

Testimony of Laura Watson
Director, Washington State Department of Ecology
Chair, Environmental Council of the States' Water Committee
U.S. Senate Environment and Public Works Committee Hearing
Addressing the Clean Water State Revolving Fund Formula
March 16, 2022

Thank you Chairman Carper, Ranking Member Capito, and members of the Committee.

My name is Laura Watson. I am the Director of the Washington State Department of Ecology (Ecology). I am also Chair of the Environmental Council of the States' (ECOS) Water Committee. ECOS is the national nonprofit, nonpartisan association of state, territorial, and District of Columbia environmental agency leaders. ECOS members are the state appointed officials who have a holistic perspective on environmental infrastructure challenges, including water, air, land, and materials, and the importance of sustainable, equitable, and resilient funding and management strategies. It is an honor to be here today to testify on behalf of ECOS on the Clean Water State Revolving Fund formula.

The Washington State Department of Ecology that I lead was created over 50 years ago to protect and preserve Washington's air, land, and water, predating the federal Clean Water Act and the Clean Water State Revolving Fund. In 1993, the Environmental Council of States was formed to bring together states and territories, across state boundaries and party lines, to strengthen the work of environmental agencies in protecting the environment and public health.

Together, we have advanced environmental work across the nation, sharing best practices and putting the needs of people and the environment first. The Clean Water State Revolving Fund is a critical financial assistance tool for environmental agencies to protect water quality and public health in our communities through investments in clean water infrastructure.

In Washington, Ecology is responsible for stewarding the Clean Water State Revolving Fund. In this role, we have seen firsthand the benefits of the program in both rural and urban communities across the state. Since 1988, one year after the Fund was established, Ecology has distributed funding for more than 1,000 projects for wastewater and stormwater infrastructure, on-site sewage treatment system repair and replacement, and implementation of best management practices that reduce pollution and restore watershed function. This funding has allowed our State to assist communities of all sizes to update aging clean water infrastructure and address new standards for water quality and public health protection.

Ecology's program maintains the following priority goals:

- Goal 1: Identify and fund the highest priority water quality focused projects statewide.
- Goal 2: Provide funding through a fair, objective, and transparent process.
- Goal 3: Provide the best possible funding packages for small, financially challenged communities.
- Goal 4: Provide technical assistance to funding applicants and recipients.
- Goal 5: Provide sound financial management of the funding programs and projects.

Since passage of the law through June 30, 2021, Washington State's Clean Water State Revolving Fund program had received a total \$830 million in U.S. Environmental Protection Agency (EPA) capitalization grants. These funds are strategically used to address critical infrastructure challenges and maintenance, especially in areas with resource challenges and the highest needs. Since 1988, Washington State has funded clean water projects totaling more than \$2.2 billion, which includes state matching funds and revolving principal and interest repayment from loans.

Washington State also runs an integrated water quality funding program that links the Clean Water State Revolving Fund with other state and federal water quality focused grant programs. This combined program simplifies the application process for water quality focused projects allowing communities to apply for and receive funding from multiple sources to fund their needs.

Nationwide, the U.S. Environmental Protection Agency reports¹ that the Clean Water State Revolving Fund has provided \$153 billion to communities through 2021. This amount includes \$30,000 assistance agreements to small communities, which often created considerable cost savings, and supported innovative projects with public health and environmental benefits.

As an example, the Greater Lawrence Sanitary District in Massachusetts optimized anaerobic digestion by processing food waste for energy. This project supported the goal of creating a zero net energy wastewater facility.

A statewide project in Montana has minimized the need for plant upgrades through targeted education of wastewater treatment operators and some additional site-specific assistance.

The City of West Monroe, Louisiana has completed a project to upgrade an existing wastewater treatment plant to meet the water needs of a nearby manufacturer. The city worked closely with the manufacturer to identify, test, and implement this innovative solution to the company's industrial input needs.

¹ United States Environmental Protection Agency, "Learn about the Clean Water State Revolving Fund (CWSRF)," March 2022, <https://www.epa.gov/cwsrf/learn-about-clean-water-state-revolving-fund-cwsrf>.

Finally, a series of sponsored projects in Iowa is used an innovative funding mechanism to allow utility ratepayers to get two water restoration projects for the cost of one.

These are only a few of the many success stories from states around the nation, all of whom are putting Clean Water State Revolving Fund dollars to work and leveraging them to expand benefits.

