

<http://www.oklegislature.gov/osStatutesTitle.aspx>

Oklahoma Statutes

§82-1085.51. Legislative intent.

In addition to the financial assistance program established under Sections 1085.31 through 1085.49 of this title pursuant to Section 39 of Article X of the Oklahoma Constitution, it is the intention of the Legislature to establish a Clean Water State Revolving Fund Program to implement Title VI of the federal Water Quality Act of 1987.

Added by Laws 1988, c. 202, § 1, operative July 1, 1988.

Amended by Laws 2002, c. 322, § 1, emerg. eff. May 30, 2002.

§82-1085.52. Definitions.

For the purposes of the Clean Water State Revolving Fund Program:

1. "Water quality project" means:
 - a. any engineering undertaking or work to control or develop sewage treatment facilities of the state for all useful and lawful purposes,
 - b. any system necessary to improve or develop sewage treatment, collection or distribution capabilities,
 - c. urban storm water activities that are administered under the Oklahoma Brownfields Voluntary Redevelopment Act for eligible entities that have obtained a draft or final permit pursuant to the National Pollution Discharge Elimination Act or the Oklahoma Pollution Discharge Elimination Act, or
 - d. capital works, capital improvements, capital equipment, environmental cleanups, land acquisition, or implementation of management practices for the purpose of protecting or improving surface or underground water quality through watershed management or reduction of nonpoint source pollution as authorized by the federal Water Quality Act of 1987 and Section 1085.65 of this title,
 - e. any implementation of estuary conservation and management programs as authorized by the federal Water Quality Act of 1987,
 - f. any other water quality project as may be authorized by the federal Water Quality Act of 1987;

2. "Investment certificate" means any note or bond, including any renewal note or refunding bond, authorized and issued by the Board pursuant to the provisions of this act;
 3. "Eligible entity" means any city, town, county or the State of Oklahoma, and any rural sewer district, public trust, master conservancy district, any other political subdivision or any combination thereof;
 4. "Board" means the Oklahoma Water Resources Board;
 5. "Clean Water State Revolving Fund Loan Account" means the Clean Water State Revolving Fund Loan Account created pursuant to Section 1085.53 of this title;
 6. "Clean Water State Revolving Fund Loan Administrative Fund" means the Clean Water State Revolving Fund Loan Administrative Fund created pursuant to Section 1085.64 of this title;
 7. "Conservation Commission" means the Oklahoma Conservation Commission;
 8. "Department" means the Department of Environmental Quality; and
 9. "Federal Water Quality Act of 1987" means the federal Water Quality Act of 1987 as exists on July 1, 1988, as may be amended, and any successor statute.
- Added by Laws 1988, c. 202, § 2, operative July 1, 1988.
Amended by Laws 1993, c. 145, § 325, eff. July 1, 1993; Laws 1999, c. 381, § 2, emerg. eff. June 8, 1999; Laws 2002, c. 322, § 2, emerg. eff. May 30, 2002.

§82-1085.53. Creation of account - Composition - Purpose - Investment.

- A. Within the Water Resources Fund created pursuant to Section 1085.33 of this title, there is hereby created the "Clean Water State Revolving Fund Loan Account". The account shall be set apart as a permanent and perpetual account not subject to fiscal year limitations and shall consist of:
 1. All monies received pursuant and subject to the restrictions of the federal Water Quality Act of 1987 which are eligible for use in state revolving loan funds established to meet the requirements of that act;
 2. Monies appropriated to the account;
 3. Payments of principal and interest and penalty payments on loans made directly from federal grant monies and state-appropriated monies in the account;
 4. Payments of principal and interest and penalty payments on loans made from the proceeds of the sale of investment certificates in the account or as may be provided in applicable bond resolutions or indentures as appropriate;

5. All income from the investment of monies held in the account consistent with applicable bond resolutions or indentures as allowed by the federal Water Quality Act of 1987;

6. Proceeds from the sale of investment certificates issued to provide water quality project loans pursuant to the provisions of the Clean Water State Revolving Fund Program except as otherwise provided by the applicable bond resolutions or indentures as appropriate; and

7. Any other sums designated for deposit to the account from any source, public or private.

B. The Clean Water State Revolving Fund Loan Account shall remain available in perpetuity for providing financial assistance in accordance with the federal Water Quality Act of 1987.

