

## SUMMARY

### EPN Comments on Proposed 2020 Financial Capability Assessment for Clean Water Act Obligations

October 19, 2020

On October 19, 2020, EPN submitted [comments](#) on EPA's "[Proposed](#) 2020 Financial Capability Assessment for Clean Water Act Obligations," which is used to evaluate the financial capability of communities when they develop plans for water infrastructure improvements. The proposed changes to the Financial Capability Assessment guidance would expand the metrics EPA uses to consider a community's financial capability to fund its water obligations.

EPN found that under the revised guidance, it appears likely that more projects will be allowed extended schedules to come into compliance with Clean Water Act (CWA) requirements and that time extensions are likely to be longer than under the existing guidance.

In its comments, EPN raised concerns that proposed changes to the guidance will result in:

- 1) Unnecessary health and environmental risks** - Extended compliance schedules would authorize water pollution in violation of the CWA and Safe Drinking Water Act (SDWA). Prompt compliance with violations of clean water laws is essential to protecting public health and safety, and environmental quality.
- 2) Undefined compliance periods** - Could potentially authorize noncompliance for undefined periods.
- 3) Failure to consider alternative rate structures in addressing affordability** - Allow extended compliance periods based on projected rate increases for low-income residents without consideration of how to achieve more prompt compliance using other measures to assure that rates are affordable.
- 4) Failure to consider financing measures to address affordability** - Fails to address affordability for low-income customers using a reduced or negative interest rate for projects funded with CWA State Revolving Funds.
- 5) Inefficient use of water infrastructure financial capability** - Undermines the ability to finance the large backlog of needed water system infrastructure improvements by diverting limited ratepayer dollars from direct system improvements to increased financing charges that are associated with longer compliance schedules.
- 6) Failure to evaluate impact of aggregation of clean water and drinking water rate impacts** - Revise current practices by calculating rate burdens based on the cost of compliance with all rates related to both the CWA and SDWA, while retaining existing affordability criteria.
- 7) Significant change to water quality standard revision process** - Revise procedures that allow water quality standards adopted under the CWA to be lowered, either temporarily through a water quality standard variance or permanently through a change in designated uses of water bodies.

EPN made the following recommended changes in the proposed guidance:

- 1) EPA should consider options to address the affordability of water projects for low-income residents using tools other than compliance extensions.**
- 2) EPA should give special consideration to integrating decisions concerning compliance schedules, financing, rate structures, and water quality standards to deliver compliance that is both prompt and affordable.**

In addition, EPN noted that if EPA identifies water systems for which no combination of existing tools can address affordability concerns, the agency should identify and propose new financial assistance authorities to support prompt compliance with health and environmental standards rather than allowing indefinite risks for low-income populations.