



## **MEMORANDUM**

SUBJECT: Applicability of the Safe Drinking Water Act to Point of Use Treatment Devices in Public Water Supplies

FROM: Marietta Echeverria, Division Director  
Drinking Water Capacity and Compliance Assistance Division  
Office of Groundwater and Drinking Water

TO: Water Division Directors, Regions I-X

This establishes a new Water Supply Guidance (WSG) memo that is intended to clarify the applicability of the Safe Drinking Water Act (SDWA) to Point of Use (POU) treatment devices used in public water systems. The Office of Ground Water and Drinking Water is providing this Water Supply Guidance to address the issues and concerns with preceding Water Supply Guidances, WSG 8A and WSG H26, new concerns related to lead reduction activities, and inconsistent implementation regarding POU devices in public water supplies nationally.

The specific issue addressed in this WSG 217 is whether a POU device is a water treatment facility such that the use of the POU by an exempted public water system will result in that facility being considered a regulated public water system as defined in SDWA Sections 1401 and 1411. A regulated public water system is subject to all the requirements of SDWA and the National Primary Drinking Water Regulations (NPDWRs) as applicable to the public water system type defined in the NPDWRs as well as the number of persons served.

Under SDWA Section 1401, a public water system is a system for the provision to the public of water for human consumption through pipes or constructed conveyances where the system has at least fifteen service connections or regularly serves at least 25 persons. However, SDWA Section 1411 exempts certain systems from regulation. Under that provision, NPDWRs do not apply to a public water system that:

- 1) consists only of distribution and storage facilities (and does not have any collection or *treatment facilities*);
- 2) obtains all of its water from, but is not owned or operated by, a public water system to which such regulations apply;
- 3) does not sell water to any person; and
- 4) is not a carrier which conveys passengers in interstate commerce.

The Office of Ground Water and Drinking Water's WSG 8A and WSG H26 address the issue of the use of an on-site treatment device and whether the device is a "treatment facility" under SDWA Section 1411 and thus whether a facility using these devices is a regulated public water system. WSG 8A specifically addresses the use of on-site corrosion control treatment and concludes that such addition changes the chemical composition of the water and therefore that the facility that uses such treatment is a "treatment facility" under SDWA.. WSG H26 reiterates WSG 8A and goes further to state "... if a building owner or operator installed a point of entry *or point of use device*, the device would be considered a treatment facility. Therefore, the building would become a public water system..." (emphasis added). WSG H26 does recognize, however, that such an approach could discourage the use of these devices (including the use for lead reduction in schools) and increase the burden on States overseeing what could be a large increase in the number of regulated public water systems. While these guidance documents were intended to clarify SDWA requirements as they apply to on-site, SDWA applicability to the use of POU devices continues to be a source of continuing questions and inconsistent national implementation.

A more recent, but directly related, concern with the applicability of SDWA regulations based on the use of POU devices is that POU devices are an eligible expense under the Water Infrastructure Improvements for the Nation (WIIN) Act, 2107 Lead Testing in Schools and Child Care Facilities grant program. The Bipartisan Infrastructure Law (BIL), enacted in November 2021, amended SDWA section 1464(d) to authorize funds in the Voluntary Schools and Child Care Lead Testing Grant Program to be used for voluntary lead testing or compliance monitoring, and for lead remediation. Lead remediation efforts may include POU devices. There is nothing in this legislation that suggests an intent that schools and child care facilities become regulated public water systems and therefore subject to the NPDWRs as a result of the installation of POU devices.

Based on the above considerations, we do not believe that it is either necessary or appropriate to interpret the term "facility" under SDWA Section 1411(1) to mean any public water system merely because that water system uses a POU device at one or more taps, or to interpret the device itself to be a "facility." As a result, for the purposes of the applicability of the NPDWRs, while a POU device does provide treatment it is not a treatment *facility* and any building or place of operation that meets the definition of "public water system", such as a school, and that uses or installs one or more POU devices continues to be exempt from regulation under SDWA Section 1411 if it meets the remaining criteria for exemption. To maintain the exemption the facility must, among other things, provide drinking water that is supplied by a public water system subject to SDWA. This Water Supply Guidance supersedes WSG 8A and WSG H26.