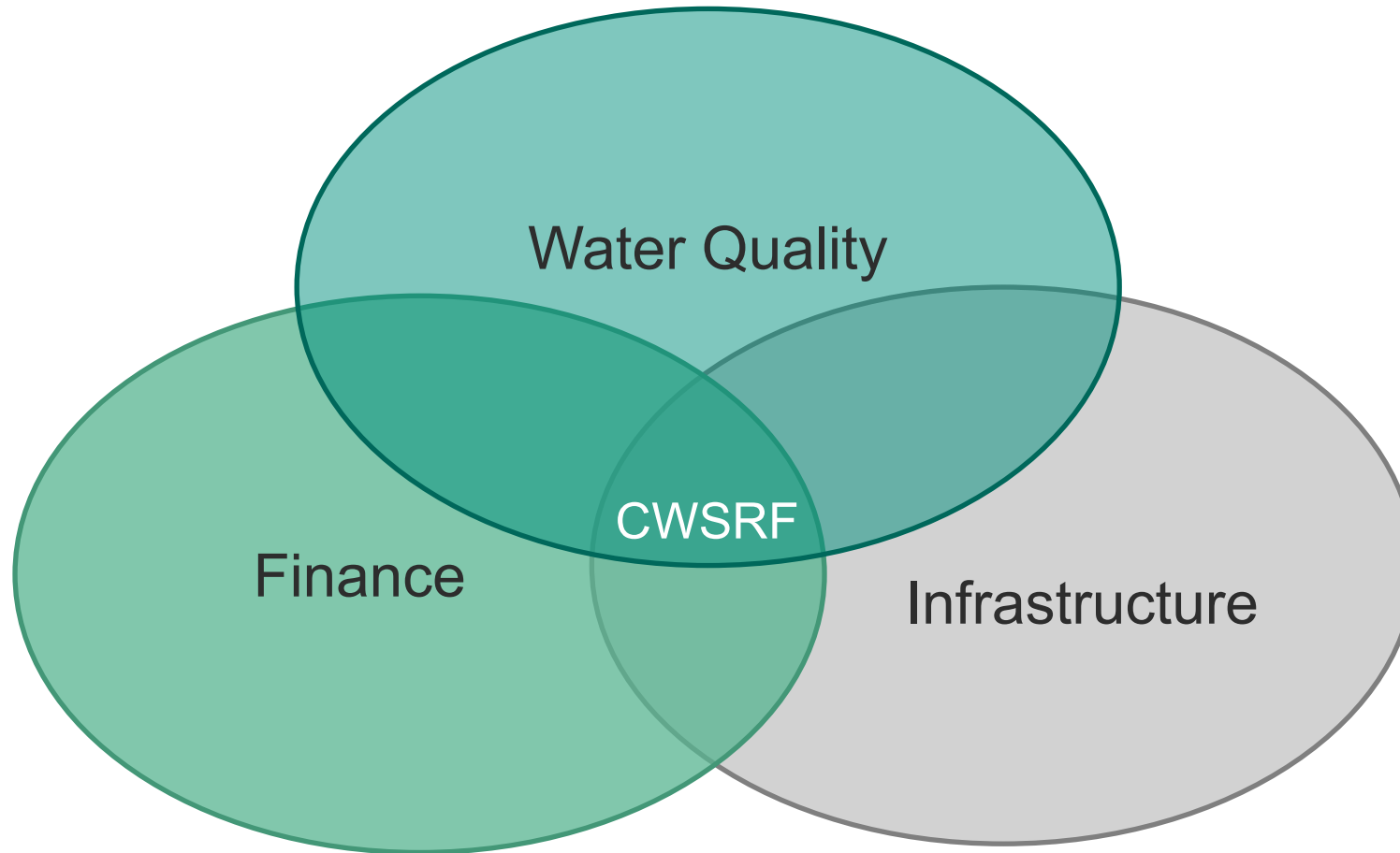
Meeting Purpose and Goals

- To present an overview and update on the Oregon CWSRF program and priorities for Bipartisan Infrastructure Law implementation post rulemaking
- To describe how the program is addressing specific BIL implementation priorities including: environmental justice metrics; affordability criteria; principal forgiveness; project ranking and scoring, and; Intended Use Plan
- To discuss BIL implementation priorities and future considerations for the program with the Committee and receive feedback moving forward

CWSRF Program Overview - Revisited

- Oregon CWSRF overview, basics and key areas
 - Principal forgiveness - what is principal forgiveness?
 - Affordability criteria - what is affordability criteria and how does the program use affordability criteria?
 - Project ranking and scoring - how does the program evaluate and score projects (broad categories)
 - Intended Use Plan - what is the Intended Use Plan, purpose and how does the program develop and use the IUP?

