



ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OW-2026-1090; FRL-13236-01-OW]

EPA's Clean Water Act (CWA) Financial Capability Assessment (FCA) Guidance; Request for Comment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice; request for comment.

SUMMARY: The U.S. Environmental Protection Agency (EPA) invites written feedback on its Clean Water Act (CWA) Financial Capability Assessment (FCA) Guidance. The FCA Guidance provides information on how to assess a community's financial capability as part of negotiating implementation schedules under both permits and enforcement agreements. In addition, the FCA Guidance identifies specific methodologies, supplementing the Interim Economic Guidance for Water Quality Standards (1995; <https://www.epa.gov/system/files/documents/2024-01/interim-economic-guidance-water-quality-standards-workbook-1995.pdf>), that can be used to consider economic impacts to public entities when determining water quality standards (WQS) variances and antidegradation reviews. In appropriate cases, these methodologies also inform decisions about revisions to designated uses.

As part of the agency's commitment to implementing CWA objectives in an effective manner, EPA continues to enhance understanding of the issues surrounding FCAs for communities and seeks ways to improve the guidance. The agency will use this input to determine whether updates to the guidance are necessary to provide clear recommendations that accurately identify a community's financial capability. EPA is requesting comment on its CWA FCA guidance.

DATES: Comments must be received on or before **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: You may send comments, identified by Docket ID No. EPA-HQ-OW-2026-1090, by the following method:

- Federal eRulemaking portal: <https://www.regulations.gov/>. Follow the online instructions for submitting comments.

Instructions: All submissions received must include the Docket ID No. for this guidance.

Comments received may be posted without change to <https://www.regulations.gov/>, including any personal information provided. For detailed instructions on sending comments and additional information on the guidance process, see the “Request for Public Comments” heading of the **SUPPLEMENTARY INFORMATION** section of this document.

Tips for Preparing Comments: When submitting comments, remember to:

- Identify the guidance by docket number and other identifying information (subject heading, *Federal Register* date, and page number).
- Follow directions – the agency asks commenters to respond to specific questions and provide information according to the National Academy of Public Administration (NAPA) recommended criteria.
- Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.
- Describe any assumptions and provide any technical information and/or data that you used.
- Provide specific examples to illustrate your comments and suggest alternatives.
- Explain your views as clearly as possible.
- Adhere to the comment period deadline.

FOR FURTHER INFORMATION CONTACT: Tara Johnson, Office of Wastewater Management, Water Infrastructure Division (MC4204M), Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460; telephone number: (202) 809-7368; email address: johnson.tara@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Purpose of revisions to the current FCA Guidance

II. Four key areas for FCA revision

III. Request for Public Comments

EPA's Financial Capability Assessment Guidance

I. Purpose of revisions to the current FCA Guidance

This effort will revise, as needed, previous versions of the CWA FCA Guidance, including the draft guidance released in 2022 (<https://www.regulations.gov/document/EPA-HQ-OW-2020-0426-0071>) and the most recent guidance originally published in March 2023 and revised in March 2024 (<https://www.epa.gov/system/files/documents/2023-01/cwa-financial-capability-assessment-guidance.pdf>). The FCA Guidance is not legally binding and is intended only to provide clarity to the public regarding existing requirements under the law or agency policies. Since releasing the 2023 guidance, EPA has received significant feedback on the document. Much of the feedback is focused on the practical implications of several elements. The agency is revisiting the guidance to address these concerns through possible revisions, as part of its ongoing commitment to working with communities to ensure practical implementation and public health protection. Several questions/concerns/areas for further discussion have emerged as EPA has engaged with states, authorized tribes, communities, and other stakeholders to implement CWA permitting, enforcement, and WQS programs, specifically:

1. The ability of metrics that assess the severity and prevalence of poverty within a utility's service area to accurately reflect any economic impacts on rural and small communities and low-income households;
2. How to consider the effect cost of living has on the economic impacts to a community and its financial capacity;
3. Appropriate schedule lengths for compliance with CWA requirements; and
4. Specific to the WQS program, additional guidance that would help determine whether and how to account for costs when identifying a community's current financial burden.

EPA requests public comment on how to better assess these four topics, including any specific approaches and/or metrics that the agency should consider. If commenters suggest new or revised metrics of financial capability for consideration, EPA requests that the commenter identify the frequency at which the proposed data sources are published and how EPA and interested parties can obtain such data. In making revisions to its FCA Guidance, the agency intends to follow the criteria recommended by the NAPA for metrics:

- Readily available from publicly available data sources.
- Clearly defined and understood.
- Simple, direct, and consistent.
- Valid and reliable measures, according to conventional research standards, and applicable for comparative analyses among permittees.

II. Four key areas for FCA revision

1. Prevalence and Severity of Poverty

In 2021, EPA proposed to supplement the Residential Indicator (RI) and the Financial Capability Indicator (FCI) metrics with two new metrics: the Lowest Quintile Residential Indicator (LQRI) and the Poverty Indicator (PI). The LQRI was intended to evaluate the financial impact of CWA costs on lowest quintile households in a community by calculating the ratio of adjusted costs per lowest quintile household to the service area's lowest quintile income.

While commenters from local governments, the wastewater sector, and environmental organizations were supportive of the new poverty measures, some of these commentors also expressed concerns about the methodology proposed to scale the costs for lowest quintile households and the proposed LQRI thresholds. A number of community-specific factors – such as age of infrastructure, housing type, and efficiency of water appliances – may impact water usage and costs to lowest quintile households.