The federal investments made through the Infrastructure Investments and Jobs Act present an unprecedented opportunity to further this work and to repair and expand essential infrastructure that will strengthen security and wellbeing for all our communities. This is one of the most exciting times in history to lead this work and to collaborate with state and federal partners to tackle some of our nation's biggest challenges. With renewed investments, ECOS would like to make some recommendations if the Committee reconsiders the Clean Water State Revolving Fund formula to assess if it is still working as intended, 35 years after being written.

ECOS Supports a Robust Process to Examine the Funding Formula

ECOS supports balanced, robust, and thoughtful consideration of the allotment formula as well as the various criteria that would be used to modernize it.

The Water Quality Act of 1987 established the Clean Water State Revolving Fund allotment formula. Currently, EPA awards capitalization grant funding to each state based on the established allotment formula. Each state applies for their annual capitalization grant from EPA. As an example, Washington State's portion of the federal funding appropriated to the Fund is about 1.8 percent.

We are aware that any changes to the formula would likely result in some states seeing increases and others seeing decreases. Due to this, ECOS is not in a position to recommend specific changes to the formula. However, it is important that the formula is equitable in meeting the needs of all states, territories, and the District of Columbia, and we support a thorough review of the formula to identify ways to improve it. We further request that Congress work with EPA and state organizations, like ECOS, in this process.

Defining "Need" in the Funding Formula

EPA defines clean water needs based on a set of established criteria. These criteria are used for data collection through the Clean Watersheds Needs Survey to meet the water quality goals of the Clean Water Act. The first Needs Survey was in 1972.

The Clean Watersheds Needs Survey is used to provide information to states and EPA, but is not currently used to inform allotment. For reference, EPA also leads a Drinking Water Infrastructure Needs Survey. The data from this survey are used in the Drinking Water State Revolving Fund allotment process. Congress should explore the efficacy and outcomes of incorporating Needs Survey data in the Drinking Water allotment formula and consider this as a potential model for the Clean Water State Revolving Fund formula.

The 2022 Clean Watersheds Needs Survey data collection launched earlier this month and will continue through 2022. Each state carries out this data collection effort and documents needs in an EPA database. The Needs Survey will allow environmental agencies to collect information on projects that address existing or projected (within next 20 years) water quality issues. The 2022 survey will include needs data for:

- Publicly owned treatment works (including information on combined sewer overflows and sanitary sewer overflows);
- municipal stormwater programs;
- decentralized wastewater treatment;
- nonpoint source best management practice implementation;
- desalination;
- water efficiency; and
- renewable energy projects.

Historically, the Clean Watersheds Needs Survey data collection is an onerous process. This is because the data collection and verification process requires review of capital improvement plan documents from communities. This is time intensive, which can prolong the process. Additionally, it often results in underestimates of needs because not all clean water projects have the appropriate documentation required by EPA.

Although we are not through the 2022 Survey, we hope it will prove to be more efficient and provide clear, credible, consistent, and comparable data that can build the basis for an updated allotment formula. If Congress considers incorporating Survey data into the Clean Water State Revolving funding formula, it should also consider how states can get timely and accurate data.

Recommendations

As Congress undertakes this process to review the allotment formula, there are several aspects to consider.

The Definition of Need Should Account for the Unique Needs of States

Infrastructure needs have changed significantly since the allotment formula was implemented in 1987. For example, population shifts during this time have resulted in many states experiencing growth that creates additional stress on wastewater systems. In other states, population decrease has meant fewer resources to tackle aging infrastructure.

In 2016, EPA took steps to reevaluate what constitutes “need” in communities across the country. EPA updated the categories to include clean water needs beyond traditional wastewater infrastructure. For example, in Washington State, stormwater treatment to reduce pollution from existing development is critical to protecting the Puget Sound estuary and salmon recovery. Investing in stormwater treatments and pollution reduction furthers our goals to preserve endangered salmon, boost tourism and recreation, protect water-based economies, and ultimately, preserve our way of life in

the Pacific Northwest. While these are unique priorities for Washington, each state and territory has its own clean water priorities that need to be addressed in order for us to serve our residents.

This year, EPA broadened the needs categories included in the 2022 Clean Watersheds Needs Survey, including nonpoint source pollution projects. We support EPA's continued efforts to capture the clean water needs of each state and to streamline the data collection process.

The Allotment Formula Should be Based on Recent and Robust Data

The last Clean Watersheds Needs Survey was published in 2016 from data collected in 2012. After a 10-year hiatus, a new Survey is now underway with states collecting and documenting needs data over this next year. We hope that the 2022 Needs Survey will be analyzed, summarized and published by EPA in 2023. Once published, these data may provide useful criteria for updating of the allotment formula.

