



OFFICE OF THE ADMINISTRATOR

WASHINGTON, D.C. 20460

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Beth Sauerhaft, Ph.D.
Vice President
American Farmland Trust
2000 Pennsylvania Avenue, NW
Washington, D.C. 20006

Dear Dr. Sauerhaft:

I would like to convey my sincere gratitude to members of the Farm, Ranch and Rural Communities Advisory Committee and to you for your leadership and service to all the committee members. The FRRCC has been a productive committee throughout 2024, including submitting policy recommendations in January and November. This committee continues to serve an important role at the U.S. Environmental Protection Agency in ensuring that agriculture and rural communities can provide meaningful input into the agency's policies and programs.

While this letter does not represent the totality of work that has occurred and is underway, it offers a snapshot of several immediate actions the EPA has taken and will take to advance priorities identified by the committee. Senior leaders across the EPA have been consulted to explore how the FRRCC's policy recommendations are being considered and adopted.

Equity for Underserved Communities

We appreciate the FRRCC for the thoughtful recommendations intended to expand access to government resources for communities with lower organizational capacities. Many of these recommendations challenge the EPA, including the Office of Environmental Justice and the Office of Policy, to examine the fundamental operations for program management, grantmaking and coordination between the federal government and its state and local partners. We are eager to further examine these recommendations and incorporate the solutions where possible. The EPA is implementing the following actions regarding technical assistance:

- Through the [Thriving Communities Network](#), which includes the Rural Partners Network federal partners at the U.S. Departments of Agriculture, Commerce, Energy, Housing and Urban Development, Transportation and the Environmental Protection Agency, Federal Emergency Management Administration, General Services Administration and other agencies commit to coordinating and collaborating across a set of technical assistance programs and engaging their

regional and field staff who often serve as key points of contact for communities. The TCN is deploying four key strategies to support and connect communities:

- Technical assistance that builds communities' capacity to develop fundable projects that address community priorities, navigate federal programs and apply for and deploy federal resources.
 - Federal interagency coordination that supports and builds federal staff capacity to align public resources with community priorities.
 - Data and tools that support improved federal coordination and alignment of activities and resources for communities and that facilitate community capacity-building and navigation of resources.
 - Partnerships and outreach that engages external stakeholders in amplifying and building on the Thriving Communities Network approach to community-centered capacity building, including the opportunity to coordinate multiple sources of funding, known as "braiding."
- The federal resources coordinated through TCN include grant and financial management support, pre-development assistance, community engagement, planning and project delivery support. TCN is working to facilitate strategic coordination, collaboration and targeted deployment of federal place-based technical assistance and capacity-building resources to the communities that need it most across the United States. Most importantly, the TCN continues to expand and incorporate the efforts of an increasing number of federal agencies. In 2024, the TCN expanded to include the Treasury Department, National Oceanic and Oceanographic Administration and other agencies.
 - The EPA appreciates the recommendations regarding tailored eligibility, scoring, funding set-asides and a more streamlined application process for the agency's funding opportunities. Incorporating the recommended actions will require further consultation with budget, contract and grant officers to ensure compliance with applicable laws or allocation of additional resources. OEJEER looks forward to exploring details of recommendations and consider set asides and increased capacity to support new applicants with the FRRCC to best explore how the EPA can continue to improve its technical assistance processes and meet our shared goals, which includes support for rural communities.

Biotechnology and Insect Resistance Management

- The agency appreciates the recommendations issued by the FRRCC and agrees that biotechnology "is a critical tool" in helping society to adapt to a changing climate. To improve its regulatory program for biotechnology products, the EPA is executing the conditions of Executive Order 14081, "Advancing Biotechnology and Biomanufacturing Innovation for a Sustainable, Safe and Secure Bioeconomy."
- Under the executive order, the EPA, USDA and FDA have released an updated regulatory plan for biotechnology products. The agencies have identified five areas to prioritize: modified plants, modified animals, modified microorganisms, human drugs biologics and medical devices and cross cutting issues. To assist developers in determining which agency may regulate a given microbial product category, the agencies have also recently released a web-based tool accessible to the public.

