



Walter Wright, Jr.
wwright@mwlaw.com
(501) 688.8839

Improving the Evaluation of Household-Level Affordability in SDWA Rulemaking/New Approaches: American Water Works Association Announces Availability of Report

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The American Water Works Association (“AWWA”) announced on April 14th the availability of a document entitled:

Improving the Evaluation of Household-Level Affordability in SDWA Rulemaking: New Approaches (“Report”)

AWWA states that the purpose of the Report is to facilitate discussion of the United States Environmental Protection Agency’s (“EPA”) analysis of household-level affordability when making Safe Drinking Water Act (“SDWA”) decisions.

EPA regulates pursuant to the SDWA contaminants in public drinking water systems that may have an adverse effect on human health. The principal objective of Congress in enactment of the SDWA was ensuring the protection of drinking water. The tools to accomplish this task are a standard-setting process for drinking water administered by EPA. Such drinking water standards have two primary components:

- Maximum contaminant level goal
- Maximum contaminant level for a treatment technique

Each standard also includes requirements for public water systems to test for contaminants to ensure standards are achieved. Included in the standard-setting process is a cost-benefit analysis.

The AWWA Report is stated to have included input by a panel of experts which included Co-Chairs:

- John Graham (an Indiana University professor and previous Administrator of the Office of Information and Regulatory Affairs at the Office of Management and Budget under President George W. Bush)
- Cary Coglianese (Law and Political Science professor at the University of Pennsylvania and Director of the Penn Program on Regulation)

The introduction to the Report opines that regulatory actions should:

... neither decrease vulnerable persons’ access to affordable water service nor neglect their needs for public health protection. To give due consideration to all members of the public affected by federal water policy, household-level affordability of water services can be evaluated within the SDWA regulatory

process both to inform the rule requirements and affect the implementation of the rule to reduce burden on low-income households.

The Report further opines that policymaking involving SDWA standard setting should recognize:

- Water is an essential service that must be available for a home to be inhabitable.
- When provided through a utility, drinking water must be adequate in quantity, pressure, and quality to protect public health.
- At present the primary source of funding for drinking water service derives from water rates charged to households and businesses receiving service.
- Drinking water is one of several water services the costs of which are borne directly or indirectly by the same rate payers.

As to suggestions by the panel, they include:

1. Analyze rule impacts relative to regional lowest quintile household incomes and costs of living rather than relying solely on comparisons to national median household income.
2. Review and expand on current cumulative cost analyses so as to estimate the anticipated household water bill relative to a series of household-level income metrics for a more complete array of water system sizes. Impacts of combined water, wastewater, and stormwater costs should also be considered.
3. Illustrate the incremental net benefit of the rule on households having different income levels and rule burdens (e.g., exemplars including high net benefit – high cost burden, low net benefit – low cost burden) in addition to continuing to estimate net-benefit analysis for the average US household.
4. Estimate the number and distribution of systems evidencing high potential for affordability challenges from the rule based on community measures of household or community fiscal stress (e.g., percent of homes with incomes at or below 200% of poverty level). Reflect, if possible, the degree of fiscal impact on distressed households and communities.
5. Conduct additional data collection and analysis on specific research questions that will be useful in conducting future affordability analysis, such as on the relationship between costs on lower-income households as estimated in agency regulatory analyses and the actual water rates incurred by such households.
6. Use affordability metrics and estimates to conduct ex-post evaluation of SDWA rules and compare the ex-post findings to the ex-ante estimates for the same rules.
7. Use affordability analyses to identify needs for research and development, modification of federal funding provisions, and recommendations for utility practices (e.g., rate structures) to mitigate affordability stresses.

Finally, the Report proposes what it describes as “four specific new analyses” to address these issues:

1. How many households bear the costs and accrue the benefits from a rule option, and what is the income distribution of those households (e.g., by household income quintile)?
2. How are the net benefits of policy options distributed as a function of household income for a cross-section of income strata?
3. What amount of hypothetical federal subsidy would be required to ensure all target water systems can comply without significantly increasing household level burden on lowest quintile? How can this hypothetical subsidy level be compared to the actual level currently available and how much shortfall is there likely to be?

4. Does the rulemaking have consequences that are occurring in a timeframe that overlaps with other water-related regulatory requirements that place an undue burden on financially challenged households (e.g., evaluate single rate payer burden)?

A copy of the Report can be downloaded [here](#).