C. The monies in the Clean Water State Revolving Fund Loan Account shall be used for the purpose of making loans to eligible entities pursuant to the provisions of the Clean Water State Revolving Fund Program or for such other purposes authorized by the federal Water Quality Act of 1987.

D. The monies placed in the Clean Water State Revolving Fund Loan Account shall be invested by the State Treasurer in an adequately collateralized manner and as prescribed by Section 89.2 of Title 62 of the Oklahoma Statutes or pursuant to investment contracts or agreements with entities maintaining a rating in the top two categories by a nationally recognized municipal bond rating agency, in the manner consistent with the provisions of the federal Water Quality Act of 1987. Monies invested by the State Treasurer shall be available to meet program needs for funding as established by the Board.

E. Notwithstanding the provisions of Section 1085.39 of this title, the Board shall not use funds in the Clean Water State Revolving Fund Loan Account established in the Water Resources Fund to make grants.

Added by Laws 1988, c. 202, § 3, operative July 1, 1988.

Amended by Laws 2002, c. 322, § 3, emerg. eff. May 30, 2002.

§82-1085.54. Uses of funds.

A. All funds available in the Clean Water State Revolving Fund Loan Account shall first be used to assure maintenance of progress towards compliance with enforceable deadlines, goals, and requirements of the Oklahoma Environmental Quality Code, Oklahoma's Water Quality Standards, and Federal Clean Water Act, including urban storm water activities and wastewater treatment plant projects.

B. The Oklahoma Water Resources Board shall use the Clean Water State Revolving Fund Loan Account only as provided by the federal Water Quality Act of 1987 for the following purposes:

1. To make a loan to an eligible entity if:
 - a. the loan application, project and planning documents have been approved by the Board pursuant to Section 1085.58 of this title or the Oklahoma Conservation Commission pursuant to Section 1085.65 of this title,
 - b. the loan is made at or below market interest rates, including interest-free loans, at terms consistent with the federal Water Quality Act of 1987,
 - c. principal and interest payments will begin not later than one year after completion of any water quality project and all loans will be fully amortized consistent with the federal Water Quality Act of 1987,
 - d. the Clean Water State Revolving Fund Loan Account will be credited with all payments of principal of and interest on all loans,
 - e. the applicant demonstrates to the satisfaction of the Board the financial capability to assure sufficient revenues to pay debt service,
 - f. the recipient of the loan establishes a dedicated source of revenue for payment of debt service for the loan, and
 - g. the recipient agrees to maintain financial records in accordance with governmental accounting standards, to conduct an annual audit of the financial records relating to the water quality project, and to submit the audit report to the Board on a scheduled annual basis;
2. To buy or refinance eligible entity obligations at or below market rates if the eligible entity obligations were incurred in construction which began after March 7, 1985;
3. To guarantee or purchase insurance for eligible entities if the guarantee or insurance would improve access to market credit or reduce interest rates;
4. As a source of revenue or security for the payment of principal of and interest on any investment certificate issued by the Board. The proceeds of the sale of such investment certificates shall be deposited in the Clean Water State Revolving Fund Loan Account in compliance with applicable bond resolutions or indentures authorizing the sale;
5. To provide loan guarantees to similar revolving loan accounts or funds established by eligible entities;
6. To earn interest on accounts established under the Clean Water State Revolving Fund Loan Account;

7. To administer the Clean Water State Revolving Fund Loan Account pursuant to the provisions of this act. All funds to be utilized for administrative costs from the Clean Water State Revolving Fund Loan Account shall be subject to annual designation by the State Legislature; and

8. For such other purpose or in such other manner, as is determined by the Board to be an appropriate use of the Clean Water State Revolving Fund Loan Account pursuant to the Clean Water State Revolving Fund Program and which has been specifically approved or otherwise authorized by the Environmental Protection Agency pursuant to the federal Water Quality Act of 1987.

C. An eligible entity may use the loan fund money on nonpoint source pollution reduction if, based upon the needs of the eligible entity, the reduction of nonpoint source pollution would enhance the water quality project. The funds received by the eligible entity may be used for the implementation of the nonpoint source management program pursuant to Section 1085.65 of this title.

Added by Laws 1988, c. 202, § 4, operative July 1, 1988.

