
GAO QUESTIONS ON A NATIONAL CLEAN WATER TRUST FUND

Purpose – The United States Government Accountability Office (GAO), an independent, legislative branch agency, is reviewing design issues and funding options for a potential national Clean Water Trust Fund. GAO is undertaking this work at the request of Congress. Specifically, GAO has been asked to determine

- (1) stakeholders' views on the issues that would need to be addressed in designing and establishing a Clean Water Trust Fund and
- (2) potential options for funding a Clean Water Trust Fund that could generate \$10 billion annually and their characteristics.

Through this questionnaire, we are asking for input from stakeholders with knowledge about wastewater infrastructure to help us address these issues. Specifically, we are interested in how stakeholders view the issues that need to be addressed in designing and establishing a trust fund, such as how a trust fund should be administered, how funding should be distributed, as well as what purposes the funding should be used for. In addition, we are interested in stakeholders' views of the potential funding options that could be used for this fund. We will analyze the information and present our findings in a report that we plan to issue in the spring of 2009.

We would very much appreciate your input. A single response from your organization by February 11, 2009, that represents the views of your members would be most helpful to us. If you have any questions, please contact Sherry McDonald (mcdonaldsl@gao.gov, 202-512-8302), Scott Heacock (heacocks@gao.gov, 202-512-2850), or Janice Ceperich (ceperichj@gao.gov, 202-512-6421). Thank you for taking the time to respond to this questionnaire.

Instructions

This questionnaire can be filled out using MS-Word and returned via e-mail to ceperichj@gao.gov.

- Please use your mouse to navigate by clicking on the field or check box you wish to answer.
- To select a check box or button, simply click on the center of the box.
- To change or deselect a check box response, simply click on the check box and the 'X' will disappear.
- To answer a question that requires that you write a comment, click on the answer box and begin typing. The box will expand to accommodate your answer.

Please provide contact information for a representative from your organization for any follow up questions we may have.

- Organization: **National Rural Water Association**
- Contact name: **Mike Keegan**, email keegan@ruralwater.org, and phone **2022944785**

SECTION 1: CLEAN WATER TRUST FUND DESIGN ISSUES

Administration

1. In your opinion, how, if at all, should a Clean Water Trust Fund be used? (*Please check one of the following*).

- A trust fund should be used only to fund the existing Clean Water SRF.¹
- A trust fund should not be used to fund the existing Clean Water SRF but rather a separate and distinct program to support wastewater infrastructure.
- A trust fund should be used partially to fund the existing Clean Water SRF along with a separate and distinct program to support wastewater infrastructure.
- A trust fund should not be created for the purpose of funding wastewater infrastructure.
- Other (please specify).
- Don't know/no opinion. (Skip to question 3).

2. Please explain the rationale behind your opinion on how, if at all, a Clean Water Trust Fund should be used. The current CWR SRF does not prioritize funding to POTWs most in need of funding. This should be changed to ensure federal subsidises are most tartget to federal objectives (enviromental and economic).

3. Which entity or entities should administer a Clean Water Trust Fund? (*Please check one of the following*).

- EPA only
- EPA partnership with the states (like the current Clean Water SRF)
- Independent, non-governmental board of trustees
- Other (please specify EPA, the states, and the USDA. USDA has the most successful wastewater infrastructure funding program within the federal government and USDA should be utilized in any new program.)
- Don't know/no opinion

¹ EPA currently allocates funding to states through the Clean Water SRF program. These funds can be used to construct or upgrade wastewater infrastructure, address nonpoint sources of pollution, or develop or implement management plans in federally designated estuaries. States use an EPA-approved ranking system to direct these funds to the highest priority projects. States then enter into loan agreements with borrowers to fund projects. The majority of Clean Water SRF borrowers are municipalities and other local units of government. Loan repayments are cycled back into the state-level fund and used for additional water quality projects.

