

Clean Water Act Financial Capability Assessment Guidance February 2023

Purpose of the Financial Capability Assessment (FCA) Guidance

When discharges from municipal wastewater treatment facilities violate the Clean Water Act (CWA), EPA sets a schedule for the municipality to implement control measures to address the discharges as soon as possible. EPA considers public health, environmental protection, and a community's financial capability when negotiating CWA compliance schedules. The FCA Guidance describes the financial information and formulas that can be used to assess the financial resources a community has available to implement control measures. The FCA Guidance is also used to evaluate the economic impacts on public entities of certain water quality standards (WQS) decisions.

Updated FCA Guidance

The FCA Guidance outlines strategies for communities to support affordable utility rates while planning investments in water infrastructure that are essential to protecting clean water. EPA is committed to ensuring that all Americans have access to essential water services and clean water. This guidance provides a framework to help achieve that goal for rural, suburban, and urban communities across the country.

The FCA Guidance:

- Looks at ways to lower costs of compliance and reduce or mitigate the financial impact of water service costs on a community's low-income households when setting schedules for implementing control measures related to CWA violations or when making certain WQS decisions for public entities.
- Considers households with incomes in the lowest quintile and other poverty factors affecting communities.
- For schedule development, provides a second option for assessing financial capability through a dynamic financial and rate model that looks at the impacts of rate increases over time on utility customers.
- Outlines strategies that municipalities can employ to reduce costs and relieve the burden on low-income residents while ensuring clean water for residents. Tools such as variable rate structures, consumer assistance programs, and grants or subsidies from the Clean Water State Revolving Fund are some of the tools outlined in the guidance.
- Strongly encourages additional subsidy or grant consideration from governmental funding sources for entities that are seeking extended schedules due to financial capability constraints.
- Provides general CWA compliance schedule benchmarks up to 20 years for high financial impacts, or up to 25 years for unusually high impacts, after consideration of financial alternatives.
- Explains how an FCA would apply to proposed decisions on WQS variances and antidegradation reviews that rely on economic demonstrations. In appropriate cases, these methodologies may

also inform decisions about revisions to designated uses, subject to additional analyses.

The FCA Guidance replaces the *1997 Combined Sewer Overflows—Guidance for Financial Capability Assessment and Schedule Development* to evaluate a community's capability to fund CWA control measures in both the permitting and enforcement context. The FCA Guidance also supplements the *2014 FCA Framework for Municipal Clean Water Act Requirements* and the public sector sections of *1995 Interim Economic Guidance for Water Quality Standards* to assist states and authorized tribes in assessing the degree of economic and social impact of potential WQS decisions.

Consideration of Low-Income Households and Communities' Poverty Concerns

The FCA Guidance retains factors required under the Clean Water Act by the [Combined Sewer Overflow Policy](#) as part of a financial capability assessment, including the consideration of median household income and costs per household as a percent of median household income. These indicators also allow for comparative analyses to communities that used EPA's 1997 FCA Guidance.

The FCA Guidance incorporates consideration of a community's lowest quintile income and other relevant poverty factors. Based on public comments received, the FCA adds a single new metric for consideration of lowest quintile income and poverty indicators.

The FCA allows for consideration of a community's:

- Lowest Quintile Income benchmarked to the National LQI;
- Percentage of Unemployed Population 16 and Over in Civilian Labor Force;
- Percentage of Population Living Under 200% of Poverty Level;
- Percentage of Population Receiving Food Stamps/SNAP Benefits;
- Percentage of Vacant Housing Units; and
- Trend in Household Growth (five-year trends of occupied households).

While such factors may support an extended compliance schedule or certain WQS decisions, EPA also recognizes that grant and loan availability; modifications to current residential, commercial and industrial sewer user fees and rate structures; and other viable funding mechanisms and sources of financing can each help mitigate financial impacts, particularly to a community's low-income residents. These financial tools can assist communities in getting needed projects underway while maintaining affordable water service.

The FCA Guidance clearly specifies that a community's analysis should describe the options that are appropriate, feasible, and legal for a particular utility or municipality to implement. For instance, a utility may not be the rate setting authority for its entire service area if it serves wholesale customers. The Agency has made an effort to recognize the real limitations around some of the financial alternatives while promoting a thoughtful conversation about available and creative options for lowering costs and minimizing impacts on overburdened ratepayers.

Federal funding initiatives and programs such as the Bipartisan Infrastructure Law (BIL), American Rescue Plan Act (ARPA), State Revolving Loan Funds (SRFs), Water Infrastructure Finance and Innovation Act (WIFIA) and others provide billions of dollars for state, local, territorial, and tribal

governments. These resources create a historic opportunity for municipalities to address long-standing challenges with compliance schedules, providing water quality and public health improvements that deliver important social, environmental, and economic benefits to the community.

Municipalities should demonstrate consideration of financial alternatives when requesting schedule extensions or certain WQS decisions. Performing a Financial Alternatives Analysis allows for the careful evaluation and balancing of both the environmental and rate impacts of extended noncompliance or lower water quality. The FCA Guidance provides that if there are resource concerns with completing a Financial Alternatives Analysis, support is available through EPA's Water Finance Center by sending an email to WaterTA@epa.gov. Where appropriate, additional information provided by the community can result in schedules that are different than the schedules suggested by the baseline analysis in the FCA Guidance.

In addition, for small communities serving less than 3,000 persons for which it may not be feasible to make a good faith effort to document the community's consideration of financial alternatives, EPA will be mindful of the resource constraints when developing compliance schedules and evaluating WQS decisions based on economic impacts. EPA will continue to consider each community's financial capability on a holistic case-by-case basis. Where appropriate, EPA has and will continue to consider supplemental information submitted by the community to negotiate reasonable and effective schedules for implementation of the CWA controls.

Application of the FCA Guidance to Water Quality Standards Decisions

The FCA Guidance applies to consideration of economic impacts to public entities when evaluating WQS variances and antidegradation reviews. In appropriate cases, these methodologies also may inform decisions about revisions to designated uses. The FCA Guidance incorporates guardrails around how communities can use the guidance for requested changes in designated uses of a water body. These are important because interim conditions, such as temporary financial downturns, should not be used to justify permanent downgrades to water quality. In addition to the financial alternatives analysis that is part of the FCA Guidance, for designated use changes, the Agency included a 10-year trend analysis of poverty metrics to ensure the economic information is representative over time.

For More Information

Additional information is available at EPA's "Water Affordability" website: <https://www.epa.gov/waterfinancecenter/clean-water-act-financial-capability-assessment-guidance>