Amended by Laws 1993, c. 145, § 326, eff. July 1, 1993; Laws 1999, c. 381, § 3, emerg. eff. June 8, 1999; Laws 2002, c. 322, § 4, emerg. eff. May 30, 2002.

§82-1085.55. Powers and duties of Board - Cost-effective analyses.

A. In addition to other powers and duties provided by law, the Oklahoma Water Resources Board shall have the power and duty to:

1. Prepare and maintain the priority list for all water quality projects. In developing the priority list, the Board shall rely on input from the Department of Environmental Quality and the Conservation Commission;

2. Review and assess the planning and preliminary financial documents for and cost effectiveness of water quality projects on the priority list;

3. Determine water quality project feasibility and the entities' eligibility to receive funding from the Clean Water State Revolving Fund Loan Account;

4. Perform the environmental review and make the appropriate environmental determinations in accordance with the environmental review process approved by the Environmental Protection Agency;

5. Provide oversight and technical assistance during the planning, design, and construction phase of the water quality project for which the entity is applying for such loan; and

6. Be the instrumentality to make application to the Environmental Protection Agency for the capitalization grant which is to be placed in the Clean Water State Revolving Fund Loan Account.

B. In determining the cost effectiveness of any water quality project, the Board shall require the preparation of a cost effective analysis of feasible alternatives capable of meeting state and federal water quality and public health requirements. The alternative selected shall be the most economical means of meeting applicable state and federal effluent and water quality or public health requirements over the useful life of the water quality project while recognizing environmental and other nonmonetary considerations determined to be relevant by the Board.

Added by Laws 1988, c. 202, § 5, operative July 1, 1988.

Amended by Laws 1993, c. 145, § 327, eff. July 1, 1993; Laws 2002, c. 322, § 5, emerg. eff. May 30, 2002.

§82-1085.56. Rules - Minimum requirements.

The Oklahoma Water Resources Board shall promulgate such rules as may be necessary for determining the eligibility and priority of entities for water quality projects in order to receive loans made pursuant to the federal Water Quality Act of 1987 and from the Clean Water State Revolving Fund Loan Account. At a minimum, such rules shall:

1. Ensure the fair and equitable prioritization of entities eligible for loans made pursuant to the provisions of this act;

2. Be in conformance with applicable provisions of Oklahoma's Water Quality Standards, the Oklahoma Environmental Quality Code, and the federal Water Quality Act of 1987;

3. Require that to be approved, an applicant needs or will need the water quality project loan to comply with rules promulgated by the Environmental Quality Board pursuant to the Oklahoma Environmental Quality Code, or the Conservation Commission, whichever has jurisdiction; and

4. Require the water quality project to:

a. be designed to halt or prevent the pollution of the waters of this state and comply with Oklahoma's Water Quality Standards,

b. meet the Board's established environmental review criteria as provided for by the federal Water Quality Act of 1987,

c. comply with minimum standards of the Federal Water Pollution Control Act, Chapter 26, Title 33, United States Code, or any similar or successor statute, and

- d. meet any other consideration deemed necessary by the Board.

Added by Laws 1988, c. 202, § 6, operative July 1, 1988.

Amended by Laws 1993, c. 145, § 328, eff. July 1, 1993; Laws 2002, c. 322, § 6, emerg. eff. May 30, 2002.

§82-1085.57. Management of funds - Investment certificates.

A. In addition to other powers and duties provided by law, the Oklahoma Water Resources Board shall have the power and duty to:

1. Manage, maintain, expend and otherwise administer monies in the Water Resources Fund and any accounts or subaccounts therein, except as otherwise provided by paragraph 2 of this subsection, pursuant to the provisions of Sections 1085.31 through 1085.39 of this title;

2. Manage, maintain, expend and otherwise administer monies in the Clean Water State Revolving Fund Loan Account pursuant to the statutory authority of the Oklahoma Water Resources Board and shall manage the account so as to make available the amounts necessary to fund loans to eligible entities entitled to receive funding;

3. Establish separate accounts and subaccounts within the Water Resources Fund and provide that such accounts be segregated and used for specified purposes or held as security for designated obligations;

4. Issue investment certificates to provide necessary funds for the Clean Water State Revolving Fund Loan Account pursuant to the provisions of subsection B of this section;

5. Enter into binding loan agreements with the eligible entities; and

6. Transfer, when necessary, monies from the Clean Water State Revolving Fund Loan Account to the Statewide Water Development Revolving Fund to be used for security or collateral for investment certificates issued for the Clean Water State Revolving Fund Loan Account. The monies so transferred and the interest income from such monies shall be restricted for use to those programs authorized by the federal Water Quality Act of 1987. The Board shall establish such accounts and subaccounts within the Statewide Water Development Revolving Fund necessary to implement the provisions of this paragraph.