Funding Distribution

4. How should funding from a Clean Water Trust Fund be distributed to support wastewater projects? *(Please check one of the following).*

- Loans only (like the current Clean Water SRF).
- Grants only
- Combination of loans and grants
- Other (please specify [redacted]).
- Don't know/no opinion

5. Please explain the rationale behind your answer to question 4. Often the communities most in need of subsidies can not afford a loan only funding instrument. Grants are necessary to meet federal objectives, especially in the most disadvantaged communities. Furthermore, federal environmental mandates have the most adverse financial impact on low-income communities. These impacts need to be reconciled with funding assistance which can only be accomplished (in many cases) by grants.

Eligibility for Funds

6. In your opinion, what wastewater infrastructure activities should be eligible for funding from a Clean Water Trust Fund?

a. Routine operations and maintenance

- Yes
- No
- Don't know/no opinion

i. Please explain the rationale behind your opinion. [redacted]

b. Planning and design of wastewater projects

- Yes
- No
- Don't know/no opinion

i. Please explain the rationale behind your opinion. [redacted]

c. Ratepayer assistance to low-income households

- Yes
- No
- Don't know/no opinion

i. Please explain the rationale behind your opinion. Funding assistance should be limited to entities that are responsible for compliance with CWA requirements or it will not be a CWA program, but an individual social program. If that is the objective, a new program should be designed within the individual social welfare agencies to better meet the needs of individual households. This idea also disrupts (preempts) the civic balance of local officials deciding on local economic, tax, and environmental compliance policy in a manner they see most appropriate. If the federal government is going to preempt local civics regarding the appropriate distribution of fees and taxes to off-set civic environmental responsibilities - then the federal government should also assume responsibility for meeting the federal environmental standards.

d. Capital costs

- Yes
- No
- Don't know/no opinion

i. Please explain the rationale behind your opinion. (Then, if you indicated that capital costs should not be eligible, please skip to question 8.)

7. If, in your opinion, capital costs should be eligible for funding from a Clean Water Trust Fund, which of the following activities should be included as capital costs? (**Check all that apply**).

- Replacement or rehabilitation of wastewater collection systems or treatment facilities (beyond normal maintenance)
- Expansion of wastewater collection systems or treatment facilities *for existing needs*
- Expansion of wastewater collection systems or treatment facilities *for population growth*
- Construction of new wastewater treatment facilities
- Secondary wastewater treatment
- Advanced wastewater treatment
- Combined sewer overflow correction or elimination
- Infiltration/inflow correction
- Other (please specify _____).
- Don't know/no opinion

8. What, if any, other wastewater infrastructure activities (not already mentioned above in questions 6 and 7) should be eligible for funding from a Clean Water Trust Fund and why? TMDL compliance

9. What factors should be considered in determining what entities should be eligible for receiving funding from a Clean Water Trust Fund? (**Check all that apply**).

- Wastewater infrastructure needs

- Priority of environmental problem to be addressed
- Priority of waters or watersheds involved
- Population
- Median household income
- Other (please specify Stipulating that every case has environmental need, economics should be the primary criteria for prioritizing funding).
- Don't know/no opinion

10. In addition to design elements discussed above related to administration, funding distribution, and eligibility for funds (questions 1 through 9), what, if any, other design elements should be considered in designing and establishing a Clean Water Trust Fund? If a trust fund is established and funded by fees on wastewater or water utility bills, the fees should be on a scale where communities with the highest incomes and the lowest water rates pay more. And the fee scale should reduce fees, or exempt fees, on the communities that have the lowest incomes and the highest water rates. This is only fair if the goal of the CWA is to ensure uniform environmental standards throughout the country. In principle, it would only be just, to have all households pay the same amount if they are being mandated to meet federal standards. However such environmental justice seems unlikely or politically impossible. But, a sliding scale of trust funds fees (that will be used to further federal standards), should attempt to progress this principle of equity of economic impact on all communities.