The Basics



CWSRF Brief Overview

- Funding authorized under the Clean Water Act in 1987 to finance water pollution control activities
- Below-market rate loans for a wide range of water quality and infrastructure projects
- More than \$1.4 billion to 200 borrowers throughout the state of Oregon over 30 years
- \$750 million loan portfolio value at any given time – the fund “revolves” ...



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

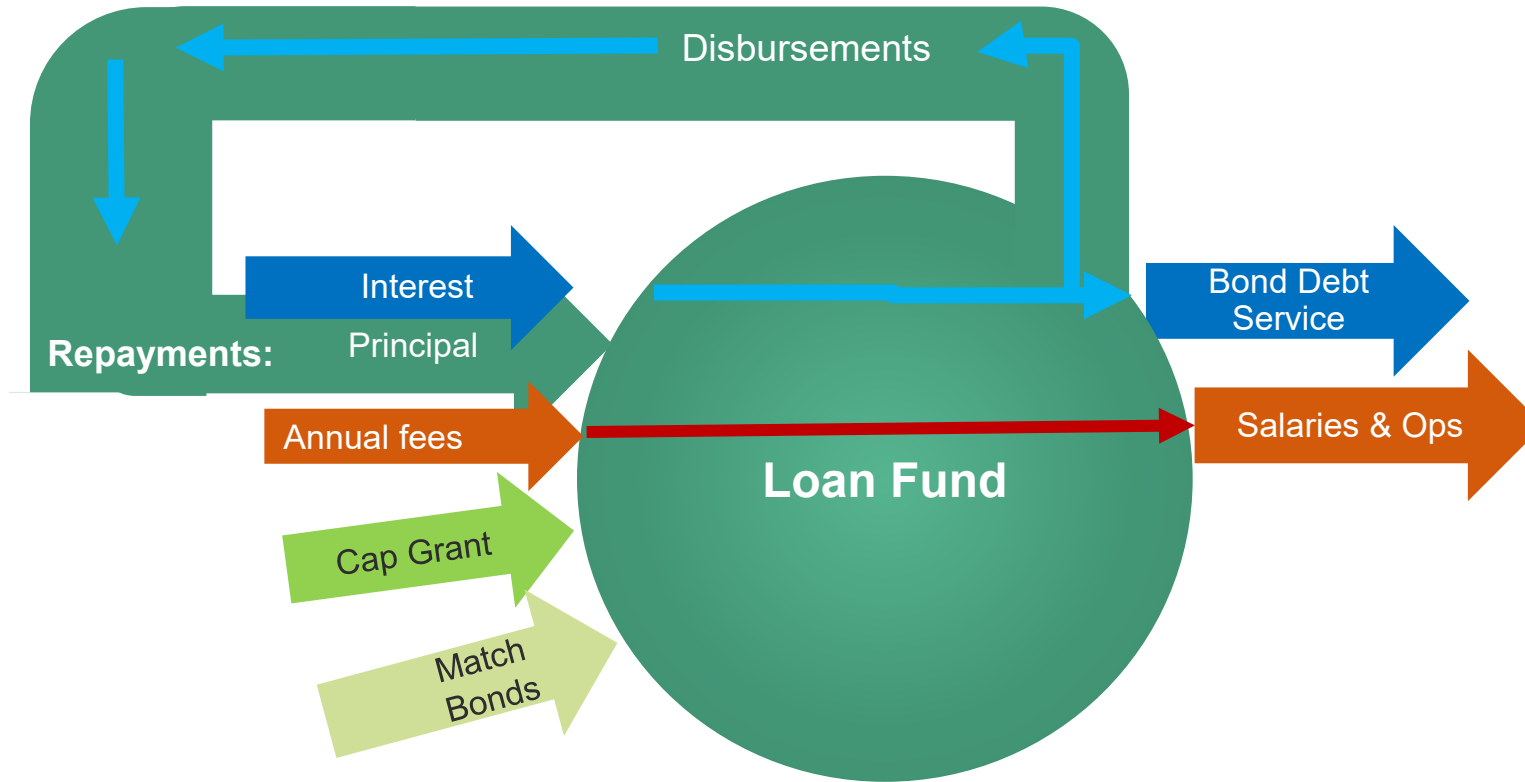


Local Community

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



How the fund revolves



What is Principal Forgiveness?

