October 19, 2020

Water Docket
U.S. Environmental Protection Agency
Docket ID No. EPA-HQ-OW-2020-0426

SUBMITTAL VIA ELECTRONIC PORTAL

RE: WEF Comments related to the 2020 Proposed 2020 Financial Capability Assessment for Clean Water Obligations
EPA Docket ID No. (EPA-HQ-OW-2020-0426)

The Water Environment Federation (WEF) thanks the U.S. Environmental Protection Agency (EPA) for the opportunity to provide comments on the 2020 Proposed Financial Capability Assessment (FCA) for Clean Water Obligations (hereinafter "Proposal"). WEF also invites EPA to further dialogue and to discuss any of the matters raised below.

The Water Environment Federation (WEF) is a not-for-profit technical and educational organization of 35,000 individual members and 75 affiliated Member Associations representing water quality professionals around the world. Since 1928, WEF and its members have protected public health and the environment. As a global water sector leader, our mission is to connect water professionals; enrich the expertise of water professionals; increase the awareness of the impact and value of water; and provide a platform for water sector innovation.

These comments were prepared in conjunction with experts retained by WEF and other partners and by WEF technical committee members from the Stormwater Committee, Watershed Committee, Government Affairs Committee and the WEF Stormwater Institute.

General Comments

WEF appreciates the extensive effort EPA staff has dedicated to developing this Proposal in response to the National Academy of Public Administration (NAPA) report, *Developing a New Framework for Community Affordability of Clean Water Services*. In addition, WEF appreciates the depth of review and consideration EPA staff undertook in response to the study jointly funded by WEF, the American Water Works Association (AWWA) and the National Association of Clean Water Agencies (NACWA), Developing a New Framework for Household Affordability and Financial Capability Assessment in the Water Sector.

WEF finds this Proposal to be a considerable improvement over the 1997 version, offering appropriate indicators in alternative 1 and adding alternative 2. WEF recommends that EPA move forward to finalize this Proposal as a replacement for current guidance, while

maintaining the opportunity for additional refinements and complementary materials in the future. We hope our comments will assist EPA to revise this Propose, finalize it and implement it.
The financial capacity of communities to support all their water infrastructure needs and regulatory responsibilities requires a thoughtful consideration of the impacts on low-income households. The proposed guidance is an important step toward that goal. WEF, its members and partners collective review of the proposed guidance noted the following important elements:

1. Including alternatives 1 and 2 as equally viable methodologies that are available to all potential applicants;
2. Basing alternative 2 on a well-tested and reliable analytical tool, the cash-flow forecasting modeling;
3. Appropriately incorporating the lowest quintile residential income indicator into both alternatives 1 and 2;
4. Not only including a poverty indicator in alternative 1 and 2, but also providing flexibility to use both generally available alternatives and where available community specific data; and
5. Recognizing the importance of evaluating household-level affordability where that household is a ratepayer for multiple water services (e.g., drinking water, wastewater, stormwater, recycling, etc.) and providing flexibility in both alternative 1 and 2 for "total" water household burden.

We do have several concerns with the proposal, but we also realize that EPA is trying to create a guidance that balances numerous perspectives. The proposed guidance includes pathways to address two of our concerns on a community-specific basis. In our view, the retention of the 1997 guidance is unnecessary and inappropriately preserves flaws that NAPA recommended addressing. We are also concerned that the proposed adjustment for household size across income strata is not appropriate. Our third concern, however, is the most pressing. In preparing the proposed guidance, EPA appropriately includes LQRI but does not provide a clear basis for applying 2 percent of income as an actionable benchmark. WEF recommends that EPA include its justification for applying the 2 percent of income as its benchmark.

In addition, the proposed guidance appears to apply the same threshold criteria to whether the analysis encompasses just wastewater infrastructure or wastewater plus other water infrastructure service/s. Based on current rate-setting experience this percentile may be too low, especially if evaluated relative to the burden of all water services, and more importantly its basis is not clear. This concern is both an analytical issue and represents a challenge for communicating with the public.

In finalizing the guidance there are opportunities to clarify the guidance. In particular, the linkage between the financial capability assessment and the duration of the variance

afforded is not clearly communicated. Similarly, the Agency notes the importance of considering the useful life of infrastructure in determining the duration of a variance, but EPA's intent is not clear. Water infrastructure encompasses many long-lived assets and financial instruments typically reflect expected asset life. We assume that EPA envisions a parallel framework in this guidance; clarity from the Agency on this point would improve implementation.

