

STATE OF MISSOURI
DEPARTMENT OF NATURAL RESOURCES

Jeremiah W. (Jay) Nixon, Governor • Sara Parker Pauley, Director

www.dnr.mo.gov

September 22, 2015

Mr. Paul Calamita, General Counsel
Association of Missouri Cleanwater Agencies
6 South 5th Street
Richmond, VA 23219

RE: Clean Water State Revolving Fund (SRF) Additional Subsidization Affordability Analysis, Public Notice Comments and Response

Dear Mr. Calamita:

Thank you for your email received July 11, 2015 in which you commented on the public notice of the draft Clean Water SRF Additional Subsidization Affordability Analysis (ASAA). The Department of Natural Resources will address your comments in the order presented in your email:

1. First, we think the State's approach should allow communities a general option of providing DNR with any other relevant information to consider, even if their proposed user rate will be below one percent. For example, the user rate trigger alone does not take into account whether the sewer rates may be subsidized by other revenues. Also, it does not allow communities who may have very high water (or other utility or social costs) to have those costs considered. DNR should not put on blinders to true community affordability by only focusing on one sliver of community cost/financial health.

Response:

The Federal Water Pollution Control Act (FWPCA) section 603(i) allows the department the opportunity to offer additional subsidization for clean water infrastructure projects to municipalities that would experience a significant hardship raising the needed revenues to finance the proposed project or activity eligible for assistance. The Clean Water SRF ASAA will be utilized to determine municipalities that will likely experience a "high financial burden" completing an eligible project or activity.

To receive a "high financial burden", the user rate must be one percent or greater of the municipality's median household income (MHI) (otherwise known as the residential indicator) based upon the Financial Capability Matrix table (see Table 2-1 below)

originating from the Environmental Protection Agency’s (EPA) “Combined Sewer Overflows – Guidance for Financial Capability Assessment and Schedule Development”. The department selected this EPA tool because it is expected to yield objective and reproducible results.

TABLE 2-1. Financial Capability Matrix

Financial Capability Indicators Score	Residential Indicator (User cost as a % of MHI)		
	Low (Below 1%)	Mid-Range (Between 1.0% and 2.0%)	High (Above 2.0%)
Weak (below 1.5)	Medium Burden	High Burden	High Burden
Mid-Range (1.5 – 2.5)	Low Burden	Medium Burden	High Burden
Strong (above 2.5)	Low Burden	Medium Burden	High Burden

The proposal to consider other information provided by an applicant with a residential indicator less than one percent would likely lead to subjective and inconsistent reviews. Further, in order to receive Clean Water SRF assistance the applicant will need to demonstrate that the dedicated revenue source(s) are sufficient to fund the operation and maintenance of the entire wastewater system, debt repayment costs, and replacement costs which requires an accurate accounting of the wastewater costs in the adopted user rate pursuant to 10 CSR 20-4.040(17)(A).

The Clean Water SRF ASAA does not determine whether the department will enter into a binding commitment for a SRF loan. Therefore, any municipality applying for Clean Water SRF funds has the potential to receive a low interest SRF loan (and associated savings) subject to the availability of funds as described in the current version of the Clean Water Intended Use Plan.

2. Second, we note that in 2015, the legislature amended state affordability law to expressly direct DNR to consider financial impacts regarding Clean Water Act-related federal/State compliance costs for Missouri residents with incomes below their community’s MHI. Thus, we think DNR’s affordability criteria should also allow communities with disproportionately low income populations to be considered for additional SRF subsidization.

Response:

Firstly, Section 644.145.1 RSMo does not apply to Clean Water SRF projects. Section 644.145 requires the department to make a “finding of affordability” when issuing permits under or enforcing provisions of state or federal clean water law pertaining to any portion of a combined, separate sanitary, or separate storm sewer system for publically

Mr. Paul Calamita, General Counsel
September 22, 2015
Page 3

owned treatment works. The Clean Water SRF process does not impose new environmental requirements on a municipality. Although the Clean Water ASAA is similar to the Cost Analysis for Compliance (CAFCom), they are not equivalent determinations.

Secondly, FWPCA 603(i)(2)(A)(i) states, "...a State shall establish affordability criteria to assist in identifying municipalities that would experience a significant hardship raising the revenue necessary to finance a project or activity...". The focus of the federal law and the Clean Water SRF ASAA is on the municipality, not the individual residents or classes.

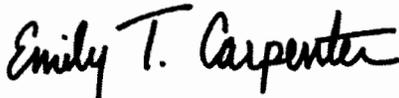
However, FWPCA 603(i)(1)(A)(ii) does allow a municipality to demonstrate a specific residential user rate class will experience a significant hardship from the increase in user rates. Similarly, state regulation 10 CSR 20-4.040(17)(B) allows for Clean Water SRF assistance recipients to establish lower user rates for low income residential users. The department may elect to allow Clean Water SRF recipients to receive additional subsidization for this purpose in future years (though, it is not proposed for fiscal year 2016).

As a practical matter, the department does not have evidence that these different residential user rate classes are commonly used by Missouri municipalities.

The department appreciates your comments on the draft policy and hopes this letter adequately responds to your concerns. If you have any further questions, please contact the Missouri Department of Natural Resources, Water Protection Program, P.O. Box 176, Jefferson City, MO 65102-0176 or via email at DNR.SRFPublicNotice@dnr.mo.gov. Thank you.

Sincerely,

WATER PROTECTION PROGRAM



Emily T. Carpenter
Financial Assistance Center

ETC/cs

c: Mr. Eric Crawford, Director, Water Protection Program, Financial Assistance Center