Oregon Administrative Rule [340-054-0010](#)

Definitions:

(19) “Principal forgiveness” means additional subsidization that allows a borrower to repay only a specified portion of the loan principal.

What is Affordability Criteria?

- Clean Water Act requires CWSRF programs to establish affordability criteria for “additional subsidization” (Water Resources Reform and Development Act of 2014)
- Clean Water Act Section 603(i) - affordability criteria shall be based on:
 - Income
 - Unemployment data
 - Population trends
 - Other data determined relevant by the State, including whether the project or activity is to be carried out in an economically distressed area

What is Project Ranking and Scoring?

- **Category One – Water Quality Standards and Public Health Considerations**
 - Water quality benefits
 - Water quality standards
 - Compliance
- **Category Two – Watershed and health benefits**
 - Fish and aquatic life/habitat
 - Special status water bodies
 - Total Maximum Daily Load
 - Performance based monitoring
 - Green project categories (green infrastructure, water efficiency, energy efficiency, environmental innovation)
- **Category Three – Other considerations**
 - Long term planning
 - Outreach/education
 - Other resources/partnerships
 - Small community (10,000 population or less)
 - Sponsorship option

What is the Intended Use Plan?

- EPA requires CWSRF to develop an Intended Use Plan annually
- The IUP must include a Project Priority List identifying projects CWSRF intends to fund during the year
- The IUP must include criteria for scoring and ranking projects
- EPA requires CWSRF to include affordability criteria in the IUP
- Oregon CWSRF reviews and scores applications three times per year and updates the IUP three times per year (based on new applications during each cycle)
- The IUP process includes a public comment period with each update for transparency

Bipartisan Infrastructure Law:

Key Provisions and Priorities

- Federal infrastructure funding Nov. 15, 2021, with funding to EPA through SRF programs for five years
- EPA BIL Implementation Guidance Memo issued March 8, 2022
- Requirement for CWSRF programs to provide more principal forgiveness (49% of BIL supplemental capitalization grant)
- Priority to address needs of “disadvantaged communities” defined by affordability criteria for CWSRFs
- Technical assistance (new under Clean Water Act)
- Priority to address emerging contaminants
- Environmental justice priorities
- Build America Buy America requirements

EPA Capitalization Grant Funding FFY2022 Allocated for Oregon CWSRF

Annual Base Cap Grant	BIL Supplemental Cap Grant	Emerging Contaminants Cap Grant
\$13,071,000	\$ 20,271,000	\$1,064,000

- 49% of BIL cap grant amount must be provided as principal forgiveness
- Technical assistance: **2% of each cap grant amount** is available for TA
- Emerging contaminants cap grant of \$1,064,000 available each year

Estimated BIL Funding for Oregon CWSRF Over the Next Five Years

FFY2022	\$ 20,271,000
FFY2023	\$ 23,578,386
FFY2024	\$ 25,730,637
FFY2025	\$ 27,872,179
FFY2026	\$ 27,872,179
Total	\$125,324,381

Oregon CWSRF 2022 Rulemaking Milestones and Timeline – Complete!

Milestone	Target Date
Appoint Rulemaking Advisory Committee members	June 14, 2022 (done)
Schedule three RAC meetings	July 1 – Sept 30, 2022 (done)
Public Hearing	Nov. 15, 2022 (done)
Standing advisory committee meeting (not on rules)	Nov. 21, 2022 (done)
Complete EQC staff report	Dec. 18, 2022 (done)
DEQ request EQC action on final proposed rules	Jan. 19, 2023 (adopted!)

Post Rulemaking: Next Steps and Update

- **BIL implementation action plan** with priorities and timeline
- Ongoing BIL implementation meetings with staff
- Develop and finalize guidance on BIL implementation priorities
- Develop new Intended Use Plan with program updates
- File for rule changes upon final acceptance of new IUP by EPA
- Implement program changes with new applications in April 2023

BIL Implementation Overview: BIL Action Plan Priorities

Build America Buy America guidance	October 2022 – February 2023
Principal Forgiveness updates and guidance	October 2022 – February 2023
Environmental Justice metrics and program integration	October 2022 – February 2023
Affordability criteria updates with EJ	November 2022 – February 2023
Project ranking and scoring updates with EJ	November 2022 – February 2023
Proposed IUP 2024 with program updates for BIL implementation	December 2022 – March 2023