B. The Board may issue investment certificates to provide necessary funds for the Clean Water State Revolving Fund Loan Account; provided that said issuance shall be governed by the provisions of Sections 1085.33 and 1085.37 of this title. The Board shall not issue such investment certificates unless:

1. The Board has determined that the issuance of the investment certificates is an economical way to provide loan

funds to meet the demand for funding and is beneficial for the long term stability of the fund. Prior to issuance of any such bonds, the Board shall fully consider all comments submitted by the public concerning issuance of the bonds; and

2. The issuance of such certificates has been reviewed and approved pursuant to the Oklahoma Bond Oversight and Reform Act. Added by Laws 1988, c. 202, § 7, operative July 1, 1988. Amended by Laws 1993, c. 145, § 329, eff. July 1, 1993; Laws 2002, c. 322, § 7, emerg. eff. May 30, 2002.

§82-1085.58. Evaluation of wastewater projects - Financial review - Recommendation of Board - Approval or rejection of loan application - Disbursement of funds - Payment of loans.

A. The Board shall provide financial review guidelines for use in preliminary evaluations of water quality projects. The evaluation shall include such information as required by the Board, including but not limited to the:

1. Cost of the water quality projects;
2. Amount of the loan requested;
3. Repayment schedule; and
4. Existing and anticipated assets and liabilities of the applicant.

B. Upon a determination of the Board that an entity meets the criteria to receive funding pursuant to the provisions of this act, the Board shall make an initial financial review.

C. The Board shall prepare its initial financial review of the entity based upon:

1. The documents submitted by the entity and any additional information requested by the Board necessary to make a financial review of such entity; and
2. The proposed loan amount and interest rate for which the entity qualifies.

D. The initial financial review may either recommend approval or rejection of the proposed loan.

E. If the Board recommends rejection, the written recommendations shall include reasons for said rejection. The Board shall forward a written copy of the rejection notice to the entity. The entity may then be allowed to modify any such documents in order to comply with the requirements of the Board and may resubmit the necessary financial documents to the Board.

F. If the Board recommends approval, the Board shall notify the entity of such acceptance.

G. If the loan application is for a watershed management or nonpoint source pollution control project, the application shall include a written concurrence by the Oklahoma Conservation Commission, or the Department of Environmental Quality,

whichever agency has jurisdiction, that the proposed water quality project:

1. Meets or will meet a critical local or state need, as defined in the State Nonpoint Source Assessment and Management Report;

2. Is needed or will be needed to comply with the State Nonpoint Source Assessment and Management Report;

3. Is designed to prevent, reduce, or halt the pollution of the waters of the state;

4. Is cost-effective; and

5. Will be awarded on a cost-share basis, as required.

H. Upon review of the application and applicable documents, the Board shall either approve or reject the loan application. The Board may request additional information from the applicant or the Department of Environmental Quality or Oklahoma Conservation Commission, as applicable, in order to complete the financial review of the application for the loan. The Board shall notify the applicant of any rejection of an application.

I. Upon the closing of the loan, the Board shall authorize disbursement of funds from the account pursuant to the provisions of this act, the loan documents and rules of the Board that provide for the release of the loan proceeds.

J. Payment on loans shall be made to the Board as provided in the loan documents.

Added by Laws 1988, c. 202, § 8, operative July 1, 1988.

Amended by Laws 1993, c. 145, § 330, eff. July 1, 1993; Laws 2002, c. 322, § 8, emerg. eff. May 30, 2002.

§82-1085.59. Investment certificates - Review and approval of issuance.

An investment certificate shall not be issued under Sections 1085.31 through 1085.39 of this title or pursuant to the provisions of the Clean Water State Revolving Fund Program unless the issuance has been reviewed and approved pursuant to the Oklahoma Bond Oversight and Reform Act.

Added by Laws 1988, c. 202, § 9, operative July 1, 1988.

