



**TO: The Honorable David Ross  
Assistant Administrator for Water  
U.S. Environmental Protection Agency**

**FROM: National Rural Water Association (contact: Mike Keegan, Analyst)**

**DATE: February 22, 2018**

**RE: State Revolving Fund Eligible for Non-profit Wastewater Utilities**

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*Headquartered in Duncan (Oklahoma), the National Rural Water Association (NRWA) is the non-profit association of the federated state rural water associations with a combined membership of over 30,000 small and rural communities. NRWA is the country's largest water utility association and the largest community-based environmental organization. State Rural Water Associations are non-profit associations governed by elected board members from the membership. Our member utilities have the very important public responsibility of complying with all applicable U.S. Environmental Protection Agency (EPA) regulations and for supplying the public with safe drinking water and sanitation every second of every day.*

Thanks to financial assistance from state Clean Water State Revolving Funds, small and rural communities have made great advancements in their standard of living over the last 30 years through enhancements to their public sewer or wastewater systems. However, many small and rural communities who desperately need financial assistance from the Clean Water State Revolving Funds are not eligible because they are technically not incorporated as a "municipality." This subcategory of small and rural communities is incorporated as non-profit districts, rural wastewater utilities, and other organizational forms that are substantially equivalent to municipal wastewater utilities for purposes of public wastewater service. Non-profit wastewater utilities are all owned and controlled by the members through elected governing boards. Many are incorporated as 501(c)12 cooperatives and assigned that designation after close review and approval by U.S. Internal Revenue Service review of limiting articles of incorporation and bylaws. Many states have determined them to be similar to municipalities and granted them sales and Ad Valorem tax exemptions.

We believe that the Federal Water Pollution Control Act's (FWPCA) limitation of state revolving funds to *"to any municipality or intermunicipal, interstate, or State agency for construction of publicly owned treatment works,"* (33 USC § 1383(c)(1)) should be interpreted to limit funding to corporate or for-profit wastewater utilities and not wastewater utilities that are non-profit and locally governed by their ratepayers in a similar manner to municipalities.

NRWA urges you to modify your interpretation of the FWPCA to allow for non-profit wastewater utilities to be eligible for state revolving funds financial assistance. If your interpretation of the statute concludes that this request is not an authorized activity, we urge you to request legislative modifications to the FWPCA in Congress that will allow for this category of wastewater utilities to be eligible for federal financial assistance.

Thank you for your consideration. We are eager to answer any questions on this issue.