In keeping with our previous analysis, WEF, its members and its partners engaged a panel of experts in a review of the proposed guidance. They identified several areas where continued refinement would improve implementation of the new guidance:

1. Advancing use of the new guidance once finalized will be facilitated through the development of model templates and case studies. WEF and its technical committees and member associations in the US and across the world look forward to working with EPA to develop such materials.
2. The proposed guidance allows but does not encourage total water household burden analysis, potentially out of concern regarding analytical complexity. This is one aspect of the guidance that can be strengthened through additional supporting materials and educational efforts.

Specific Comments on The Methodology: Advances, Concerns, Opportunities and Implementation Considerations

WEF outlines below specific areas of advance of the methodology used by EPA, as well as some areas of concern and opportunities for clarification and refinement. WEF invites further dialogue on these areas by EPA and others.

Advances:

EPA's embrace of cash-flow forecast modeling to facilitate the assessment of community financial capabilities is a major methodological advance. Cash-flow forecasting is a practical, intuitive means to assess community financial capabilities and associated impacts on household water service bills – and has been used successfully in numerous Consent Decree negotiations to date. EPA's submittal recommendations reflect important flexibility to enable permittees to tailor their FCA information to reflect as fully as practicable their individual communities' unique economic circumstances. This flexibility also presents the opportunity for EPA and stakeholder communities to work collaboratively to develop tools to facilitate cash-flow model submittals, including by permittees with limited financial analysis expertise. Further, EPA's establishment of cash-flow modeling as an acceptable alternative obviates the need to complete the workbook calculations contemplated in Alternative 1 that, even with EPA's proposed modifications, are of dubious merit as discussed below.

EPA has also addressed concerns articulated by an array of stakeholders (including the water sector associations) about the potential impact of enforcement actions on low-income populations. WEF commends the EPA for including a measure of cost impacts on lowest quintile income residents, and for considering the prevalence of poverty in communities as part of its proposed FCA guidance, which is also a major step forward

in evaluation of community financial capability.

Finally, EPA has acknowledged that financial capability is logically assessed in terms of all water costs, not individual services (water, wastewater, stormwater) separately, and has provided the opportunity for permittees to submit FCA information in terms of total water costs. Notwithstanding that this is optional, enabling total water cost submittals is another major methodological step forward for assessment of financial capabilities.

Concerns:
While we believe that EPA's proposed 2020 FCA guidance is a significant improvement over the 1997 FCA guidance document, there are several areas of the new guidance that could be further clarified or refined and improved to address issues and concerns. The most significant of these areas relate to (1) cost calculations, (2) household size adjustments, and (3) retention of 1997 guidance indices. Fortunately, EPA has also provided opportunities for permittees to address these concerns in the FCA submittals.

1. Cost Calculations

EPA has retained the 1997 guidance calculations and its focus on Clean Water Act (CWA) compliance costs; the proposed 2020 FCA guidance stops short of requiring inclusion of all water costs as part of the residential burden assessment. While EPA has allowed for the inclusion of drinking water costs as supplemental information that may be submitted by the permittee to provide a more complete picture of financial capability, the 2017 NAPA report and our Unified Sector Report recommend inclusion of all water service costs as integral to improving the Residential Indicator (RI) component of the guidance. We recommend that EPA reconsider requiring the inclusion of all water costs in the residential burden indicator, as well as the establishment of burden thresholds that include consideration of all water costs.

2. Household Size

EPA's proposed guidance includes considerable discussion of differences in household sizes across income strata. The guidance notes that nationally the lowest quintile income (LQI) household size is 70.2% of the median income household. Notwithstanding that household size is but one of many factors impacting water usage (particularly in low-income residences), and water usage is but one of several factors (e.g. fixed customer charges) impacting water costs, EPA suggests applying this relationship to adjust calculated costs per household facing lowest quintile households. Again, EPA provides opportunity to address these adjustments with provision of local data, but the default to national household size (and implied LQI household water costs) are disconcerting and potentially compromise EPA's added focus on impacts on low-income populations.

