

To: Vermont Legislature, Senate Economic Development Committee  
From: Members of the Housing & Homeless Alliance Mobile Home Communities Subcommittee (MHC)  
Date: April 7, 2025  
Re: Regulatory reform for water and wastewater infrastructure funding for mobile home parks

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This memo is to request modification to sections of VSA 24 Chapter 120, Subchapter 1 for the purpose of accelerating the adoption of Act 154 of 2022 principles (Vermont's Environmental Justice Law<sup>1</sup>) by the Agency of Natural Resources for the State Revolving Fund program. These principles address environmental health disparities to improve the health and well-being of all Vermont residents regardless of race, cultural background, or income. Vermont's State Revolving Fund program design is codified in VSA 24 Chapter 120, Subchapter 1.

The SRF is a formula-funded EPA program administered by DEC for the repair and redevelopment of water and wastewater infrastructure for eligible applicants. Originally designed for use by municipalities and Fire Districts, regulatory changes in the 1990s created the Drinking Water State Revolving Fund (DWSRF) and established regulations for the Clean Water State Revolving Fund (CWSRF). These changes increase program flexibility and smaller, privately-owned systems began using the funding for health and safety repairs and replacements.

Many of Vermont's mobile home communities (MHC) contend with substandard and failing wastewater and privately owned community drinking water systems and need to use the SRF. 70 of Vermont's 236 MHCs are owned by nonprofits or cooperatively owned.

- Nonprofit housing organizations own 52 parks.
- Two cooperatively-owned MHCs were created in the 1990s by nonprofits.
- Cooperative Development Institute (CDI) has assisted 16 MHC residents to purchase their parks under the Resident-Owned Cooperative, USA model (ROC-USA), founded by the New Hampshire Community Loan Fund in 2008.

In 2019, the Vermont Housing and Conservation Board commissioned a study on the *Sustainability Assessment Of Affordable Mobile Home Parks in Vermont*<sup>2</sup> which assessed financial, infrastructure and market sustainability of 52 affordable (e.g. VHCB-funded) mobile home parks. This assessment led to the recognition that the scale and cost of MHC water and wastewater redevelopment needs would siphon VHCB and the VT Community Development Program grants away from production of homes for Vermonters who are unsheltered, in recovery, and have many supportive-housing needs. Therefore, the low-income MHC sector began attempting to navigate the DEC's State Revolving Fund (SRF) slated specifically for water and wastewater infrastructure redevelopment.

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<sup>1</sup> The purpose of the Environmental Justice Law is to ensure all Vermonters regardless of race, cultural background, or income have equitable access to environmental benefits such as clean air and water, healthy food, and public transportation. The Environmental Justice Law also protects communities from disproportionate environmental burdens such as polluted air and water, climate change impacts, and limited access to green spaces. The Environmental Justice Law requires State agencies to meaningfully engage Vermonters in the decision-making processes.

<sup>2</sup> Sustainability Assessment Of Affordable Mobile Home Parks in Vermont, Prepared by John Ryan, Principal, Development Cycles, East Montpelier, VT. January 2019

While the Drinking Water and Clean Water have nuanced federal regulatory differences, broadly speaking SRF funding allows for a range of eligible uses, including preliminary engineering studies, acquisition of land, easements, and related instruments needed to alleviate substandard conditions, engineered designs, permitting processes, and construction.

- Both programs require a 20% state match and that is often accomplished with loan repayments, as the repayments and interest earned are recycled back into the SRF to finance new projects.
- Both programs require that the administrating entity pass an Intended Use Plan (IUP) describing how funds will be used.

To date, the affordable MHC sector has been directed to navigate and participate in the Agency’s annual IUP process which includes public comment, as all state plans required for federal funding do. However, the nature of the SRF program is such that its design centers on concepts, language, and administrative procedures that are so heavily technical, bureaucratic, and unaligned with the needs of environmental justice populations that they are untenable for nonprofit and cooperatively-owned MHCs to achieve the “meaningful participation” required by Act 154 of 2022.

Recently, DEC has made strides in modifying its IUP to recognize that nonprofit and co-op owned parks automatically meet the state’s affordability criteria that was first established in the 2021 Intended Use Plan. The HHAV-MHC subcommittee will work with DEC staff to refine this language so that it aligns with the other affordable housing programs used by the affordable housing sector.