Oregon CWSRF BIL Implementation Priority: Principal Forgiveness

- **Principal forgiveness eligibilities per Clean Water Act *:**
 - Affordability Criteria
 - Income data
 - Unemployment data
 - Population trends
 - Other data determined relevant by the State
 - Water-efficiency, energy-efficiency, stormwater (green and gray), or sustainable project planning, design, and construction
 - Ratepayer hardship

** These eligibilities will remain in Oregon Administrative Rule*

Oregon CWSRF BIL Implementation Priority:

Principal Forgiveness

- **Principal Forgiveness awards (current):**

- Up to \$500,000 max or 50% of loan amount * (\$ limit will increase, *work in progress*)
- Subject to availability of funds (no change)
- Readiness to proceed to sign a loan agreement (applicant has met all loan requirements)
- Borrowers that are an eligible recipient may only receive one subsidization award per project (no change)

** Rule change allows the program to increase PF limit per loan to meet new EPA requirement (to provide 49% of BIL supplemental cap grant amount as PF for the program as a whole) **to be published in the IUP***

Financial Analysis 2017-2022

Total New Loan
Commitments
All Borrowers:
84 for \$351,195,738

Total Average New Loan
Amount All Borrowers:
\$4,180,902

Total New Loan
Commitments Including
Loan Increases
All Borrowers:
132 for \$492,235,979

Average New Loan Amount
Including Loan Increases All
Borrowers:
\$3,736,636

Total New Loan Commitments
Small Communities:
45 for \$77,340,356
Average New Loan Amount
Small Community:
\$1,718,675

Total New Loan
Commitments Including
Increases
Small Communities:
60 for \$89,595,054

Average New Loan Amount
Including Loan Increases
Small Communities:
\$1,493,251

Total Planning Loan
Commitments:
8 for \$1,039,250

Average Planning Loan
Amount:
\$129,906

Amount of Principal Forgiveness Available for the FFY2022/SFY2023

- ☐ Increase percentage offered as PF from Base Cap Grant from 18% to 40% (Max Allowable)
- ☐ Offer 49% of Supplemental Cap Grant at PF (Required by Law)

2022 Oregon Cap Grant Amounts		
Base Cap Grant Allotment	\$	13,071,000
2% TA	\$	261,420
40% PF	\$	5,228,400
Base Cap Grant Remaining To Lend	\$	7,581,180
2022 Oregon Supplemental Cap Grant		
Supplemental Cap Grant Allotment	\$	20,271,000
2% TA	\$	405,420
49% OF	\$	9,932,790
Supplemental Cap Grant Remaning To Lend	\$	9,932,790
Principal Forgiveness		
Base Bap Grant	\$	5,228,400
Supplemental Cap Grant	\$	9,932,790
Total PF Available	\$	15,161,190
Total for TA From SFY2023 Cap Grants (Base & Supplemental)	\$	666,840

Oregon CWSRF BIL Implementation Priority:

Affordability Criteria

- Affordability Criteria
 - Income data - at least 30.9% of the pop. lives under 200% of the poverty level
 - Unemployment data - unemployment 16 years and older in civilian workforce is greater than or equal to Oregon's 10-year, seasonally-adjusted, monthly median unemployment rate and at least 80% of the population 18 years or older is not enrolled in higher education (Oregon Employment Department)
 - Population trends - Two-year population decline of at least 5%
 - Small population = 10,000 or less
 - Very small population = 2,500 or less
 - Other data determined relevant by the State
 - Water pollution burdened
 - Health burdened

