

Revised Policy

Consistent with Congressional requests to reconsider this matter, we now believe that, if a property owner, who had not previously been (or would not be) subject to PWS national primary drinking water regulations, installs submeters to accurately track usage of water by residential tenants on his or her property, that owner should not then be subject to regulations solely as a result of taking the action to submeter and bill. Likewise, a property owner who does not submeter, but charges tenants for water based on a ratio utility billing or other apportioning system, would also remain exempt from full SDWA requirements.

The addition of a submeter, or direct billing, should not in any way change the public health protections provided to water consumers on the property, as they are still subject to plumbing codes and provided water from a PWS that is fully regulated by SDWA. The PWS providing water to the property is still responsible for providing public notification under 40 CFR 141.201(c) (or approved State equivalent) to consumers and making "good faith" efforts to provide the tenants with the annual Consumer Confidence Reports under 40 CFR 141.155(b). A submetered property would still be considered a PWS under SDWA section 1401, hence States and EPA would retain the ability to take corrective action under SDWA's emergency powers authority (section 1431) if public health risks arise.

Although EPA is not requiring that submetered systems be tracked, each State has flexibility to determine whether, and how, to best track multifamily residential properties that submeter. For example, in Alabama, the State defines a submetered property as a "segmented public water system" and requires that it have access to a certified operator. Texas requires that submetered properties allow access to the property by the public water system providing water, register with the Texas Commission on Environmental Quality and follow regulations for submetering. Other States may place submetered properties under the jurisdiction of public utility commissions.

While submetering and billing for water usage may positively induce water conservation actions, States may still want to take other steps to ensure that apartment owners convert to water efficient fixtures and appliances. For example, Texas requires that apartment buildings have water-efficient plumbing fixtures and appliances as a condition of approval of a submetered billing system.

This memorandum clarifies EPA's policy change and reconfirms our strong interest in advocating water conservation. Any previous EPA statements or policy memoranda on this issue are superceded by this memorandum.

1. Request for Comments

While comments will be accepted on any portion of the draft revised policy, EPA would specifically appreciate comments on the following issues:

- i. Should the parent public water system be required to have access to submetered properties for the purposes of monitoring, inspection, repair, etc., to assure compliance with SDWA?
- ii. Are there public health risks raised by this submetering policy that EPA has not taken into consideration?
- iii. Should EPA maintain the limitation of the draft revised policy to residential properties such as apartment buildings, or is it appropriate to extend the SDWA exemption for submetering to other property types?
- iv. Does data exist that indicates submetering may present a disincentive to landlords to convert to water efficient fixtures and appliances, or could this approach impact other methods that promote water conservation?

B. How Can I Get Copies of This Document and Other Related Information?

1. *Docket.* EPA has established an official public docket for this action under Docket ID No. OW-2003-0065. The official public docket consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of the official docket, the public docket does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public docket is the collection of materials that is available for public viewing at the Water Docket in the EPA Docket Center, (EPA/DC) EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the Water Docket is (202) 566-2426. For access to docket materials, please call (202) 566-2426 to schedule an appointment.

2. *Electronic Access.* You may access this **Federal Register** document electronically through the EPA Internet

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An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at <http://www.epa.gov/edocket/> to submit or view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Once in the system, select "search," then key in the appropriate docket identification number.

Certain types of information will not be placed in the EPA Dockets. Information claimed as CBI and other information whose disclosure is restricted by statute, which is not included in the official public docket, will not be available for public viewing in EPA's electronic public docket. EPA's policy is that copyrighted material will not be placed in EPA's electronic public docket but will be available only in printed, paper form in the official public docket. To the extent feasible, publicly available docket materials will be made available in EPA's electronic public docket. When a document is selected from the index list in EPA Dockets, the system will identify whether the document is available for viewing in EPA's electronic public docket. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified in section I.B.1.

For public commenters, it is important to note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing in EPA's electronic public docket as EPA receives them and without change, unless the comment contains copyrighted material, CBI, or other information whose disclosure is restricted by statute. When EPA identifies a comment containing copyrighted material, EPA will provide a reference to that material in the version of the comment that is placed in EPA's electronic public docket. The entire printed comment, including the copyrighted material, will be available in the public docket.

Public comments submitted on computer disks that are mailed or delivered to the docket will be transferred to EPA's electronic public docket. Public comments that are mailed or delivered to the Docket will be scanned and placed in EPA's electronic public docket. Where practical, physical objects will be photographed, and the photograph will