Amended by Laws 2002, c. 322, § 9, emerg. eff. May 30, 2002.

§82-1085.60. Annual audit.

The Office of the State Auditor and Inspector shall perform an annual audit of any expenditures from the Clean Water State Revolving Fund Loan Account.

Added by Laws 1988, c. 202, § 10, operative July 1, 1988.

Amended by Laws 2001, c. 120, § 1, emerg. eff. April 23, 2001; Laws 2002, c. 322, § 10, emerg. eff. May 30, 2002.

§82-1085.61. Default - Collection actions by Attorney General.

In the event of a default in payment of the principal or interest on loans made from the Clean Water State Revolving Fund Loan Account pursuant to this act, the Attorney General is empowered and it shall be the duty of the Attorney General to take action to collect amounts due to the account. The Attorney General shall institute appropriate proceedings by mandamus or other legal remedies to compel the defaulting party and its officers, agents, and employees to cure the default by performing duties that they are legally obligated to perform. Those proceedings shall be brought and venue shall be in the district court of Oklahoma County.

Added by Laws 1988, c. 202, § 11, operative July 1, 1988.

Amended by Laws 2002, c. 322, § 11, emerg. eff. May 30, 2002.

§82-1085.62. Establishment of criteria for determination of interest rates on loans - Annual report.

In order to comply with the requirements of federal and state laws, the Board shall complete the following:

1. Establish criteria for determining the interest rates on loans to be made from the Clean Water State Revolving Fund Loan Account. Such criteria may incorporate applicable United States Environmental Protection Agency and Rural Development Administration guidelines for financial assistance.

- a. In determining interest rates on loans made from the fund, in addition to other information, due consideration shall be given to:
 - (1) providing for the maintenance of the account in perpetuity,
 - (2) statewide needs for the assistance available pursuant to the provisions of this act,
 - (3) five-year demand projections of the Board for assistance available pursuant to the provisions of this act,
 - (4) prevailing market interest rates, and
 - (5) debt service requirements of investment certificates issued by the Board to provide funds for the Clean Water State Revolving Fund Loan Account.
- b. In developing criteria for the determination of interest rates available to individual entities, in addition to other information, due consideration shall be given to:
 - (1) financial resources of the entity,
 - (2) the ability of the entity to repay the loan,
 - (3) those entities that discharge into those streams and rivers designated as scenic river areas pursuant to the provisions of Section

1452 of this title or outstanding resource waters under Oklahoma's Water Quality Standards, and

(4) prevailing market interest rates; and

2. Submission of an annual report by the Board to the Governor and to the Speaker of the House of Representatives and the President Pro Tempore of the Senate within one hundred twenty (120) days of the end of each fiscal year concerning the Clean Water State Revolving Fund Loan Account and implementation of the provisions of Sections 1085.51 through 1085.65 of this title. The report shall contain information to show the actual use and the recipients of loans made from the Clean Water State Revolving Fund Loan Account. In addition, the report shall contain five-year demand projections on anticipated loan funds required and ten-year and twenty-year projections as to possible funding needs for water quality projects which may be eligible for financial assistance under Sections 1085.51 through 1085.65 of this title.

Added by Laws 1988, c. 202, § 12, operative July 1, 1988.

Amended by Laws 1993, c. 145, § 331, eff. July 1, 1993; Laws 2002, c. 322, § 12, emerg. eff. May 30, 2002.

§82-1085.63. Intended use plan - Annual report.

A. The Board shall prepare an annual intended use plan and shall submit such plan to the United States Environmental Protection Agency. The plan shall contain all information required by Section 606(c) of the federal Water Quality Act of 1987 and may contain such other information as the Board may determine. An opportunity for public review of and comment on the plan before submittal shall be provided.

B. The Board shall prepare an annual report and shall submit such report to the United States Environmental Protection Agency. The annual report shall contain all information required by Section 606(d) of the federal Water Quality Act of 1987 and may contain such other information as required by the Capitalization Grant Agreement.

Added by Laws 1988, c. 202, § 13, operative July 1, 1988.

Amended by Laws 1993, c. 145, § 332, eff. July 1, 1993.

§82-1085.64. Revolving fund.