SECTION 2: POTENTIAL FUNDING OPTIONS FOR A CLEAN WATER TRUST FUND

Through reviews of available reports on this issue and interviews with stakeholders, GAO has identified 8 potential funding options for a Clean Water Trust Fund: excise taxes² on products that include beverages, flushable products, fertilizers and pesticides, pharmaceuticals, and water appliances and fixtures; a water use tax; an industrial discharge tax; and a corporate environmental income tax. We would like to know your opinion of these funding options.

11. Do you support or oppose the following funding options?

a. excise tax on beverages (beverages manufactured for consumption including soft drinks, bottled water, ice, beer, wine, and liquor but excluding fruit and vegetable juices and concentrates)

- Strongly support
- Support
- Neither support nor oppose
- Oppose
- Strongly oppose
- Don't know/no opinion

i. Why do you support or oppose this option? ██████████

² An excise tax is a tax levied on the manufacture, sale, or consumption of various commodities.

b. excise tax on flushable products (including products introduced directly into wastewater, such as soaps, detergents, toilet paper, and cooking oils)

- Strongly support
- Support
- Neither support nor oppose
- Oppose
- Strongly oppose
- Don't know/no opinion

i. Why do you support or oppose this option?

c. excise tax on fertilizers and pesticides

- Strongly support
- Support
- Neither support nor oppose
- Oppose
- Strongly oppose
- Don't know/no opinion

i. Why do you support or oppose this option?

d. excise tax on pharmaceuticals

- Strongly support
- Support
- Neither support nor oppose
- Oppose
- Strongly oppose
- Don't know/no opinion

i. Why do you support or oppose this option?

e. excise tax on water appliances and fixtures (including fixtures and appliances that introduce flow into the wastewater system, such as washing machines, dishwashers, and showerheads)

- Strongly support
- Support
- Neither support nor oppose
- Oppose
- Strongly oppose
- Don't know/no opinion

i. Why do you support or oppose this option?

f. water use tax (water consumption by local utility users)

- Strongly support
- Support
- Neither support nor oppose
- Oppose
- Strongly oppose
- Don't know/no opinion

i. Why do you support or oppose this option?

g. industrial discharge tax (tax on industrial pollutants released into water and/or fee on permits allowing these releases)

- Strongly support
- Support
- Neither support nor oppose
- Oppose
- Strongly oppose
- Don't know/no opinion

i. Why do you support or oppose this option?

h. corporate environmental income tax (tax on the incomes of corporations in addition to any existing corporate income tax)

- Strongly support
- Support
- Neither support nor oppose
- Oppose
- Strongly oppose
- Don't know/no opinion

i. Why do you support or oppose this option?

12. Infrastructure-related trust funds, such as the Highway Trust Fund, are sometimes funded by taxes on products, such as a tax on fuel, that are related to infrastructure use. In considering funding options for a Clean Water Trust Fund, to what extent is there a connection between wastewater infrastructure use and the following products or activities?

Product or Activity	Little or no extent	Moderate extent	Great extent	Very great extent	Don't know/no opinion
a. beverages	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b. flushable products	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c. fertilizers and pesticides	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d. pharmaceuticals	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e. water appliances and fixtures	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f. water use	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
g. industrial discharge	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
h. corporate income	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
i. other (please specify)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

13. What, if any, additional options should be considered for funding a Clean Water Trust Fund and why? Corporate water systems should not be eligible for federal subsidies. Taxpayer subsidies should be prohibited from profit generating companies or companies paying profits for shareholders/investors. Private companies argue that they have to comply with the same regulations. However, compliance is not the over-riding principle that should be considered in this discussion. The distinction in mission between public and private is the core principal that should be considered. Private systems are in the business to maximize profit. Public water utilities were and are created to provide for public welfare (the reason why public water continues to expand to underserved and non-profitable populations). This is a significant difference. And

while we believe that maximizing profit is a noble virtue, we do not think that taxpayers should help the cause of privately owned systems. The state of Florida has a novel compromise to this issue. Florida limits SRF funds to private water systems less than 1,500 people – ensuring funds are limited to the class of private water systems that did not get into the business as a corporate enterprise.