3. Retention of 1997 Guidance Indices

As part of the Alternative 1 methodology, EPA has retained the Residential Indicator and supplemental financial capability indicators delineated in its 1997 guidance. By doing so, the inherent flaws in preceding guidance – underscored by numerous critiques – are largely preserved and further institutionalized. The well-articulated critiques

include those stated in the NAPA Report and our Unified Sector Report that median household income (MHI) is an inadequate metric for identifying affordability issues for the most vulnerable low-income households, that the median income household is no longer representative of a "typical" or middle income household in many areas due to the growing bifurcation of the income distribution, and that many of the financial capability indicators are general obligation measures that do not necessarily pertain to utility enterprise funds.

The NAPA Report recommended revising and refocusing the financial capability indicators on the operational efficiency, debt burden, and managerial effectiveness of the utility supply clean water services, and expanding the socioeconomic components directly affecting the utility's market conditions to include trends in population, relative wealth, economic growth, and other economic structural problems in the community served by the utility. In our report, we recommend such further refinement of these metrics. In addition, we note that continued reliance on the 1997 guidance cost per household calculation -- that is divorced from the actual rates and therefore bills faced by median and low-income households -- represents a missed opportunity to inject important fiscal realities into the process. We also recommend further refinement of this measure to more accurately reflect actual total water costs.

Opportunities for Clarification and refinement

In its proposed new guidance, EPA explains that it is not proposing to institute disparate impacts on low income households by changing the RI benchmarks for evaluating burdens on LQI households (versus median households), and has applied the 2% cost as a percentage of income to the LQRI (the RI applied to the upper bound LQI household). Based on the critiques contained in the NAPA Report and the Unified Sector Report about the lack of theoretical or empirical rationale for the 2% benchmark, it is recommended that the EPA include any additional theoretical or empirical data and information that was considered or relied upon in proposing a 2% LQI benchmark in its new FCA guidance.

WEF recommends that the Proposal be expanded to clarify how the household cost burden (RI and LQRI) is to should be measured for utilities that are regional systems, serving customers within both on a retail basis and a wholesale basis (e.g. providing full wastewater service to some customers but only wastewater treatment and not wastewater collection service for other customers). It is common for permittees to serve multiple jurisdictions with some wholesale customers owning, operating, and maintaining their own conveyance and collection systems. This has implications for how costs are allocated to residential customers that receive full retail service. WEF recommends that the revised FCA guidance clarify how the RI and LQRI is to be calculated for these common regional systems.

In the proposed FCA guidance, EPA states that they do not anticipate establishing implementation schedules that would exceed the useful life of the community's water infrastructure assets. EPA notes that the assumed useful life of water infrastructure assets for the purposes of financing is typically 30-40 years. WEF recommends that the EPA consider clarifying and providing more information how asset useful life is

proposed to be used to set a limit on a community's implementation schedule.

Implementation Considerations

WEF and EPA's experience to date with interpretations (and misinterpretations) of the 1997 FCA guidance are instructive for implementation of EPA's proposed 2020 guidance. Specifically, in the same way that the 1997 guidance did not prescribe a 2 percent of median household income threshold for gauging household water affordability, it is important that EPA's proposed guidance not be similarly misconstrued.

Whether EPA elects to retain or modify its use of LQRI for FCA calculations, it is important that they convey that these calculations and prescribed LQRI thresholds have a limited purpose – specifically for assessing community financial capabilities to finance infrastructure improvements. There are a host of alternative measures of household affordability that may, and depending on context, can be used to better inform judgments about individual household water affordability.

The host of issues presented by EPA's retention of the 1997 guidance workbook calculations, and their difficult infusion of measures to focus on low-income populations, may be resolved simply. In practice, permittees may elect to use Alternative 2 – incorporating total water costs - such that it effectively supplants Alternative 1. However, for communities that opt to apply Alternative 1 as proposed by EPA, the retention of the flawed 1997 Guidance metrics embodied in the RI and FCI will continue to obfuscate and misrepresent to fiscal position of the communities and the households within them.

Specific Answers to EPA's Questions in the Proposal

Question for Public Comment #1: Should EPA's previous FCA documents be consolidated into the 2020 FCA, as proposed, or should EPA continue to use the 1997 FCA Guidance as the controlling guidance with the 2020 revisions serving as a supplement?

Response: WEF recommends that the 2020 FCA Document replace the 1997 Guidance. To the extent that components of the 1997 Guidance are retained in the 2020 Guidance, EPA must explicitly acknowledge the limitations of those components that have been articulated in the various reviews of the 1997 Guidance (including the 2019 water sector report and those set out by NAPA), and outline if and how the 2020 Document addresses those limitations.