In response to public feedback, the 2023 guidance added a single new metric called the Lowest Quintile Poverty Indicator (LQPI) to be considered with the RI and FCI. EPA has received

requests to explicitly address concerns regarding metrics used to encompass the prevalence and severity of poverty in the FCA Guidance. The LQPI evaluates the economic impact on low-income households by assessing the prevalence and severity of poverty in a community or service area using U.S. Census Bureau American Community Survey (ACS) data. These ACS data meet the criteria for data recommended by NAPA (see above).

Whereas the LQRI and the PI were each individual indicators for analysis, the LQPI methodology consists of six indicators.

- LQPI #1: Upper limit of the lowest income quintile (50% weight).
- LQPI #2: Percentage of population with income below 200% of the Federal Poverty Level (10% weight).
- LQPI #3: Percentage of households receiving food stamps/SNAP benefits (10% weight).
- LQPI #4: Percentage of vacant housing units (10% weight).
- LQPI #5: Trend in household growth (10% weight).
- LQPI #6: Percentage of unemployed population 16 and over in civilian labor force (10% weight).

EPA will use any additional comments on this issue to further assess the need for potential modifications to the LQRI and/or the LQPI analysis and/or additional analyses to characterize the severity and prevalence of poverty in a community or service area to accurately reflect economic impacts on small, rural communities and low-income households.

2. Cost of Living

EPA has received requests to explicitly address concerns regarding cost of living in the FCA Guidance. EPA plans to use any additional comments on this topic to further assess the need for a new framework or whether there are gaps in the current analytical framework that need to be addressed to accurately reflect economic impacts on a community and its financial capacity.

A potential proxy for assessing cost of living and local affordability can be a service area's median household income (MHI); however, some commenters on previous proposed FCA

Guidance have noted that MHI – or even lowest quintile income (LQI) – alone are not sufficient measures of poverty.

3. Schedule Length for Compliance

A critical issue in many CWA permits and enforcement actions with utilities is the length of the schedule to achieve compliance with the CWA. When negotiating extended schedules, EPA intends to balance the timely mitigation of human health and environmental impacts as well as ability of the community to finance compliance costs and the impacts on individual households throughout the utility's service area. EPA will consider any relevant information presented that illustrates the unique or atypical circumstances faced by a community when negotiating CWA permit and enforcement compliance schedules, and will evaluate appropriate timelines to be encompassed in the FCA based on that information.

4. For WQS, Costs When Identifying Financial Burden

It is critical for states and tribes to accurately describe and quantify water-related costs communities are incurring, or have made a commitment to invest in, to demonstrate whether there will be a substantial economic impact if the community incurs additional costs to meet requirements derived from applicable WQS. EPA recognizes that wastewater treatment costs are typically not the only water cost paid by households and that aging infrastructure and shifting populations require careful planning to maintain service levels. In the FCA Guidance, EPA provides standardized instructions for reporting drinking water, stormwater, and asset management costs. The agency now requests input on whether more specific guidance, or a separate standalone guidance document, regarding incorporating these types of information directly into the Municipal Preliminary Screener analysis would be helpful, if a community elects to do so.

III. Request for Public Comments

EPA requests public comment on the most recent FCA Guidance, specifically:

1. EPA seeks comment on the effectiveness of the LQRI and the LQPI methodologies at measuring the severity and prevalence of poverty and whether an alternative or additional analyses may better capture economic impacts to small and rural communities and low-income households.

The 2020 proposed FCA Guidance uses the LQRI and PI methodology:

- Lowest Quintile Residential Indicator – cost per low-income household as a percentage of the LQI.
- Poverty Indicator – five poverty indicators used to benchmark the prevalence of poverty throughout the service area.

The 2024 FCA Guidance uses the LQPI methodology:

- Lowest Quintile Poverty Indicators – upper limit of the lowest income quintile; percentage of population with income below 200% of the Federal Poverty Level; percentage of households receiving food stamps/SNAP benefits; percentage of vacant housing units; trend in household growth; and percentage of unemployed population 16 and over in civilian labor force.

Both methodologies include consideration of the following factors:

- Residential Indicator – cost per household as a percentage of MHI
- Financial Capability Indicator – six socioeconomic, debt, and financial indicators used to benchmark a community's financial strength.

EPA is interested in feedback on indicators that provide distinct information regarding the severity and prevalence of poverty in a community or service area.

2. EPA seeks public comment on whether the FCA Guidance should explicitly incorporate cost of living metrics. If yes, how should the analysis incorporate cost of living? What data sources are publicly available to consider cost of living?

3. EPA seeks public comment on the current scheduling benchmarks for communities facing unusually high financial impacts associated with complying with CWA requirements. Any

scheduling considerations need to be balanced with the need for the agency to ensure that CWA requirements are complied with in a timely manner. If commentors propose schedule benchmarks, EPA requests examples to support the basis for such benchmarks.

4. For purposes of WQS analyses, EPA seeks comment on what information or separate guidance would be helpful to determine whether and how states and authorized tribes could account for costs, such as asset management costs, stormwater costs and/or drinking water costs, when characterizing costs that communities are incurring or have made a commitment to invest in.

5. EPA requests comments on what, if any, additional perspectives or considerations relevant to the implementation of the FCA Guidance are not addressed by the focused questions above.

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