However, multiple sections of VSA 24 Chapter 120, Subchapter 1 in the following ways would reduce bureaucratic barriers, reduce project costs, and accelerate the rate at which substandard health and safety threats are corrected, thereby preserving this critical affordable housing resource. Municipalities, and “hardship municipalities” are afforded a range of priority statuses and loan terms and conditions in the statute that must be extended to affordable, or disadvantaged MHCs. The proposed changes advance four policy goals:

1. Define disadvantaged privately-owned public water systems as a way of providing equitable access to these resources for an environmental justice population based on income;
2. Add disadvantaged MHCs as a priority applicant to the SRF;
3. Eliminate burdensome and unnecessary bureaucratic requirements that impede planning and pre-construction processes that add cost and delay the remediation of substandard environmental conditions in a park;
4. Build greater affordability into loan advances for disadvantaged MCHs.

**1. DEFINITION:**

Affordable MHCs must have their own definition in the Chapter as “disadvantaged or hardship communities.”

**§ 4752. Definitions** has a definition of *disadvantaged municipalities*.

Add language to create definition of a disadvantaged MHC that aligns with the IUP “affordable MHC” language. Would also recommend that ACCD’s Mobile Home Park program could be a partner in certifying a disadvantaged community.

“A disadvantaged MHC is one that has been certified as by the Agency of Commerce and Community Affairs based on an income survey demonstrating that the majority of residents

have household incomes below 80% of HUD Median Income by household size, and that rents shall remain affordable at this income level.”

## 2. PRIORITY STATUS:

Affordable housing redevelopment projects must remain nimble and cost-effective to minimize the financial burden on the low-income residents. To achieve this, MHCs need similar priority standing for SRF funds that municipalities have and not have to wait in a long queue for review. The SRF program requires lengthy stage-gates to access funding for standard pre-construction engineering work that could be accomplished within a 12-month timeframe, but instead typically takes 18-24 months.

MHC applications are reviewed “in the order they come,” which frequently means competing with larger, lumbering and more complex municipal and school projects that require longer review times. **Meanwhile, many parks spend upwards of \$20,000 - \$40,000 annually on emergency repairs, septic pumping, boiling water, and trucking in clean drinking water. Low-income parks cannot afford and sustain these emergency maintenance costs.** Section 4758 contains language for Loan priorities:

### § 4758. Loan priorities

(a) Periodically, and at least annually, the Secretary shall prepare and certify to the Bond Bank a project priority list of those municipalities whose publicly or privately owned clean water projects are eligible for financing or assistance under this chapter. **Manufactured home communities shall have priority at all times if faced with health and safety threats from substandard and/or failing community water and wastewater systems.** In determining financing availability for clean water projects under this subchapter, the Secretary shall apply the criteria adopted pursuant to 10 V.S.A. § 1628.

### (b) OR

#### § 4758. Loan priorities

(a) Periodically, and at least annually, the Secretary shall prepare and certify to the Bond Bank a project priority list of those municipalities whose publicly or privately owned clean water projects are eligible for financing or assistance under this chapter. **Disadvantaged manufactured home communities with health and safety violations from failing water and wastewater infrastructure shall be considered priority projects for financing.** In determining financing availability for clean water projects under this subchapter, the Secretary shall apply the criteria adopted pursuant to 10 V.S.A. § 1628.

**Another section in the Subchapter that addresses Priorities is as follows:**

### § 1628. Priorities

The department shall make awards under this chapter to eligible municipal projects on the basis of urgency of need as determined according to a system of priorities adopted by the department and to the extent appropriate funds are available. The department shall assure that projects sponsored by a town school district, or incorporated school district shall be given increased priority for purposes of the receipt of engineering planning advances awarded under section 1593 of this chapter. The total amount of the engineering planning advances made and still outstanding during a period for this purpose shall not exceed 30 percent of the bond issue or appropriation voted for construction grant funds by the general assembly for the period in which the award is made. **The department shall assure that projects sponsored by disadvantaged MHCs be given increased priority for purposes of the**

receipt of engineering planning advances awarded under section 1593 of this chapter (below). (Added 1971, No. 97, § 3, eff. April 22, 1971; amended 1981, No. 222 (Adj. Sess.), § 35; 1989, No. 276 (Adj. Sess.), § 33, eff. June 20, 1990.)