Question for Public Comment #2: In addition to the data sets that are discussed in this Notice, what other data sets are you aware of that meet NAPA's criteria as identified in the October 2017 report, "Developing a New Framework for Community Affordability of Clean Water Services"?

Response: Insofar as total water bills are an important affordability comparison, available water and wastewater rate surveys, like those conducted by the water sector, are valuable. Several other datasets may be informative for assumptions required in cash flow analyses including, for example, Construction Cost Indices to inform

assumptions about project cost inflation or historic yields on municipal bonds at various rating levels to inform interest rate assumptions.

Question for Public Comment #3: What additional resources are publicly available that can be used to assess financial capability (e.g., the ALICE Essentials Index)?

Response: There are a variety of different measures that can help assess household affordability and inform consideration of prospective burdens to be considered in an assessment of financial capability, including the ALICE Index, Affordability Ratio, Hours Worked at Minimum Wage, Living Wage calculations, and other measures. These measures may inform assessments of financial capability that fundamentally must consider utility-specific and other highly relevant local circumstances.

None of the metrics factor cost of living into the analysis. For very expensive cities looking only at household income or using the federal poverty level, these assessments do not capture the reality of the economic situation faced by low-income households. Although incomes in these areas may be higher than national averages, once cost of living expenses – especially housing – are factored in, household income available for utility bills looks significantly worse.

WEF suggests EPA champion the collection of data through the Census and the American Community Survey that would allow for a cost of living–adjusted poverty prevalence indicator that reflects the local cost of living. The supplemental poverty level (SPL) could be calculated at the local level if the US Census data and the American Community Survey data would gather local cost information on essential expenditures. The SPL could be calculated locally with this type of information.

Question for Public Comment #5: EPA invites comment on the appropriateness of using the four recommended critical metrics to assess financial capability and what their relative importance in considering financial capability should be.

Response: If the LQRI measure is a better measure than the original RI, then why complicate the guidance with multiple matrices including the RI measure? Also, several of the six financial capability indicators are general obligation credit rating measures that in many cases do not pertain to utility enterprise funds. Consider revising these to be more utility specific. Use credit rating agency credit methodologies for water utilities as a guide for revisions.

Question for Public Comment #6: What supplemental information is relevant to support implementation schedules that go beyond the proposed benchmarks in Exhibit 6?

Response: Information on the condition of a community's water systems (beyond the purview of the specific enforcement action), current and projected capital structure, and other critical environmental protection investments may help place the FCA calculations into appropriate context.

Question for Public Comment #7: Is EPA distinguishing appropriately between critical and other metrics?

Response: Yes, however, there are some important exceptions. For example, the inherent flaws in the established RI and FCI measures are problematic and preserving them as "critical" compromises the advances made with the Alternative 1 FCA. The improvements EPA attains in Alternative 1 through the addition of measures relating to poverty are diluted by retention of the flawed RI and FCI measures.

Further, we consider examining combined water, stormwater and wastewater burdens as critical, yet the inclusion of all water service costs is not mandatory in the Alternative 1 methodology and is considered only as other metrics and information is provided.

Question for Public Comment #8: EPA is seeking comment on the proposed methodology for calculating the ratio for lowest quintile household size to median household size.

Response: Prorating cost per household based on the national-level ratio of LQI household size to median will often be misleading and not accurately reflect water service costs burdens on low income households. Household size amongst the lower income strata may well vary considerably across the nation and between communities, and a more locally based assessment may be appropriate. And, because of rate design features like fixed charges, bills for LQI households may much more closely approximate those of Median Income households, regardless of household size or per capita water usage. Further, lower income residences in many communities often have older, leakier plumbing and appliances households.

Question for Public Comment #9: EPA invites public comment on whether adjusting the LQRI based on household size is appropriate or if there are other ways to calculate a residential indicator for LQI households.

Response: The question assumes that the calculation of Cost Per Household per the 1997 Guidance is sound. Concerns that we have raised before include exclusion of other water costs, inadequate recognition of non-compliance costs (e.g., asset management), and potential adverse trends not captured in "snapshot analysis". Also, as noted above, EPA's proposed cost per household (CPH) metric may not align well to LQI costs due to rate design features.

