

Bipartisan Infrastructure Law and Oregon Clean Water State Revolving Fund



State of Oregon
Department of
Environmental
Quality

What is the Infrastructure Investment and Jobs Act?

The Infrastructure Investment and Jobs Act, commonly referred to as the **Bipartisan Infrastructure Law**, or BIL, is a federal infrastructure funding package that was signed into law on Nov. 15, 2021. The law provides the US Environmental Protection Agency with grant funds that can be awarded to states for funding clean water infrastructure. The new law will go into effect 180 days from signing, which will be in May 2022.

How will BIL funds for clean water infrastructure be distributed to the state?

As a result of BIL, the Oregon Department of Environment Quality will apply to the EPA for Clean Water State Revolving Fund funds in addition to what the agency typically receives annually. The state will receive this additional program funding annually for a total of five years starting in 2022. Additionally, the state may apply for available federal funds to address emerging contaminants such as Per- and Polyfluoroalkyl Substances, or PFAS.

What is the Clean Water State Revolving Fund?

The CWSRF provides below-market rate loans for the planning, design and construction of water pollution control activities. Eligible public agencies include tribal nations, cities, counties, sanitary districts, soil and water conservation districts, irrigation districts, various special districts and certain intergovernmental entities. "Public agency" in this program is defined by ORS 468.423. The program also lends to certified nonprofit Community Development Financial Institutions for the specific purpose of sub-lending to individual homeowners for the repair or replacement of a failing septic system, or connection to a public sewer system. CWSRF applies for and receives an annual capitalization grant from the EPA.

How much BIL funding will be available for CWSRF awards?

EPA estimates that \$20.2 million will be available to Oregon in 2022, with increasing amounts every year for four years thereafter. This is in addition to the amount the program receives every year as a capitalization grant through the EPA "base program." In 2021 that

capitalization grant amount was \$17.94 million, but EPA estimates that capitalization grant amounts will increase during the years of the BIL funding. It is important to note that this enhanced funding will be incorporated into the CWSRF existing program that currently has available funds. Additionally, the program receives loan repayments to support the fund.

BIL will also provide funding to address emerging contaminants, such as PFAS. Details related to this funding are not yet available. This FAQ document pertains to infrastructure projects eligible under the CWSRF and not emerging contaminant funds.

When will BIL funds be available?

The BIL was passed in November 2021 and will be in effect 180 days from signing into law, which is May 2022. EPA has only recently engaged with states on the BIL funding opportunity and the timing when funds will be received by states is unknown. Generally, EPA specifies a window to apply, and CWSRF submits an application. The base program CWSRF annual capitalization grant is traditionally received in fall.

What types of entities and projects are eligible for BIL funding?

Because the BIL funding will be administered through the CWSRF, the eligibilities of the program apply. Eligible public agencies include tribal nations, cities, counties, sanitary districts, soil and water conservation districts, irrigation districts, various special districts and certain intergovernmental entities. "Public agency" in this program is defined by ORS 468.423. The program also lends to certified nonprofit Community Development Financial Institutions for the specific purpose of lending to individual homeowners for the repair or replacement of a failing septic system, or connection to a public sewer system. Types of projects CWSRF can fund include, but are not limited to, wastewater facility improvements, stormwater infrastructure, irrigation projects, water and energy conservation, and nonpoint source

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.

pollution control projects, such as riparian restoration to benefit watersheds.

How are CWSRF incentives determined and will BIL change the offerings? Will increased principal forgiveness be available?

The CWSRF incentives are provided in the form of below-market interest rates and forgivable loan principal that does not need to be repaid. Principal forgiveness is awarded to eligible borrowers who have a green/sustainable project (specific EPA criteria) or an economically disadvantaged community.

Starting in 2022, BIL funds will be provided in addition to the capitalization grants the state receives annually. EPA has indicated that 49% of total BIL funds to state CWSRF programs must be awarded in the form of incentive, or principal forgiveness, and 51% of the total funds must be awarded in the form of a loan. BIL incentives are still being analyzed and determined for individual community loans.

Why not just award every project 100% forgivable loan?

EPA specifies the minimum and maximum amount of principal forgiveness (%) allowed under CWSRF programs. DEQ must carefully track principal forgivable loan awards to ensure compliance with federal requirements. If the CWSRF were to award too much forgivable loan in a given year, the ability to award incentives would be restricted for future years which could negatively impact those communities faced with clean water challenges.

How can an eligible public entity or CDFI apply for BIL (CWSRF) funds?

CWSRF encourages public agencies and CDFI's to apply for funding under the program with our current application process. Applications are reviewed and scored three times per year in April, August and December. More information regarding the Oregon CWSRF loan application process can be found on our website Loan Application Process page.

What is the Oregon Clean Water State Revolving Fund intended use plan (IUP)?

Once a loan application has been determined complete and both project and applicant are eligible under CWSRF guidelines, the project is published on the Intended Use Plan. DEQ is required to submit to EPA an Intended Use Plan as part of the annual capitalization grant application process. The plan provides information to EPA and other interested parties on how the loan program intends to use funds available each year. This document is updated during the state fiscal year and includes all projects for which applications have been received and the amount of loan funds available to the program. After a project is placed on the IUP and undergoes a 14-day public comment

period, Oregon CWSRF may proceed with a loan agreement when the community is ready..

How long does it take to secure CWSRF infrastructure funds?

The CWSRF is a federal funding program and thus includes required procedures prior to loan agreement. EPA requires that CWSRF perform loan underwriting to assess a community's financial capacity.

CWSRF can continue to provide principal forgiveness with current funding and anticipates providing principal forgiveness under BIL. CWSRF is analyzing the BIL funding to determine levels of principal forgiveness for individual loans.

If a community has an urgent infrastructure funding need or timing concern, they are encouraged to contact their DEQ CWSRF Project Officer to discuss the loan type most appropriate to fund the project.

How much funding may a community request under the Clean Water Revolving State Revolving Fund?

There is no limit to the amount of funding that can be requested for a specific project, but a maximum amount the CWSRF can issue in loans in any year is determined annually. For the past three years the annual maximum loan amount has been more than \$30 million. CWSRF monitors both program demand as well as projected federal capitalization grants and loan repayments to determine how much can be awarded annually. As a result of BIL, the federal government will be making an unprecedented investment into DEQ CWSRF.

Communities are encouraged to reach out to their [Oregon CWSRF Project Officer](#) with any questions about project phasing or other funding options for large projects.

Are there any special requirements for this funding (strings attached)?

Funding awards through this federal CWSRF program are subject to a variety of federal requirements including Davis Bacon and American Iron and Steel. Additionally, with BIL funding there will be a new requirement "Build America Buy America" that will replace American Iron and Steel and expand the type of materials that must be domestically sourced. EPA has not yet provided the state guidance on how the Buy America program will be implemented. The [Environmental Review Process](#) must be addressed prior to construction

work. A comprehensive list of funded project requirements can be found on the [CWSRF website](#). The full project must adhere to all federal requirements, even if project is only partially funded through CWSRF.

Who can I contact with questions?

- If you may be interested in applying for CWSRF funding and have a project to discuss, please contact your [Clean Water State Revolving Fund Project Officer](#).
- The Oregon CWSRF - contact for BIL specific questions Chris Marko chris.marko@deq.oregon.gov or at (503) 880-6060.

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.