### 3. **REDUCE BUREAUCRACY AND COSTLY DELAYS:**

The SRF program has a 3-step loan process:

Step 1 – loan for Preliminary Engineering Report

Step 2 – loan for design and permitting

Step 3 – loan for construction

There is an untenably lengthy review time between Step 1 and Step 2 that unnecessarily adds up to a year of engineering work and means most MHC projects do not get into construction for 2-3 years after the park experiences water and/or wastewater health and safety emergencies.

A second modification for alleviating this hurdle is to collapse Steps 1 and 2 into one loan. MHC pre-construction needs are fairly standard and could be fast-tracked with a collaboratively created check-list.

The following section addresses the types of awards advanced by the department and could be modified to require that advances to disadvantaged MHCs are sufficient to cover the costs of the required engineering investigation and report, the design, and the permitting process under one loan.

#### **§ 1593. Award of advance**

(a) The department may award an advance in an amount determined by the department to be suitable for the engineering planning under standards established by the department:

(1) For planning of potable water supply facilities, when it finds the same to be necessary in order to preserve or enhance the quality of water provided to the inhabitants of the municipality, or to inhabitants of MHCs owned by a disadvantaged privately owned public water system, or to alleviate an adverse public health condition, or to allow for orderly development and growth of the municipality, except that no funds may be awarded until the department determines that the applicant has complied with the provisions of section 1676a of this title, unless such funds are solely for the purpose of determining the effect of the proposed project on agriculture;

Loan amounts to disadvantaged manufactured home communities shall be in amounts at least sufficient to allow the borrower to complete the entire pre-construction process under one loan agreement, with terms and conditions established by the Secretary and within costs deemed reasonable by the Secretary.

### 4. **PRESERVE AFFORDABILITY:**

Disadvantaged MHCs typically have to undergo mortgage debt restructuring and raise lot rents to support the absorption of SRF debt. While the HHAV-MHC subcommittee understands that SRF funds must be structured as a loan, the EPA affords latitude to states for subsidization of priority applicants and projects. The existing Subchapter language specifies a maximum loan forgiveness amount and request that the language be modified to allow higher amounts in cases where MHCs require it to comply with affordability restrictions contained in cooperative by-laws and VHCB deed covenants.

**§ 4753. Revolving loan funds; authority to spend; report**

5) The **Vermont Drinking Water Planning Loan Fund**, which shall be used to provide loans to municipalities and privately owned, nonprofit, **disadvantaged MHCs**, and community water systems, and for conducting feasibility studies and for the preparation of preliminary engineering planning studies and final engineering plans and specifications for improvements to public water supply systems in order to comply with State and federal standards and to protect public health. The Secretary may forgive up to \$50,000.00 of the unpaid balance of a loan made from the Vermont Drinking Water Planning Loan Fund to municipalities after project construction is substantially completed or upon approval of a plan; **the Secretary may forgive higher amounts of the unpaid balance of a loan for disadvantaged MHCs, as determined by the Agency in its annual Intended Use Plan, based on the MHC's financial needs.**

**Additional Subchapter modifications that would support the four policy goals discussed above:**

In some cases, the SRF program has instructed MHCs that they can only access SRF funding if the municipality in which they are located passes a bond to enable the MHC to access the SRF. *If this is not federally required*, this impediment could be removed.

Additionally, the following section allows a hardship municipality to receive a loan with 100% principle forgiveness and these same terms and conditions should apply to disadvantaged MHCs. This section could be modified in the Agency's IUP to narrow the use cases if a blanket provision places the loan pool at risk in any given year.

**§ 4769. Loans to hardship municipalities**

(a) Waiver of bond vote. A hardship municipality may receive a loan for an eligible project that includes a loan subsidy of up to \$200,000.00 in the form of 100 percent principal forgiveness with no interest or administrative fee from funds authorized in subdivision 4753(a)(3) of this title, subject to the availability of such loan subsidy. Notwithstanding the provisions of subdivision 4755(a)(3) of this title, the loan is not required to be evidenced by a municipal bond up to the amount to be forgiven.

(b) Waiver of reimbursement method required in statute. Notwithstanding the provisions of subsection 4755(b) of this title, loan funds may be disbursed to a hardship municipality for its approved project upon receipt by the Department of eligible project invoices without prior payment by the municipality. (Added 2019, No. 72, § E.700.1.)