On Exhibit 1 (p.11), EPA proposes to calculate the LQRI by estimating the cost for the lowest income quintile using the ratio of the lowest quintile household size to the median household size. While household size may be an indicator of relative water usage, lower income water usage is often higher per capita due to older fixtures that use more water and older pipes that tend to leak more. The household size relationship that EPA proposes to use does not consider these factors. In addition, not all wastewater utility costs are allocated in proportion to water consumption. Some costs, such as customer service and billing costs, should be allocated equally to each customer in proportion to the number of bills. This affects the household cost at the LQI level. While we applaud EPA for adding flexibility to the guidance to allow for these considerations, an alternative approach would be to allow the permittee to utilize the actual LQI customer bill, rather

than using an estimate of cost.

Question for Public Comment #10: EPA is seeking comment on whether the same benchmarks for assessing the MHI Residential Indicator should be used for assessing the Lowest Quintile Residential Indicator (LQRI), as proposed, or if different benchmarks should be used.

Response: See discussion above. EPA should describe a conceptual and empirical basis for whatever threshold it applies in the RI, LQRI, regardless of whether it retains or modifies the 2% benchmark that has been arbitrarily deployed for years in the RI.

Question for Public Comment #11: EPA is seeking comment on the list of proposed poverty indicators and on whether the bracketing of the middle 50% is an appropriate method to benchmark the proposed poverty indicators.

Response: Unlike the FCI which involves averaging fundamentally different metrics of substantially different importance that, in turn, makes their equal weighting problematic, the proposed Poverty Prevalence index involves averaging across similar — and in many respects interdependent —metrics and is, therefore a reasonable methodology. Consideration should be given to optional adjustment of the equal weighting based on local factors.

There is considerable overlap between the five poverty measures proposed. EPA could simplify this process by including just one or two of them in its analysis. Also, none of them explicitly consider the local cost of living. We suggest EPA look for, or further develop, a poverty measure that reflects the local cost of living. The supplemental poverty level (SPL) could be calculated at the local level if the US Census data and the American Community Survey data would gather local cost information on essential expenditures. The SPL could be calculated locally with this type of information.

Question for Public Comment #12: EPA is seeking public comment on the proposed schedule benchmarks in Exhibit 6.

Response: The extension of the High Burden scheduling boundary is appropriate and consistent with practical experience. It may be appropriate to note that the extended schedule boundary has been proposed and accepted in part to enable implementation of green infrastructure to effectuate CWA compliance.

Question for Public Comment #13: What other resources, in addition to those listed in Section IV, are available to assist communities related to water infrastructure financing?

Response: There is a broad array of resources on water infrastructure financing that have been promulgated by water sector associations and municipal credit market participants that may prove useful. For example, with respect to rate-setting and capital financing guidance, we note the availability of:

- Financing and Charges for Wastewater System, WEF Manual of Practice

M27, Fourth edition.
- Water Utility Capital Financing, AWWA Manual of Practice M29, Fourth edition.
- Principles of Water Rates, Fees, and Charges, AWWA Manual of Practice M1, Seventh edition.

WEF recommends that EPA consider adding these additional resources regarding water infrastructure financing to Section IV as well as providing basic guidance on resource search options.

Question for Public Comment #14: EPA is seeking comment on whether additional detail can be provided to better understand implementation of Alternative 2.

Response: There is significant opportunity to provide examples of basic cash flow modeling structures (in addition to the samples of potential outcomes). For example, relatively simple templates could be provided to illustrate forecast structures, presentations of sources and uses of funds, and bill impact and cost per household calculations.

EPA requests that the MHI and LQI values be escalated in the financial model using the historic rate of increase in the MHI and LQI or use the historical trend in CPI. WEF recommends that the permittee have the flexibility to use other reasonable bases for trending the MHI and LQI based on past, current, and future community economic and socioeconomic trends.

Further, given the emerging scale of the adverse economic impacts emerging from COVID-19 pandemic, reliance on past fiscal trends may prove highly misaligned with future realities in terms of income growth and other variables applied in the calculations. At a minimum, sensitivity analyses using alternative (e.g., less optimistic) economic and income growth scenarios may be appropriate.

Question for Public Comment #15: Should drinking water costs be considered as part of scheduling considerations and are there appropriate benchmarks for considering the contribution of drinking water costs to household burdens, such as a specific percentage of income?

Response: Yes. Drinking water costs are indisputably a consideration in assessment of household burdens and thereby financial capabilities. One approach is to apply the same or similar benchmarks for water service as that for wastewater, thereby avoiding the need to make value judgments about the relative importance of the individual services. WEF invites EPA to also consider stormwater costs when appropriate given availability of data and information.