- Per the recommendations in FRRCC's report, under E.O. 14801, the EPA is committed to working with USDA and FDA to incentivize innovation and reduce barriers to increase availability of biotechnology tools for incorporation into Climate-Smart Agriculture applications.
- Because of the unique nature and the good safety profile of registered biotechnology-based pesticides, the EPA is aware of the need to prolong the active life of these important agricultural tools through a framework that reduces the ability of the insect pest to become resistant to the pesticide, i.e., insect resistance management.
- To protect the continued efficacy of biotechnology-based products in the face of the tendency of agricultural pests to develop resistance to a pesticide, the EPA has engaged in a public process to improve its IRM framework and will continue to seek and incorporate the opinions of all stakeholders, including independent seed companies, on how best to improve the framework.
- As part of its effort to protect the efficacy of biotechnology-based products, and as an example of implementation of FRRCC recommendation A.8, the EPA has partnered with USDA to scale up public-private partnerships and market-based approaches for IRM by establishing USDA NRCS Conservation Practice E595D. E595D provides technical and financial assistance to farmers planting refuges as part of IRM to slow the emergence of resistance in agricultural pests to biotechnology-based pesticides. The agencies will continue to seek opportunities to develop additional partnerships of this type.

Greenhouse Gas Reduction Fund Support for Agriculture

Through programs such as the EPA's Office of the Greenhouse Gas Reduction Fund and USDA's Partnerships for Climate Smart Commodities, the federal government is cultivating new partnerships with corporations and foundations that can help support farmers' conservation efforts. I was pleased that one of the GGRF's grant recipients, Climate United, specifically mentioned supporting small and mid-sized producers. The EPA will seek to facilitate the leveraging of private and public capital in the development of market-based solutions that benefit our nation's farmers and rural communities.

- The agency acknowledges the recommendations for the EPA to structure the Greenhouse Gas Reduction Fund to support agriculture projects. The EPA's National Clean Investment Fund and Clean Communities Investment Accelerator teams plan to organize implementation workshops with grantees in early 2025 to share best practices on several topics, e.g., incorporating natural climate solutions and the benefits of doing so. We will share insights on an ongoing basis, without infringing on our grantees' responsibility and ability to select and design projects.
- All GGRF grantees have signed on to a rigorous, comprehensive set of terms and conditions. These T&Cs reinforce the types of activities that are allowable under the GGRF program as described under the Notice of Funding Opportunities, e.g. Financial Assistance/Capitalization Funding, Market-Building, Pre-development, Technical Assistance and Program Administration, as well as the types of activities that are prohibited.
- Project developers, sponsors and proposers are responsible for working with GGRF grantees to determine allowable activities based on the guidance provided by the NOFO and the T&Cs, and to identify a financial product aligned with those allowable activities. The EPA does not have the capacity to adjudicate every single project or project type or financial product. We set a high bar for applicants via the NOFO and selected those best able and equipped to make these determinations on their own, supported by the funding we've provided.

- Every proposed project will be evaluated against the same GGRF criteria and requirements; agriculture projects will not be disadvantaged so long as they conform to GGRF criteria and requirements.
- The EPA has created the criteria and conditions for eligible projects, and meeting those criteria and conditions is the work of the grantees, sub-grantees, project developers and project proposers.
- The EPA does not intend to create a list of “approved practices” for any sector; there are thousands of project types and typologies that could be eligible for GGRF financing, and the EPA cannot weigh in only on a subset of practices given fairness, equity and transparency concerns.

The EPA acknowledges and appreciates the recommendation regarding community solar, solar programs and solar education.

- NCIF and Solar for All applicants were evaluated and selected in part on their plans conduct to “market-building activities”¹ and to provide technical assistance², respectively, including customer education and engagement and community outreach. All NCIF grantees and nearly every SFA grantee committed to engaging in outreach and education, and the EPA has confidence in their ability to leverage GGRF funding to inform communities.
- GGRF grantees are responsible for selecting their sub-grantees and determining the nature and scope of the projects they fund so long as they meet the requirements of a qualified project as described in program guidance. The EPA has created the criteria and conditions for eligible projects, and meeting those criteria and conditions is the work of the grantees, sub-grantees, project developers and project proposers. GGRF will not fund utility-scale solar installations; community solar arrays funded by SFA are limited to 5 MW nameplate capacity and must deliver at least 50 percent of the power generated from the system to multiple residential customers within the same utility territory as the facility, and distributed generation projects under NCIF and CCIA are limited to 10 MW.

