

PROPOSED CHARGES FOR EPA'S ENVIRONMENTAL FINANCIAL ADVISORY BOARD

OFFICE OF WATER

Protecting Historic Investment into Water Infrastructure for the Future: Congress and President Biden have delivered a historic influx of funding for water infrastructure to communities through the Bipartisan Infrastructure Law and the American Rescue Plan Act. These efforts build on the successful EPA State Revolving Fund and Water Infrastructure Finance and Innovation Act programs. While communities are eager to utilize this funding and many are familiar with best practices, some communities – especially those that may be disadvantaged or designated environmental justice communities – may need additional assistance to ensure that this influx on one-time funding is sustainably invested. The agency recognizes that a factor of this sustainability may require harmonizing these investments with its regulatory efforts. There are several benefits to sustainable financial planning including greater financial predictability, ability to address areas of historic underinvestment and unmet need, future financial self-sufficiency, and improvements to relationships with local decision-makers and customers. EPA looks to support communities in realizing the long-term benefits of sustainable investments and asks for EFAB's expertise in possible ways the agency could accomplish this goal.

STATE REVOLVING FUNDS

CHARGE 1: UTILIZATION OF SRF ADDITIONAL SUBSIDIES TO TARGET ASSISTANCE TO NEIGHBORHOODS OR HOUSEHOLDS IN NEED

The CWA specifically allows CWSRF programs to provide additional subsidization to communities that do not meet a state's affordability criteria, but where the assistance recipient seeks additional subsidization to benefit individual ratepayers in the residential user rate class that will experience a significant hardship from the increase in rates necessary to finance the project if additional subsidization is not provided. This provision has not been widely implemented by the SRF programs and EPA wishes to support its use in states. State program managers and utilities have identified potential difficulties in pursuing this opportunity to invest in needed projects while also assisting customers who face affordability challenges. Some utilities cannot charge differing rates to customers within the same rate class; EPA and states are not sure how SRF funds would flow from the federal Treasury through state programs to the assistance recipients and then "credited" to the customers the additional subsidization is intended to benefit. The Agency asks EFAB to research the possible flow of funds, through rate structures or other mechanisms, for additional subsidization provided under this authority reaches ratepayers that would experience a financial hardship as a result of an increase in rates necessary to fund the project.

- Clean Water Act section 603(i)(A)(ii) states that "Additional subsidization may be provided "to benefit a municipality that does not meet the affordability criteria of the State if the recipient— (I) seeks additional subsidization to benefit individual ratepayers in the residential user rate class; (II) demonstrates to the State that such ratepayers will experience a significant hardship from the increase in rates necessary to finance the project or activity for which assistance is sought; and (III) ensures, as part of an assistance agreement between the State and the

recipient, that the additional subsidization provided under this paragraph is directed through a user charge rate system (or other appropriate method) to such ratepayers.”

CHARGE 2: EFFECTIVE UTILIZATION OF WATER INFRASTRUCTURE INVESTMENTS

With the passage of the Bipartisan Infrastructure Law, states have found themselves in the unique position of receiving historic allotments of funding in addition to the annual SRF allotment, that can be used through the SRFs for water infrastructure needs. Many states have managed their programs in a timely and expeditious manner and are situated well to absorb these new resources and address water quality and public health concerns. However, some state programs, experience lower fund utilization and may or may not have a difficult time spending these new funds in addition to their current assets. EPA has often stressed the importance of timely and expeditious use of funds be it through handbooks, program guidance, and policy memos such as the ULO policy. The Agency is wondering if there are other ways of thinking about or ways to analyze the fund and ensure all resources are utilized in states for water quality and public health.

The Clean Water Act and the Safe Drinking Water Act require expenditure of funds in an expeditious and timely fashion. The Agency requests EFAB research and make recommendations about the current suite of metrics and analysis EPA does in conducting fiduciary oversight and if there are other ways to analyze or gauge whether a program is meeting this requirement. Of interest is understanding and assessing cash balances given the wide variability in capitalization levels of the unique programs and the differing levels of fund complexity from non-leveraged to funds that regularly leverage. EFAB could look to the lending industry for standard practices to contextualize recommendations about loan portfolio management with respect to cash balances observed within the SRF context. Are there additional opportunities for ratio analysis, trend analysis, incorporating audited financial statements, and cash flow modeling and to what extent can the Agency adopt best practices?

CHARGE 3: IMPROVING EFFICIENCY OF IMPLEMENTING EPA FUNDING

In its July 6, 2022, letter to Administrator Regan, the Local Government Advisory Committee (LGAC) recommended: “EPA should work with states to make the process of getting funding from EPA to a community more efficient, and even developing a related metric to encourage state-to-state competition.” While LGAC recognized that some states and communities did not need this guidance, they identified a need for incentivization for others. The agency, as part of the effort to promote collaboration between its advisory councils, would ask EFAB to research challenges communities experience in receiving EPA funding and ways to address these challenges. EFAB could also propose ways to recognize those states who make improvements in efficiently reaching historically underserved communities, such as an awards program, and measurement methodology.