That said, the inclusion of other water costs only when considering the length of an implementation schedule dilutes the importance of EPA's recognition of all water costs.

Other Specific Comments
Below are additional comments and thoughts in response to statements in the proposal.

P. 4: The second alternative utilizes dynamic financial and rate models that evaluate the impacts of debt service on customer bills.

Response: Cash flow forecasting can/should be used for more than specific evaluation of debt service on customer bills. For example, cash flow forecasting may be used to estimate customer bill impacts of current revenue funding of annual asset management requirements (with no consideration of debt service).

P. 11: Exhibit 1: Template (with Sample Numbers) for Calculation of Lowest Quintile Residential Indicator

Response: In practice, because of rate design features like fixed charges, bills for LQ households may much more closely approximate those of Median Income households. EPA's discussion (pp. 12-43) continues to labor on the assumption that the calculation of cost per household is directly tied to household burden.

The application of the same Cost as a Percentage of Income thresholds for both Median and Lowest Quintile income may serve to effectively negate the value of considering both measures. WEF suggests a review of existing rate levels of surveyed utilities to determine the proportion of utilities whose current rates do not indicate "High Impact" (irrespective of MHI percentage).

P. 13: The ACS does not have data defining lowest quintile household size at local levels – thus making it difficult to differentiate and calculate local ratios. EPA recognizes that some factors, such as age of infrastructure, housing types (residential one family versus multi-family), and leaky pipes, may impact usage and result in a different ratio.

Response: This issue speaks to the need for additional research and analysis of the dynamics of household size, usage and actual costs of LQI households.

P. 15: EPA is not proposing to institutionalize disparate impacts on low income households by changing the RI benchmarks for evaluating burdens on LQI households but is seeking comment on whether that would be appropriate.

Response: It is appropriate and important to be concerned by the fact that enforcement policies may require low-income customers to bear a higher burden for CWA compliance as measured in costs per household as a percentage of income. However, this seems simply a function of the basic statistical attributes of income distribution. EPA's election to effectively use one measure across the income distribution fails to acknowledge this statistical reality and would appear to be problematic in practice.

P. 20: This type of information can be used as an analytic tool in lieu of the recommended critical metrics and schedule benchmarks set forth under Alternative 1.
Response: This point – that cash flow analyses may effectively supplant rather than

supplement submission of FCA per Alternative 1 – WEF emphasizes this point as it is an important departure from historical practice.

P. 25: 2. Consideration of Drinking Water Costs in the Rate Model Analysis

Response:
1. Please explain the call for financial statements for drinking water rate modeling but not for the basic wastewater rate modeling – these would likely be helpful in both contexts.
2. How can/should stormwater management costs also be incorporated into the analyses, particularly for communities employing integrated planning?

P. 26: 3. Poverty Indicator - EPA also intends to ask a community to calculate a Poverty Indicator Score by using the list of poverty indicators in Exhibit 2, above, to benchmark the prevalence of poverty throughout the service area.

Response: This is a positive development though it is unclear how the Poverty Indicator data will be used to guide enforcement decision-making. A couple of mechanisms could not only relate to scheduling considerations but also, for communities with high poverty measures, options to facilitate program financing.

P. 27: Potential Bill Impact Relative to Household Size and **P. 29**: Exhibit 8: Example Showing Projected Impact of Program Costs by Household Size
Another analysis that EPA and communities have found helpful evaluates the maximum potential bill impact relative to household size... Displaying data in this manner (i.e., by household size) provides a more nuanced view of the impact of costs based on likely usage.

Response: While the focus on usage patterns by household size may be workable in terms of available data and offer a "more nuanced view", it is unclear how the volume of data presented by the display of costs per household size will be used to gauge affordability impacts and financial capabilities. How will EPA consider aspects of the income distribution, like that displayed in their sample, whereby income per household member increases and then decreases with household size?

Exhibit 8: If the table with modeled future rates in aggregate shows most cells in the low burden CPH category, then the program is relatively affordable, as opposed to having most cells in the high burden CPH category.

Response: Is this to be taken literally, as in if 51% of cells indicate a particular level or burden, or is it anticipated that the evaluation would provide for subjective judgments? How will current and potential rate design (and/or customer assistance program) measures factor into the analysis?