Climate Change Resiliency Planning

The EPA, including through the Office of Policy, concurs with the FRRCC’s Recommendation on the need to prioritize frameworks that allow for increased community preparedness to the impacts of climate change. Since 2021, the EPA’s Climate Adaptation Plans have committed the agency to encouraging climate-resilient investments through its programs and investments. To help advance these federal and agency-wide priorities, the EPA’s Resilient Infrastructure Subgroup on Climate has been working internally to support the agency’s financial assistance programs while also externally assisting applicants and recipients as they invest in climate-smart projects. To date, RISC has developed two web-based systems to advance climate-resilient investments inside and outside of the EPA:

¹ “Costs for market-building activities” are allowable costs per NCIF NOFO, Section III.D. Allowable and Unallowable Costs. Market-building activities are defined in Section I.D. Competition Terminology as “activities to generate market-wide demand for qualified projects, including (but not limited to) marketing, **customer education and engagement, community outreach**, contractor engagement, workforce development and other non-financial market-building activities.” [emphasis added]

² Per SFA NOFO Section III.D. Allowable and Unallowable Costs: “Eligible technical assistance examples include workforce training, **customer outreach and education**, project development and deployment assistance (including services and tools from National Labs), and coordination with utilities for the purposes of project deployment.” [emphasis added]

- The first is an internal clearinghouse to provide the EPA's financial assistance staff with general approach to address climate adaptation and resilience throughout various steps of their program processes, e.g. writing announcements, assessing climate risks to a proposed project and performing meaningful engagement.
- The second is the [Climate Resilience and Adaptation Funding Toolbox](#), a user-friendly resource for technical assistance providers working with federal funding applicants and recipients to develop, apply for and implement climate-resilient investments. The EPA programs are strongly encouraged to follow the approach laid out by the internal clearinghouse to integrate adaptation, resilience and climate justice into their funding opportunities, including those for water infrastructure.
- Similarly, CRAFT can be used by technical assistance providers in the water sector, as noted in recommendation, to support water system operators considering climate risks to projects, adaptation and resilience strategies, and potential funding opportunities. The activities performed by RISC support the Biden-Harris Administration's [National Climate Resilience Framework](#) as well as the Office of Management and Budget's Memorandum M-24-03, [Advancing Climate Resilience through Climate-Smart Infrastructure Investments and Implementation Guidance for the Disaster Resiliency Planning Act](#), which directed all federal agencies to consider the effects of climate change in federal infrastructure investment decisions and provide technical assistance resources to prospective applicants.

The EPA's Office of Policy also recently launched a new [Office of Climate Adaptation and Sustainability](#). The new office, led by a member of the senior executive service, is fostering integration of climate adaptation both within the agency and with other governmental entities in a whole of government approach to addressing climate change impacts. The new office is also working with external non-governmental partners, e.g., industrial sectors, to become more resilient to climate change impacts and look for opportunities to reduce greenhouse-gas emissions through climate-sustainable practices.

The EPA appreciates FRRCC's recommendation to work with other executive agencies to enhance integrated planning and rulemaking frameworks to allow for community and stakeholder input. The EPA recently finalized its [Meaningful Engagement Policy](#), through which the agency is committed to providing timely opportunities for members of the public to share information or concerns and participate in decision-making processes. In addition, this policy outlines the need to consider public input provided as part of decision-making processes and seek out and encourage the involvement of people and communities potentially affected by federal activities.

Lastly, the Office of Management and Budget has provided [guidance](#) to federal agencies on broadening public participation and community engagement in the regulatory process. This guidance includes facilitation of early, transparent, accessible, equitable and meaningful public participation and community engagement.