TECHNICAL ASSISTANCE

CHARGE 4: SUSTAINABLE TECHNICAL ASSISTANCE

The Bipartisan Infrastructure Law provided an unprecedented level of investment in developing and providing technical assistance to communities. This investment requires a similar level of unprecedented coordination to identify community challenges and translate those needs into technical assistance. The agency also recognizes that addressing these needs may extend beyond the technical assistance funding provided under the Bipartisan Infrastructure Law. This proposed charge would ask EFAB to consider

ways technical assistance could be established in a sustainable manner to reflect the agency's long-term commitment to assisting communities with effectively utilizing funding. The Board could also research different aspects of technical assistance and provide insight on the future of this assistance.

CHARGE 5: DECENTRALIZED WATER SYSTEMS OPERATIONS & MAINTENANCE

Homeowners with decentralized (septic) systems face a unique challenge in that they are responsible for the care and maintenance of their systems. There is little financial or logistical support to ensure that, after these systems are installed, they are sustainable in the long-term. This charge is for the EFAB to advise the agency on options for how to address the long-term operations and maintenance (O&M) around decentralized wastewater systems to ensure that once new systems are installed, there is also a plan for O&M that is realistic and achievable. Disadvantaged communities are at higher risk of premature system failures simply due to lack of proper O&M; the EFAB should provide advice on options for how to help these communities ensure their investments are protected.

AFFORDABILITY

CHARGE 6: COMMUNITY ASSISTANCE PROGRAMS

With funding provided to states and communities through the Bipartisan Infrastructure Law and the American Rescue Plan Act, utilities have developed or increased availability of Customer Assistance Programs (CAPs). These programs serve to help economically disadvantaged customers pay their utility costs or reimburse the utility for customer nonpayment. To achieve these goals, communities throughout the country have implemented varying methods to apply these customer assistance programs. This charge would ask the Board look into successful community assistance programs and propose ways that other communities could institute and fund similar programs to meet their needs. This charge would focus on the funding approaches currently being used and potential new approaches, such as SRF financing or private sector financing, for these assistance programs. An important aspect would be exploring ways that communities could fund and implement these within the bounds of their state regulations.

CHARGE 7: BIL SECTION 50108 NEEDS ASSESSMENT FOR RURAL AND URBAN LOW-INCOME COMMUNITY WATER ASSISTANCE

Congress has directed the Agency to conduct a needs assessment for nationwide rural and urban low-income community water assistance authorized in section 50108 of the Infrastructure Investment and Jobs Act (Public Law 117–58). This study would examine the prevalence of municipalities, public entities, or Tribal governments serviced by rural, medium, or large water providers that service a disproportionate percentage of qualifying households with need or have taken on an unsustainable level of debt due to customer nonpayment. As part of the assessment of needs, the Agency could evaluate water assistance programs and water affordability, such as evaluating information on rate structure, service disconnections due to customer nonpayment for services, service restorations following disconnection for nonpayment, customer arrearages, unpaid bills sent to the local taxing authority for collection, and any information regarding water assistance programs or payment plans offered. The Office of Water would ask the Board to provide advice on the content of this survey, how to best execute the survey, and the content of the resulting report.

CHARGE 8: RATE STRUCTURING

Management of water systems is often sustained by customer revenues. As costs for water infrastructure and operations and maintenance (O&M) continue to rise, vulnerable, low-income, minority, and tribal communities bear this burden disproportionately to others. Developing a rate structure that best supports the system's priorities and objectives will help systems meet their CWA obligations and reduce the burden on its customers. Communities across the country are examining ways they currently set rates and looking for guidance on ways, within the boundaries of their state regulations, that rate design could be adjusted to offset costs to their most vulnerable residents while still making progress on their capital infrastructure projects. This proposed charge for EFAB would consider what options exist for rate structuring to help households who would be adversely affected by significantly increased rates and can be accomplished within the bounds of existing state legal requirements or restrictions. Options might include percentage of income plans, lifeline rates, income-based rate structures, senior assistance plans, payment restructuring programs, and customer charge waivers.

MUNICIPAL BOND INDEBTEDNESS

CHARGE 9: MUNICIPAL BOND INDEBTEDNESS

Communities throughout the country, and in particular within the Great Lakes Region, are heavily burdened with environmental debt. Smaller communities may disproportionately face carrying this debt to pay for environmental mandates while larger communities within the region do not have these responsibilities. This proposed charge asks EFAB to investigate possible financing mechanisms that could ease this burden for smaller communities and, if feasible, ways the municipal bond indebtedness burden could be alleviated through regional partnerships.