14. Please provide any additional information that would be helpful to GAO in better understanding potential issues related to establishing a Clean Water Trust Fund. [REDACTED]

15. If your organization has developed (or collaborated on) position papers or studies of Clean Water Trust Fund design issues or potential funding options, please provide these via e-mail along with this questionnaire to ceperichj@gao.gov.

February 11, 1994

EXECUTIVE ORDER

FEDERAL ACTIONS TO ADDRESS ENVIRONMENTAL JUSTICE IN MINORITY POPULATIONS AND LOW-INCOME POPULATIONS

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

Section 1-1. **IMPLEMENTATION.**

1-101. *Agency Responsibilities.* To the greatest extent practicable and permitted by law, and consistent with the principles set forth in the report on the National Performance Review, each Federal agency shall make achieving environmental justice part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations in the United States and its territories and possessions, the District of Columbia, the Commonwealth of Puerto Rico, and the Commonwealth of the Marian Islands.

1-102. *Creation of an Interagency Working Group on Environmental Justice* (a) Within 3 months of the date of this order, the Administrator of the Environmental Protection Agency ("Administrator") or the Administrator's designee shall convene an Interagency Federal Working Group on Environmental Justice ("Working- Group"). The Working Group shall comprise the heads of the following executive agencies and offices, or their designees: (a) Department of Defense; (b) Department of Health and Human Services; (c) Department of Housing and Urban Development; (d) Department of Labor; (e) Department of Agriculture; (f) Department of Transportation; (g) Department of Justice; (h) Department of the Interior; (i) Department of Commerce; (j) Department of Energy; (k) Environmental Protection Agency; (l) Office of Management and Budget; (m) Office of Science and Technology Policy; (n) Office of the Deputy Assistant to the President for Environmental Policy; (o) Office of the Assistant to the President for Domestic Policy; (p) National Economic Council; (q) Council of Economic Advisers; and (r) such other Government officials as the President may designate. The Working Group shall report to the President through the Deputy Assistant to the President for Environmental Policy and the Assistant to the President for Domestic Policy.

(b) The Working Group shall: (1) provide guidance to Federal agencies on criteria for identifying disproportionately high and adverse human health or environmental effects on minority populations and low-income populations;

(2) coordinate with, provide guidance to, and serve as a clearinghouse for, each Federal agency as it develops an environmental justice strategy as required by section 1-103 of this

order, in order to ensure that the administration, interpretation and enforcement of programs, activities and policies are undertaken in a consistent manner;

(3) assist in coordinating research by, and stimulating cooperation among, the Environmental Protection Agency, the Department of Health and Human Services, the Department of Housing and Urban Development, and other agencies conducting research or other activities in accordance with section 3-3 of this order;

(4) assist in coordinating data collection, required by this order;

(5) examine existing data and studies on environmental justice;

(6) hold public meetings at required in section 5-502(d) of this order; and

(7) develop interagency model projects on environmental justice that evidence cooperation among Federal agencies.

1-103. *Development of Agency Strategies.* (a) Except as provided in section 6-605 of this order, each Federal agency shall develop an agency-wide environmental justice strategy, as set forth in subsections (b) - (e) of this section that identifies and addresses disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations. The environmental justice strategy shall list programs, policies, planning and public participation processes, enforcement, and/or rulemakings related to human health or the environment that should be revised to, at a minimum: (1) promote enforcement of all health and environmental statutes in areas with minority populations and low-income populations; (2) ensure greater public participation; (3) improve research and data collection relating to the health of and environment of minority populations and low-income populations; and (4) identify differential patterns of consumption of natural resources among minority populations and low-income populations. In addition, the environmental justice strategy shall include, where appropriate, a timetable for undertaking identified revisions and consideration of economic and social implications of the revisions.