Drought and Flood Resilience

As part of the EPA's mandate to protect human health and the environment, the agency enforces both the Safe Drinking Water Act and the Clean Water Act, both of which ensure adequate drinking water quality, such as after floods and droughts. In the face of a changing climate and the potential risks this poses to the spread of disease through our water systems, the EPA has worked to

institute requirements to protect small and historically disadvantaged communities, including the following actions:

- On March 1, 2024, [the EPA announced stronger safety standards](#) to protect at-risk communities from chemical accidents, including for regulated facilities to evaluate the risks of natural hazards and climate change, including any associated loss of power.
- On March 24, 2024, [the EPA also announced new requirements](#) for facilities that store and could discharge dangerous chemicals into rivers, lakes or other waterbodies. This final rule requires certain facilities to develop facility response plans for the worst-case discharge of [Clean Water Act hazardous substances](#), or threat of such a discharge. A worst-case discharge is the largest foreseeable discharge in adverse weather conditions, including extreme weather conditions due to climate change.
- Lastly, in August, the EPA released a report titled [Creating Disaster-Resilient Buildings to Minimize Disaster Debris](#), which provides practical actions for communities – spanning from cities, counties, states, territories and Tribes – on planning designing, improving and adapting new and existing buildings to withstand natural disasters today and in changing climate. Community leaders and members, planners, designers, builders and disaster response experts can use this information to increase the resiliency of homes, businesses and other buildings to the impacts of natural disaster hazards, including flooding, fire and high winds. This information can be applied in all communities, including communities with environmental justice concerns, where community involvement and investments in resilience are critically needed. Natural disasters and extreme climate events pose significant risk to human health and the environment and burden communities, waste management facilities and transporters. The generated debris is often disposed of in landfills, even when it could be safely reused, recycled or composted – contributing to the circular economy. Designing a built environment, including buildings and roadways, to be resilient to disasters helps minimize disaster debris and make reconstruction efforts less costly while using fewer resources. Resilient communities generate significantly less debris during and after a natural disaster, recover faster, which encourages residents and businesses to stay in the area as normal operations resume sooner and save money and use fewer resources to rebuild and recover.

Water, Energy, and Climate Nexus

I understand and applaud the committee's extensive efforts to learn about successful public-private partnerships and how the EPA can incentivize more innovative financing strategies that can accelerate the adoption of agricultural conservation practices while yielding other environmental co-benefits in line with the EPA's mission.

Engagement and Collaboration

The EPA's Office of Water agrees that for the agency to accelerate nutrient pollution reductions successful collaboration between point and nonpoint sources of pollution are necessary. In fact, building and fostering collaborative partnerships is the central principal of Radhika Fox's April 5, 2022, memorandum titled [Accelerating Nutrient Pollution Reductions in the Nation's Waters](#). This memo established several specific goals, including:

- Finalizing a policy statement on flexibilities for implementing market-based approaches within the National Pollutant Discharge Elimination System permit program.

- Initiating rulemaking to explicitly state that NPDES permits may include conditions allowing market-based approaches, including trading, to meet applicable effluent limits.
- Promoting the use of the Clean Water State Revolving Loan Fund for nonpoint sources, including expanded use of innovative approaches like pay-for-success models.

In addition to these activities, the Office of Wastewater Management, has recently developed online training for developing NPDES requirements for nutrients which includes a focus on water quality trading. The EPA is committed to developing additional on-line modules covering tools for flexibility in nutrient permitting, including permit compliance schedules and water quality standards variances, watershed-based permitting, and water quality trading. These modules will be released by 2025.

- In 2023 OWM also published a [Compendium of State and Regional NPDES Nutrient Permitting Approaches](#), which highlights selected state and regional approaches to issues such as critical conditions, performance-based approaches, watershed-based permitting, and of most interest to the FRRCC, water quality trading, as described in the trading chapter. This document will continue to be updated on the website and the goal is to continuously exhibit case studies of some individual approaches to watershed-based permitting and trading by selected permittees with their states and partners. Some current key examples of rigorous trading programs involving nonpoint source include:
 - Wisconsin has numerous water-quality criteria for phosphorus. The state allows permittees to use adaptive management and water-quality trading approaches. As of 2020, more than 40 permittees have formally indicated through a notice of intent that they will use trading to comply with their phosphorous limits. Of these, 23 have submitted a trading plan acceptable to the Wisconsin Department of Natural Resources. The average trade ratio used is 2:1, with the average point source credit buyer purchasing approximately 400 pounds per year of credits to offset its discharge resulting in the average phosphorous reduction per trade of approximately 800 lbs/year.
 - Green Bay, New Hampshire: In 2020, EPA Region 1 issued a general permit for nitrogen. This permit establishes water quality-based limits for POTWS in 13 communities and allows these facilities to work with non-point sources in the watershed to meet water-quality objectives.
- The EPA is interested in adding five new chapters for this compendium covering optimization requirements in NPDES permits to reduce nutrients, the translation of narrative nutrient standards into NPDES permit requirements, adapting management approaches to addressing nutrient pollution, among others.