P. 30/31 – 43: 3. Customer Assistance Programs (CAPs) -- If a community has developed a CAP to assist individual households, EPA intends to consider both the

costs needed to administer the program as well as the revenue lost from the assistance provided (discounted rates, collection fees foregone, improved water efficiency, etc.).

Such costs can be included in the calculation of the Residential Indicator and LQRI under Alternative 1, and as part of a Financial and Rate Model Analysis under Alternative 2.

Response: Inclusion of information on CAPS is an appropriate consideration for HH affordability measures and FCA. However, an additional consideration should address the extent to which CAP funding meets community needs. CAPs face numerous institutional, legal, fiscal, and administrative barriers and constraints. And, in many communities where CAPS provide substantive relief, funding levels are inadequate to meet needs. Many households in need do not receive CAP support for a variety of reasons (including inadequate program funding, being renters and other hard-to-reach populations, and other barriers/constraints), and/or per household CAP support is inadequate to relieve the fiscal burden. Any adjustments to RI /LQRI calculations should account for true availability and scale of relief.

P. 32: 5. Stormwater Management Costs - …costs may be reflected in the Residential Indicator and LQRI under Alternative 1, and, if a community proceeds under Alternative 2, as part of a Rate Model Analysis.

Response: While EPA's listing of submission requirements appropriately recognizes that stormwater may be funded through a different funding mechanism than water and wastewater, it does not address the attendant complexities for rate modeling. We suggest additional language to provide guidance on conversion of funding analysis to impacts to residential users, potentially via analysis of proxy for tax or separate fee collections. WEF invites additional discussion on this issue.

P. 32/33 – 43: 6. Comparisons to National Data For any of the other metrics submitted by a community, the community can provide a graphic or chart that shows the community's data as compared with county, state, and national data.

Response: We appreciate that EPA indicates that such information "can be used to highlight a community's unique or atypical circumstances."

P. 33: f. Other Metrics with Submission Information Determined by the Community

Response: WEF suggests addition of capital structure data as a primary other metric insofar as it provides a more direct indication of the extent to which a community is currently leveraged and its capacity to assume indebtedness.

P. 35-43: g. Schedule Development – 2. Alternative 1 Schedule Development – Exhibit 6 should be used after all four recommended critical metrics in Alternative 1 have been calculated, and the community's burden level has been determined using the Expanded FCA Matrix. … It is important to note that financial capability is on a continuum.

Response: While the language regarding the FCA results being on a continuum echoes prior EPA language, in practice these categorizations have been viewed as hard boundaries. WEF recommends that EPA continue to clearly indicate and emphasize that the results may be seen along a continuum (and not be viewed along hard boundaries).

Note on the Application of Alternative 1 in the Context of Water Quality Standards Context

WEF, in conjunction with NACWA, also supports EPA's proposed application of Alternative 1 in the context of water quality standards decisions, as detailed in Appendix D. While we have comments on Alternative 1 as outlined above, it does represent a significant improvement over the current approach outlined in EPA's 1995 WQS Guidance, which mirrors the methodology from EPA's 1997 Guidance with its sole reliance on median household income. The addition of metrics to evaluate impacts on the lowest quintile of income earners and the prevalence of poverty will provide a more transparent reflection of the impacts felt by the community as a whole when considering variances and use attainability analyses.

Conclusion

The Proposal is a significant methodological advance over EPA's existing guidance and must be, with consideration of the comments outlined above, finalized and implemented as soon as practicable. When final, it will provide a new, more transparent way of looking at the impacts of Clean Water Act programs on all ratepayers.

Finally, while the finalization of this Proposal will allow for additional tools for communities to address their obligations, WEF members remain steadfast on their commitment to improving water quality while providing reliable and affordable water services. WEF and its members will continue to work towards securing the federal funding necessary to help our communities continue to serve its citizens, including those more vulnerable. One of the concerns about Alternative 2 is that the analytical complexity will keep it out of reach for small communities where the more sophisticated evaluation would be most beneficial. WEF stands ready to assist EPA in the development of model templates and case studies that will address this concern.

WEF again thanks EPA for this opportunity and welcome a continuous dialogue on this matter. Please contact WEF's Sr. Director for Government Affairs, Claudio H. Ternieden, at (703) 684-2416 or at cternieden@wef.org, should you have any questions.

Sincerely,

Walter T. Marlowe,P.E.,CAE
Executive Director
Water Environment Federation