A. In order to administer the Clean Water State Revolving Fund Loan Account, there is hereby created in the State Treasury a "Clean Water State Revolving Fund Loan Administrative Fund". The Clean Water State Revolving Fund Loan Administrative Fund shall be set apart from all other Board accounts and funds and shall be a permanent and perpetual fund not subject to fiscal year limitations. The Clean Water State Revolving Fund Loan

Administrative Fund shall consist of monies deposited into the fund from the following sources:

1. Loan processing and application processing and loan administrative fees heretofore collected by the Oklahoma Water Resources Board on loans made from the Clean Water State Revolving Fund Loan Account and designated by the Board for transfer and deposit into the Clean Water State Revolving Fund Loan Administrative Fund;

2. Application processing and loan administrative fees collected by the Board after the effective date of this section on loans made from the Clean Water State Revolving Fund Loan Account; and

3. Any other funds, whether public or private, that have been designated by the source thereof for deposit in the Clean Water State Revolving Fund Loan Administrative Fund.

B. Monies in, or investment income derived from, the Clean Water State Revolving Fund Loan Administrative Fund shall be restricted and used solely for the purpose of administering the Clean Water State Revolving Fund Loan Account or as otherwise authorized by the federal Water Quality Act of 1987 or guidance or regulation promulgated thereunder. Monies in the Clean Water State Revolving Fund Loan Administrative Fund, or investment income derived therefrom shall be used by the Board in carrying out its responsibilities as provided in Sections 1085.51 through 1085.65 of this title and shall be subject to annual designation by the State Legislature.

C. The monies placed in the Clean Water State Revolving Fund Loan Administrative Fund may be invested by the State Treasurer in an adequately collateralized manner and as prescribed by Section 89.2 of Title 62 of the Oklahoma Statutes or pursuant to investment contracts or agreements with entities maintaining a rating in the top two categories by a nationally recognized municipal bond rating agency, all in a manner consistent with the federal Water Quality Act of 1987 or regulations promulgated thereunder. The Board may transfer to the Clean Water State Revolving Fund Loan Administrative Fund income derived from investment of the Fund. Monies invested by the State Treasurer shall be available to meet administrative funding needs.

D. The Board is authorized to transfer monies from the Clean Water State Revolving Fund Loan Administrative Fund into the Clean Water State Revolving Fund Loan Account to be utilized for purposes consistent with the federal Water Quality Act of 1987.

E. The Board shall cause to be completed an annual audit of any expenditure from the Clean Water State Revolving Fund Loan Administrative Fund.

Added by Laws 1988, c. 202, § 14, operative July 1, 1988.
Amended by Laws 1993, c. 145, § 333, eff. July 1, 1993; Laws
1999, c. 31, § 1, eff. Nov. 1, 1999; Laws 2002, c. 322, § 13,
emerg. eff. May 30, 2002.

§82-1085.65. Loan applications for nonpoint source management programs.

A. The Oklahoma Conservation Commission shall promulgate rules to receive, and review applications for water quality projects submitted to the Clean Water State Revolving Fund Program for implementation of nonpoint source management programs as allowed by the federal Water Quality Act of 1987 for those activities subject to its jurisdiction as specified in the Oklahoma Environmental Quality Act.

B. The rules shall require that to be eligible for financial assistance, the proposed project:

1. Meets or will meet a critical local or state need, as defined in the State Nonpoint Source Assessment and Management Report;

2. Is needed or will be needed to comply with the State Nonpoint Source Assessment and Management Report;

3. Is designed to prevent, reduce or halt the pollution of the waters of this state and comply with Oklahoma's Water Quality Standards;

4. Is cost-effective; and

5. Shall be awarded upon a cost-share basis.

C. The Commission shall consult with and obtain comments of the Executive Director of the Department of Environmental Quality prior to making a recommendation on all applications and programs which may involve nonpoint sources subject to the jurisdiction of the Department of Environmental Quality. The Department of Environmental Quality's comments shall be addressed in the recommendation or attached thereto.

D. Upon determination that the proposed project meets the minimum criteria, the Commission shall forward the application, plans and specifications and other documents to the Oklahoma Water Resources Board, with a recommendation that a loan be made for the project.

Added by Laws 1988, c. 202, § 15, operative July 1, 1988.
Amended by Laws 1993, c. 145, § 334, eff. July 1, 1993; Laws
2002, c. 322, § 14, emerg. eff. May 30, 2002.