

Financial Capability Assessment Guidance Questions & Answers February 1, 2023

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 Financial Capability Assessment (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. The Q&A below answers common questions about the FCA Guidance.

What is the purpose of the 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.

How does the FCA Guidance address the needs of environmental justice communities?

For all communities, and especially for environmental justice communities, it is essential to balance access to clean water with the financial impacts of paying for water services. When a municipality is out of compliance with the Clean Water Act, environmental justice communities often are at the frontlines of those impacts. The FCA Guidance was carefully drafted to ensure that Clean Water Act protections serve every American, with provisions to encourage local municipalities to ensure water services are both affordable and equitable. The FCA Guidance lays out a framework for the Agency and the community to balance these concerns and to set a workable compliance timeline or to ensure appropriate water quality standards are in place.

Will EPA consider Safe Drinking Water Act compliance costs when negotiating CWA compliance schedules?

Under the FCA Guidance, a community's drinking water obligations can be provided as additional information when setting a compliance schedule or making water quality standards decisions. Given the widespread, increasing costs of delivering reliable drinking water in communities, EPA is providing standardized instructions along with an explanation of how it intends to account for impacts of significant drinking water obligations. In addition, the FCA factors that consider a community's bond rating and level of debt may already reflect drinking water costs if the community has issued debt related to Safe Drinking Water Act obligations. The FCA Guidance allows flexibility to consider both drinking water and stormwater utility costs when appropriate. Requiring a "one size fits all" approach

to cost considerations in all instances limits the ability of local communities to work with EPA on schedules and changes to water quality standards that best fit local needs and conditions.

How does the FCA Guidance account for the cost of pollution control measures on lowest income households?

The FCA Guidance sets forth a range of measures to supplement the consideration of cost impacts on median income households, including by adding a metric to identify the severity and prevalence of poverty in communities. It does this by providing for consideration of several community-specific poverty indicators available from Census American Community Survey data, including households with incomes in the lowest quintile. Since cost impacts will vary from community to community, EPA will consider any information that communities provide about financial capability, including comparisons to county, state, or other local income data.

Why is EPA requesting information from utilities seeking schedule extensions about their efforts to address service affordability for low-income customers?

EPA's mission is to protect human health and the environment for every American. When considering a delayed schedule for addressing sewer overflow issues, Section II.8 of EPA's longstanding [CSO Control Policy](#) states that implementation schedules should incorporate consideration of grant and loan availability, user fees and rate structures, and other viable funding mechanisms and sources of funding. The FCA Guidance incentivizes municipalities to describe their strategies for lowering costs and reducing impacts on low-income households through a Financial Alternatives Analysis. While there may be local legal restrictions, the guidance provides ideas for working within legal boundaries to think creatively and broadly about how to help with rate impacts to residents. The guidance recognizes that most communities will have already considered or implemented at least some of the financial alternatives as general good practices of utility management.

What if a community does not have the expertise or resources to complete a Financial Alternatives Analysis?

The FCA Guidance incorporates feedback from utilities and other stakeholders, and provides clear, step-by-step instructions for completing a Financial Alternatives Analysis, with options for communities with less capacity. It also includes detailed descriptions of financial options, explanations of how various alternatives may help to minimize the financial impacts of CWA controls, links to resources for implementing financial alternatives, and case studies. In addition, the guidance provides an example template to assist in documenting and reviewing consideration of financial alternatives.

Some communities may not know about or may not have the resources to pursue certain financial alternatives. The FCA Guidance recognizes that small communities in particular may have difficulty obtaining information larger communities have readily available. The combination of the information provided along with the availability of EPA technical assistance may help communities consider and pursue available alternatives. For communities concerned with their ability to complete a Financial Alternatives Analysis, EPA's Water Finance Center will provide technical assistance. To get started with technical assistance, please send an email to WaterTA@epa.gov.

Will EPA provide technical assistance to communities to help complete the Financial Alternatives Analysis?

Funded through the Bipartisan Infrastructure Law (BIL) and other EPA infrastructure assistance programs, EPA can provide technical assistance upon request to help complete a Financial Alternatives Analysis. This technical assistance can include support to complete State Revolving Fund applications, identify funding options, assist with rate design and analysis, and help with asset management planning. Communities can request assistance with the Financial Alternatives Analysis and BIL-related funding by sending an email to WaterTA@epa.gov.

Will the scheduling benchmarks in the Guidance alter compliance schedules that have been previously negotiated?

The general scheduling benchmarks in the FCA Guidance will not alter compliance schedules that have been previously negotiated. The FCA Guidance provides transparent benchmarks for negotiating future compliance schedules. This transparency helps ensure national consistency in Clean Water Act implementation. EPA has negotiated compliance schedules and approved modified schedules that go beyond the 20-year benchmark set in EPA's 1997 FCA Guidance. The EPA will continue to negotiate compliance schedules based on a variety of factors, including financial capability. EPA recognizes that communities implementing long-term compliance schedules for infrastructure improvements may need to discuss changing plans due to technological changes or changing economic circumstances. The FCA Guidance facilitates information to be considered in those discussions.

How will the FCA Guidance support feasible compliance schedules for communities to comply with the Clean Water Act?

The FCA Guidance provides general implementation schedule benchmarks to help support both communities and EPA to negotiate reasonable and effective schedules for implementation of CWA controls. It is important for these benchmarks to be both public and clear. If a community has additional information that justifies a longer schedule than the general schedule benchmarks, this information can be submitted to EPA for consideration. The general benchmarks are not inflexible caps on schedules. They do not replace the negotiations and deliberations needed to balance the environmental and financial considerations that influence the site-specific nature of controls and implementation schedules. Communities with potential environmental justice concerns are often plagued by capacity issues that lead to noncompliance. Extending schedules will not mitigate that capacity issue – helping to build resources and capacity will support appropriate investments and assist in addressing these concerns.