(b) Within 4 months of the date of this order, each Federal agency shall identify an internal administrative process for developing its environmental justice strategy, and shall inform the Working Group of the process.

(c) Within 6 months of the date of this order, each Federal agency shall provide the Working Group with an outline of its proposed environmental justice strategy.

(d) Within 10 months of the date of this order, each Federal agency shall provide the Working Group with its proposed environmental justice strategy.

(e) Within 12 months of the date of this order, each Federal agency shall finalize its environmental justice strategy and provide a copy and written description of its strategy to the Working Group. During the 12 month period from the date of this order, each Federal agency, as part of its environmental justice strategy, shall identify several specific projects that can be

promptly undertaken to address particular concerns identified during the development of the proposed environmental justice strategy, and a schedule for implementing those projects.

(f) Within 24 months of the date of this order, each Federal agency shall report to the Working Group on its progress in implementing its agency-wide environmental justice strategy.

(g) Federal agencies shall provide additional periodic reports to the Working Group as requested by the Working Group.

1-104. *Reports to The President.* Within 14 months of the date of this order, the Working Group shall submit to the President, through the Office of the Deputy Assistant to the President for Environmental Policy and the Office of the Assistant to the President for Domestic Policy, a report that describes the implementation of this order, and includes the final environmental justice strategies described in section 1-103(e) of this order.

Sec. 2-2. Federal Agency Responsibilities For Federal Programs. Each Federal agency shall conduct its programs, policies, and activities that substantially affect human health or the environment, in a manner that ensures that such programs, policies, and activities do not have the effect of excluding persons (including populations) from participation in, denying persons (including populations) the benefits of, or subjecting persons (including populations) to discrimination under, such, programs, policies, and activities, because of their race, Color, or national origin.

Sec. 3 -3. Research, Data Collection, and Analysis

3-301. *Human Health and Environmental Research and Analysis.* (a) Environmental human health research, whenever practicable and appropriate, shall include diverse segments of the population in epidemiological and clinical studies, including segments at high risk from environmental hazards, such as minority populations, low-income populations and workers who may be exposed to, substantial environmental hazards.

(b) Environmental human health analyses, whenever practicable and appropriate, shall identify multiple and cumulative exposures.

(c) Federal agencies shall provide minority populations and low-income populations the opportunity to comment on the development and design of research strategies undertaken pursuant to this order.

3-302. *Human Health and Environmental Data Collection and Analysis* To the extent permitted by existing law, including the Privacy Act, as amended (5 U.S.C. section 552a): (a) each federal agency, whenever practicable and appropriate, shall collect, maintain, and analyze information assessing and comparing environmental and human health risks borne by populations identified by race, national origin, or income. To the extent practical and appropriate, Federal agencies shall use this information to determine whether their programs, policies, and activities have disproportionately high and adverse human health or environmental effects on minority populations and low-income populations;

(b) In connection with the development and implementation of agency strategies in section 1-103 of this order, each Federal agency, whenever practicable and appropriate, shall collect, maintain and analyze information on the race, national origin, income level, and other readily accessible and appropriate information for areas surrounding facilities or sites expected to have substantial environmental, human health, or economic effect on the surrounding populations, when such facilities or sites become the subject of a substantial Federal environmental administrative or judicial action. Such information shall be made available to the public unless prohibited by law; and

(c) Each Federal agency, whenever practicable and appropriate, shall collect, maintain, and analyze information on the race, national origin, income level, and other readily accessible and appropriate information for areas surrounding Federal facilities that are: (1) subject to the reporting requirements under the Emergency Planning and Community Right-to-Know Act, 42 U.S.C. section 11001-11050 as mandated in Executive Order No. 12856; and (2) expected to have a substantial environmental, human health, or economic effect on surrounding populations. Such information shall be made available to the public unless prohibited by law.