**ADD: § 4769a Loans to hardship disadvantaged privately owned public water systems**

**A hardship disadvantaged privately-owned public water system (POPWS) may receive a loan for an eligible project that includes a loan subsidy of up to \$100,000.00 in the form of 100 percent principal forgiveness with no interest or administrative fee from funds authorized in subdivision 4753(a)(3) of this title, subject to the availability of such loan subsidy. Notwithstanding the provisions of subdivision 4755(a)(3) of this title, the loan is not required to be evidenced by a municipal bond up to the amount to be forgiven.**

**(b) Waiver of reimbursement method required in statute. Notwithstanding the provisions of subsection 4755(b) of this title, loan funds may be disbursed to a disadvantaged POPWS for its approved project upon receipt by the Department of eligible project invoices without prior payment by the POPWS. (Added 2019, No. 72, § E.700.1.)**

**§ 4763. Loans to municipalities for privately owned clean water projects**

*Manufactured home communities shall not be required to access Vermont Environmental Protection Agency Pollution Control Revolving Fund established in section 4753 of this title through municipal bond instruments unless the Secretary has determined that a loan directly to the MHC is financially unfavorable to the Fund.*

(d) The Secretary may use federal funds to award grants to municipalities to complete studies, or for start-up costs associated with the physical and operational consolidation of public water systems or the interconnection of public water systems. The Secretary shall establish amounts, eligibility, priorities, policies, and procedures in the annual State Intended Use Plan (IUP), as required by the Safe Drinking Water Act, 42 U.S.C. § 300f et seq. (Added 2015, No. 103 (Adj. Sess.), § 32, eff. May 12, 2016.)

*The following section concerns emergency water/wastewater system failures:*

**The Secretary shall establish amounts, eligibility, policies, and procedures for loan forgiveness in the annual State Intended Use Plan (IUP)**, as required by the Safe Drinking Water Act, 42 U.S.C. § 300f et seq., with public review and comment prior to finalization and submission to the U.S. Environmental Protection Agency.

*There is an emergency use fund that could be more easily provided to MHCs when ANR cites a park for water and/or wastewater violations:*

(7) The Vermont Drinking Water Emergency Use Fund, which shall be within the control of the Secretary. Disbursements from the Fund may be made by the Secretary for costs required to undertake the following emergency actions that the Secretary considers necessary to protect public health:

- (A) collecting and analyzing samples of drinking water;
- (B)** hiring contractors to perform or cause to be performed infrastructure repairs of public water supply systems;
- (C) hiring certified operators to perform operational activities at public water supply systems; and
- (D)** providing or causing to be provided bottled or bulk water for public water supply systems due to problems with quality or quantity, or both.

*Upon receipt of citations for water and/or wastewater health and safety violations, disadvantaged MHCs shall be considered automatically eligible to receive assistance from the Vermont Drinking Water Emergency Use Fund for subsections (B) and (D).*

Finally, it is important to note that cooperatives are not nonprofits. The resident-owned MHCs contain affordability provisions in their by-laws that place them in the category of limited-equity cooperatives, meaning that the community must maintain majority affordable homes. Under Subchapter 3: PRIVATE LOANS FOR PRIVATELY OWNED PUBLIC WATER SYSTEMS, § 4770. “Eligibility” indicates that “A nonprofit organization is eligible to apply for a loan under this subchapter if that organization qualifies as tax exempt,” and this memo requests the addition of limited equity cooperatively owned MHCs.

(b) The owner or owners of a privately-owned community water system or a privately-owned nonprofit, noncommunity public water system may apply to VEDA for a loan from the Vermont EPA Drinking Water State Revolving Fund established under subchapter 1 of this chapter, the proceeds of which may be used to acquire requisite permits, design, plan, construct, repair, or improve an existing privately-owned public community water system in order to comply with federal and State standards and protect the public health. In addition, the owner or owners of a privately-owned, nonprofit community water system may apply to VEDA for a loan from the Vermont Drinking Water Planning Loan Fund established in section 4753 of this chapter.

(1) A municipality, as defined under section 126 of Title 1, is not eligible for a loan under this subchapter.

(2) A nonprofit organization is eligible to apply for a loan under this subchapter if that organization qualifies as tax exempt.

Add: (3) A cooperatively-owned, limited-equity Manufactured Home Community is eligible to apply for a loan under this subchapter.

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