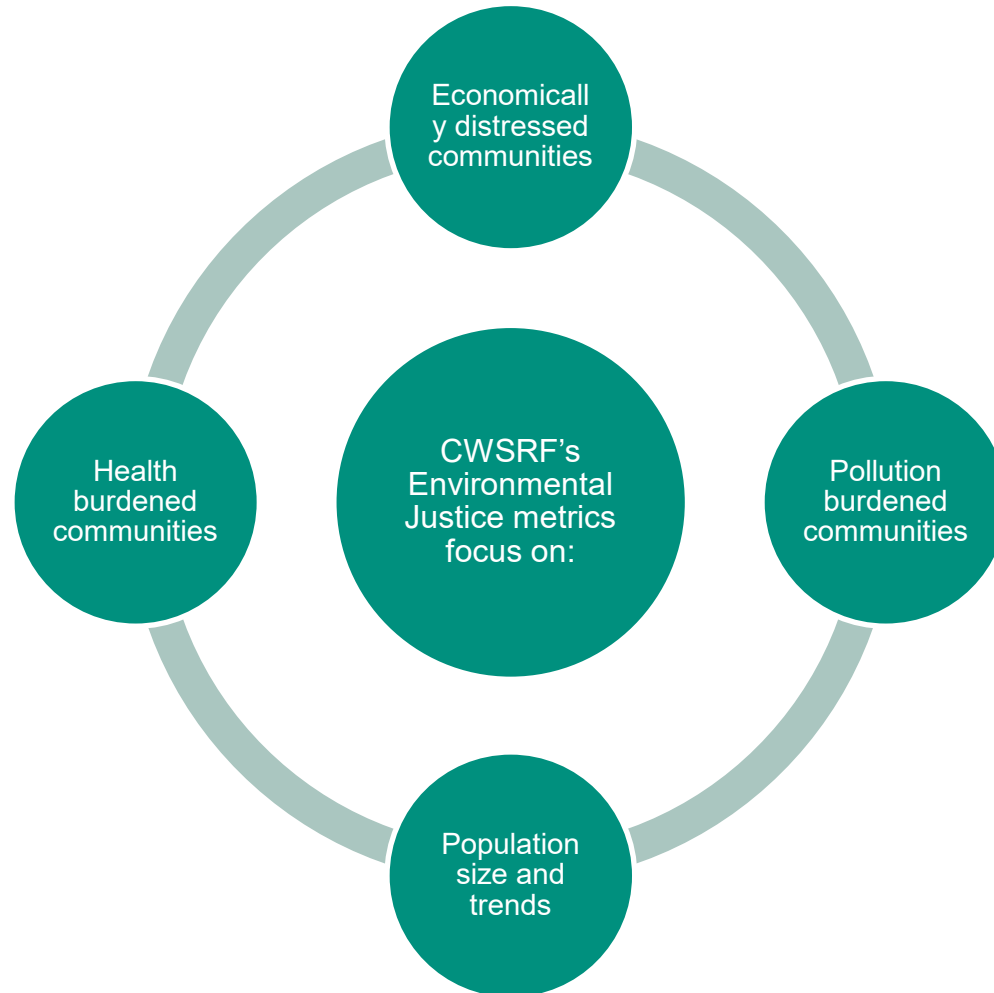
Oregon CWSRF BIL Implementation Priority: Affordability Criteria:

Principal Forgiveness Scoring

Indicator	Measurement	Points
Low income	At least 30.9% of the pop. lives under 200% of the poverty level	10
High unemployment	Unemployment 16 years and older in civilian workforce is greater than or equal to Oregon's 10-year, seasonally-adjusted, monthly median unemployment rate and at least 80% of the population 18 years or older is not enrolled in higher education	10
Rate payer hardship	Principal forgiveness directed through rate payer hardship program	10
Elevated health risks	At or above the 70 th percentile for asthma, diabetes, or heart disease	5
Near impaired water	Within 2 km of a major surface water or 1 km of minor surface water that is impaired	5
Near a facility with a substantial exceedance	Project will address requirements of a Mutual Agreement and Order	5
Small population	Population <10,001	2.5
Very small population	Population <2,501	5
Declining population	Two-year population decline of at least 5%	10
Green, Sustainability and Stormwater	Water efficiency, energy efficiency, mitigate stormwater, or sustainable planning, design, or construction	10

Oregon CWSRF BIL Implementation Priority:

Environmental Justice Metrics Overview



- BIL priorities and environmental justice :
 - ✓ Priority to address needs of “disadvantaged communities” defined by affordability criteria for CWSRFs
- Plan to incorporate EJ Metrics with the development of the CWSRF Technical Assistance program
- CWSRF has also expanded the definition of affordability criteria, new proposed metrics were shared with the committee, and updates will be added to the IUP

Which communities experience disproportionate effects from water pollution?