(d) In carrying out the responsibilities in this section, each Federal agency, whenever practicable and appropriate, shall share information and eliminate unnecessary duplication of efforts through the use of existing data systems and cooperative agreements among Federal agencies and with State, local, and tribal governments.

Sec. 4-4. Subsistence Consumption Of Fish And Wildlife.

4-401. *Consumption Patterns.* In order to assist in identifying the need for ensuring protection of populations with differential patterns of subsistence consumption of fish and wildlife, Federal agencies, whenever practicable and appropriate, shall collect, maintain, and analyze information on the consumption patterns of populations who principally rely on fish and/or wildlife for subsistence. Federal agencies shall communicate to the public the risks of those consumption patterns.

4-402. *Guidance.* Federal agencies, whenever practicable and appropriate, shall work in a coordinated manner to publish guidance reflecting the latest scientific information available concerning methods for evaluating the human health risks associated with the consumption of pollutant-bearing fish or wildlife. Agencies shall consider such guidance in developing their policies and rules.

Sec. 5-5. Public Participation and Access to Information (a) The public may submit recommendations to Federal agencies relating to the incorporation of environmental justice principles into Federal agency programs or policies. Each Federal agency shall convey such recommendations to the Working Group.

(b) Each Federal agency may, whenever practicable and appropriate, translate crucial public documents, notices, and hearings relating to human health or the environment for limited English speaking populations.

(c) Each Federal agency shall work to ensure that public documents, notices, and hearings relating to human health or the environment are concise, understandable, and readily accessible to the public.

(d) The Working Group shall hold public meetings, as appropriate, for the purpose of fact-finding, receiving public comments, and conducting inquiries concerning environmental justice. The Working Group shall prepare for public review a summary of the comments and recommendations discussed at the public meetings.

Sec. 6-6. **General Provisions.**

6-601. *Responsibility for Agency Implementation.* The head of each Federal agency shall be responsible for ensuring compliance with this order. Each Federal agency shall conduct internal reviews and take such other steps as may be necessary to monitor compliance with this order.

6-602. *Executive Order No. 12250.* This Executive order is intended to supplement but not supersede Executive Order No. 12250, which requires consistent and effective implementation of various laws prohibiting discriminatory practices in programs receiving Federal financial assistance. Nothing herein shall limit the effect or mandate of Executive Order No. 12250.

6-603. *Executive Order No. 12875.* This Executive order is not intended to limit the effect or mandate of Executive Order No. 12875.

6-604. *Scope.* For purposes of this order, Federal agency means any agency on the Working Group, and such other agencies as may be designated by the President, that conducts any Federal program or activity that substantially affects human health or the environment. Independent agencies are requested to comply with the provisions of this order.

6-605. *Petitions for Exemptions.* The head of a Federal agency may petition the President for an exemption from the requirements of this order on the grounds that all or some of the petitioning agency's programs or activities should not be subject to the requirements of this order.

6-606. *Native American Programs.* Each Federal agency responsibility set forth under this order shall apply equally to Native American programs. In addition the Department of the Interior, in coordination with the Working Group, and, after consultation with tribal leaders, shall coordinate steps to be taken pursuant to this order that address Federally- recognized Indian Tribes.

6-607. *Costs.* Unless otherwise provided by law, Federal agencies shall assume the financial costs of complying with this order.

6-608. *General.* Federal agencies shall implement this order consistent with, and to the extent permitted by, existing law.

6-609. *Judicial Review*. This order is intended only to improve the internal management of the executive branch and is not intended to, nor does it create any right, benefit, or trust responsibility, substantive or procedural, enforceable at law or equity by a party against the United States, its agencies, its officers, or any person. This order shall not be construed to create any right to judicial review involving the compliance or noncompliance of the United States, its agencies, its officers, or any other person with this order.

William J. Clinton

THE WHITE HOUSE,
February 11, 1994.