Funding and Financing

The EPA is working on two initiatives to clarify expectations for how flexibilities under the Clean Water Act – such as water-quality trading – can be used to help achieve water-quality goals in NPDES permits – and stimulate more participation of these approaches, particularly from nonpoint sources, which don't have the same permitting and regulatory drivers that NPDES permitted point sources have. It is helpful to remember that these initiatives are the result of stakeholder feedback to the agency and the direction set out by the April 5, 2022, memo. The two initiatives include:

- A proposed rule stating that permits may include conditions allowing market-based approaches, including trading, to meet water quality-based limits.

- A policy statement that further clarifies these flexibilities, including another option for how a “baseline” would apply to nonpoint sources interested in trading within the context of a TMDL.

Water-Quality Trading and Market-Based Approaches

The EPA has promoted water-quality trading and other market-based approaches in the NPDES program for a couple of decades as a way for point sources to achieve water-quality standards with more flexibility. In 2003, the agency issued a trading policy followed by a toolkit, policy and guidance in 2009. The Office of Water has observed the development of creative programs to use the marketplace to help permittees and their partners make progress on pollutant reduction, particularly for nutrients.

Despite some promising projects and programs, there is not yet widespread adoption of these practices, and the EPA has received feedback that it could do more to stimulate participation. One widespread observation from states and other stakeholders is that trading is not mentioned explicitly in the NPDES regulations and that there is no clear statement of CWA legal authority to provide comfort to entities weighing whether to enter trading relationships. As a result, the EPA has taken the following steps:

- The Office of Water has developed simple language for the NPDES regulations to clarify the EPA’s long-standing position that trading is of course supported by CWA legal authorities. This would state that trading and other market-based approaches may be used to achieve water quality-based NPDES permit requirements, with certain safeguards – for example, trading can’t be used to meet technology-based permit limits or cause “hot spots” where WQS are exceeded. The current draft of this proposed rule is currently under review by OMB.
- Additionally, OW has been working on a policy statement that would provide additional guidance on market-based approaches and flexibilities, particularly on the issue of “baseline” for nonpoint sources interested in trading within the context of a TMDL. “Baseline” is the level of pollution reduction a nonpoint source would need to achieve before it is eligible to generate credits for sale to point sources. The policy would describe an additional option for how a baseline could be applied to nonpoint sources interested in trading.
 - The policy statement will stimulate more participation in market-based approaches, such as trading, and encourage the development of collaborative partnerships between nonpoint sources and NPDES-permitted point sources. This policy statement has been under review by the Office of Management and Budget since August 2023.

The Office of Water’s goal is to ensure that these approaches complement, and not supersede, existing tools and guidance. States would not have to change their programs where trading programs and markets exist. OW’s goal is to provide some assurance of policy and legal support while establishing expectations and safeguards that pursuing these flexibilities is in the interest of protecting water quality. The agency will continue to highlight the great leadership several states are showing by offering specific examples of successful approaches to trading.


Lastly, Recommendation A.2. includes mention of how the EPA could promote innovative financing through the Clean Water State Revolving Fund. This program can fund a wide variety of water quality protection efforts related to agriculture. The agency recently published a factsheet which describes how the EPA’s Clean Water State Revolving Fund funds can be used to help support watershed-scale investments in water quality through the formation of Watershed Financing Partnerships. Additional

factsheets are available on the EPA's CWSRF website that highlight funding opportunities for agriculture, infrastructure resilience, drought resilience, and climate resilience and mitigation.

We are pleased to have recently appointed 18 new members and six returning members to the Farm, Ranch and Rural Communities Advisory Committee. This committee's charter remains active, and I am confident that through your and Mr. Crowder's leadership, the contributions of the members and the support of the Office of Agriculture and Rural Affairs, the FRRCC will continue to explore and address the complex environmental issues facing agriculture and rural communities in a constructive manner.

In the meantime, please accept my warmest wishes for continued success in your important work in the years ahead.

Sincerely,

A handwritten signature in black ink, appearing to read "Jane Nishida". The signature is fluid and cursive, with the first name "Jane" being more prominent.

Jane Nishida
Acting Administrator