Economically distressed

→ A disadvantaged financial burden paying for water infrastructure

Health burdened

→ Environmental pollution had greater impact on public health

Pollution burdened

→ Negative effect on quality of life

Population

→ Small and very small communities face additional challenges paying for and administering water pollution infrastructure projects

Population trend

→ Communities with declining population face progressively higher user rates (per capita)

Oregon CWSRF BIL Implementation Priority:

Project ranking and scoring

Additional scoring criteria for EJ metrics to be added to internal scoring criteria guidelines in the IUP:

- Does the applicant qualify as low income?
- Does the applicant qualify as high unemployment?
- Does the applicant have an established ratepayer hardship or similar program?
- Does the applicant have declining population?
- Does the applicant qualify as having elevated health risks?
- Project addresses a water quality improvement or restoration need for a community with a population less than 2,501
- Other EJ criteria are addressed in existing scoring criteria (water pollution burdened and small community 10,000 or less)

Oregon CWSRF BIL Implementation Priority:

Project ranking and scoring

While the environmental justice metrics will be used to rank and score applications eligible for principal forgiveness, ultimately, the primary determining factor for awarding PF is based on the applicant's **readiness to proceed to loan signing**.

Incorporating the environmental justice metrics does not require many changes to the existing application process: gathering the data on each community will be primarily done by CWSRF HQ staff.

- Only 1 new question will be added to the applications to learn if communities have existing rate payer hardship programs.

Information about the specific environmental justice data DEQ is gathering about Oregon communities will be included in the IUP and on our website for transparency

- We want to ensure applicants on the IUP & potential applicants are aware that our program is embedding environmental justice into our work and why environmental justice is an important consideration for financing water pollution infrastructure and related projects

Oregon CWSRF BIL Implementation Priority:

Project ranking and scoring- incorporating Environmental Justice metrics

Category	Indicator/Evaluation Criteria	Measurement/ Metric	Data Source	Point allocation for PF scoring
Economically distressed/disadvantaged	Low income	At least 30.9% of the pop. lives under 200% of the poverty level	American Community Survey, 5-year Estimates (use IPUMS NHGIS website to search for and download specific data)	10
	High unemployment	Unemployment 16 years and older in civilian workforce is greater than or equal to Oregon's 10-year, seasonally adjusted, monthly median unemployment rate and at least 80% of the population 18 years or older is not enrolled in higher education	To calculate OR 10 year monthly median unemployment rate, get data from Oregon Employment Department's Quality Information	10
	Rate payer hardship	Principal forgiveness directed through rate payer hardship program	Loan application (add question)	10
Health burdened	Elevated health risks	At or above the 70 th percentile for asthma, diabetes, or heart disease	Centers for Disease Control and Prevention, PLACES: Local Data for Better Health	5
Pollution burdened	Near impaired water	Within 2 km of a major surface water or 1 km of minor surface water that is impaired	DEQ Integrated Report (multiple ways to access data: story map, web map, ArcGIS Pro, online database)	5
	Near a facility with a substantial exceedance	Project will address requirements of a Mutual Agreement and Order	DEQ CPA Program (speak with permit compliance team to get list of facilities with MAOs)	5
Population	Small population	Population <10,001	PSU Population Research Center	2.5
	Very small population	Population <2,501	PSU Population Research Center	5
Population trend	Declining population	Two-year population decline of at least 5%	PSU Population Research Center	10

Oregon CWSRF BIL Implementation Priority: Intended Use Plan

- Adding information to address Bipartisan Infrastructure Law requirements
- Adding information regarding project ranking and scoring
- Adding information regarding affordability criteria
- Adding information regarding principal forgiveness
- Streamlining content – removing redundancies
- Will be used to apply for annual base cap grant, BIL supplemental capitalization grant and emerging contaminants cap grant targeted for April 2023

BIL Implementation Additional Program Priorities

- Meeting EPA requirements
 - Annual base cap grant
 - BIL supplemental cap grant
 - *Emerging Contaminants supplemental cap grant*
 - Program monitoring and evaluation
 - BIL focus
- Outreach and technical assistance
- Stakeholder engagement and coordination



Looking ahead... BIL Implementation and Timeline

BREAK (take five)

BIL Implementation: Oregon CWSRF Milestones and Timeline

Milestone	Target Dates
BIL implementation action plan in progress	January 2023
CWSRF loan application review cycles	Dec. 9, 2022; April 14, 2023
New Intended Use Plan	March 2023
Apply for cap grants: annual base, BIL supplemental, and emerging contaminants	April 2023
Contract for technical assistance	June 2023 * State procurement
BIL funding and implementation	July – September 2023 + five years

Oregon CWSRF Program

BIL implementation future considerations:

Discussion with Committee

Wrap up and next steps



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