Re-evaluate Other Criteria after Review of the 2022 Clean Watersheds Needs Survey

Data used in EPA's 2016 and 2022 Clean Watersheds Need Surveys, which includes Census data, should be reassessed, as should their relevancy in an updated allotment formula. For example, basing a new allotment formula on population alone may be unnecessary if high-quality Clean Watersheds Needs Survey data are available. This is because states that have experienced significant population increases are likely to have associated increases in infrastructure needs. We anticipate the Needs Survey will identify other important factors, such as infrastructure resiliency needs in response to the impacts of climate change.

Another key consideration will be to review how the allotment formula can advance fair outcomes for communities and areas with the greatest needs. The current guidance considers a financially disadvantaged community's "ability to pay" which provides one mechanism to close infrastructure gaps across communities. As state leaders, we have seen how small and low-income communities benefit from the "ability to pay" provision, and how this directly helps communities meet their clean water infrastructure needs. EPA developed a set-aside of the annual appropriation to be distributed to a small number of states to assist them in closing the gap between need and ability to pay.

Congress Should Consider how Environmental Justice is Incorporated in the Formula

EPA's 2016 report to Congress on the Clean Water State Revolving Fund does not mention environmental justice. However, the Clean Water and Drinking Water State Revolving Funds have long focused on providing guidance on how to manage the Funds to support disadvantaged communities.² Ensuring funds are accessible to disadvantaged areas has been part of the Drinking Water State Revolving Fund for over

² United States Environmental Protection Agency, "Funding Disadvantaged Communities with the Clean Water State Revolving Fund," June, 2016, https://www.epa.gov/sites/default/files/2016-11/documents/funding_disadvantaged_communities_with_the_clean_water_state_revolving_fund.pdf.

20 years, and the Clean Water State Revolving Fund includes affordability criteria for economically distressed areas.

The Infrastructure Investments and Jobs Act strengthens this commitment by mandating specific percentages³ of State Revolving Fund dollars be distributed as grants and forgivable loans to disadvantaged communities, including communities with environmental justice concerns. Ensuring the State Revolving Fund allotment formula incorporates these outcomes could address longstanding environmental justice issues such as unfunded or underfunded infrastructure needs in areas with environmental justice concerns, lead in drinking water systems, and gaps in water quality monitoring. This could benefit rural and urban communities across the nation.

ECOS has convened an environmental justice workgroup to support our state association, and individual states, with advancing actions to ensure nondiscrimination under Title VI of the Civil Rights Act and coordination with federal environmental justice activities.

The allotment formula should be developed and implemented on a timeline that ensures long-term, sustainable success for all State Revolving Funds

If Congress decides to update the formula, it should also consider implementing the new allotment formula in phases. A phased approach would avoid potential drastic changes in state Clean Water State Revolving Fund monetary levels that could disrupt financial assistance plans and expectations for community clean water infrastructure. Allowing for a transition phase for implementation of a new allotment formula over a number of years would allow states to plan for change.

Create Accountability for Timely Data

Various states have given feedback that the needs survey process is cumbersome and takes too long, so that by the time the information is available it is already outdated. For this information to be more useful, EPA should strive to find ways to streamline, strengthen, and expedite the process.

Additional Clean Water State Revolving Fund Recommendations

ECOS supports robust funding of the Clean Water State Revolving Fund and encourages increased flexibility of funding and reduction of federally imposed administrative burdens of utilizing State Revolving Fund dollars.

ECOS appreciates the federal investments in our communities through the Infrastructure Investment and Jobs Act. We also appreciate Administrator Regan, Assistant Administrator Fox, and EPA for releasing the associated State Revolving

³ Radhika Fox, "Implementation of the Clean Water and Drinking Water State Revolving Fund Provisions of the Bipartisan Infrastructure Law," United States Environmental Protection Agency Memorandum, March, 2022, https://www.epa.gov/system/files/documents/2022-03/combined_srf-implementation-memo_final_03.2022.pdf

Funds Implementation Memo we need to put these dollars to work. States also appreciate the change through the Infrastructure Investments and Jobs Act to allow 2 percent of annual Clean Water State Revolving Fund capitalization grant funds to go to technical assistance to small, disadvantaged, and underserved communities as is done with the Drinking Water State Revolving Fund. This will provide much-needed support to communities that lack the professional expertise to build wastewater infrastructure.

Additionally, state programs should be regularly and meaningfully engaged as discussions related to the allotment formula evolve.

Conclusion

Thank you, on behalf of Washington State and my peers in the rest of the states, territories, and DC, for considering the views of our agencies as you review the Clean Water State Revolving Fund allotment formula. We stand ready to be a resource to you as you continue this work. Thank you for your ongoing investments and commitment to communities across the country.