

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

WSG 8A

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Revised by: Wendy Warren

MEMORANDUM

TO: Joseph Hugo
Environmental Engineer
Office of Water Supply (WH-550)

FROM: Thomas A. Larsen (signed by T.A.L.)
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SUBJECT: Application of the Safe Drinking Water Act to Persons
Adding Corrosion-Reducing Chemicals to Drinking Water

Region IV has requested an interpretation as to whether persons¹ that add compounds such as sodium silicate to drinking water supplies to reduce corrosion should be designated as "suppliers of water" for purposes of regulation under the Safe Drinking Water Act (SDWA).

Under the Act, a "supplier of water" is "any person who owns or operates a public water system."²

A "public water system" is defined as:

...a system for the provision to the public of water for human consumption through pipes or other constructed conveyances, if such

¹ Under the SDWA: "The term 'person' means an individual, corporation, company, association, partnership, states or municipality." Section 1401(12).

² SDWA, Section 1401(5)

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Under Section 1411 of the Act, each such public water system is subject to regulation under the SDWA, unless it is a system which:

- (1) consists only of distribution and storage facilities (and does not have any collection and 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

³ The regulations under the SDWA explain the term “regular” by stating that a public water system must have at least fifteen service connections or regularly serve an average of twenty-five individuals daily at least sixty days out of the year. 40 CFR 35.603(c), 41 F.R. 2913, Jan. 20, 1976.

⁴ National Interim Primary Drinking Water Regulations (NIPDWR), Section 141.2(e), (December 24, 1975).

(4) is not a carrier which conveys passengers in interstate commerce. (emphasis added).⁵

Assuming that a system obtains its water from a public water system; does not sell water and is not an interstate carrier, the critical issue is whether the on-site introduction of corrosion-reducing substances into drinking water supplies constitutes “treatment facilities” within the intended meaning of the SDWA.

The standard dictionary definition of “to treat” is “to subject to some agent or action to bring about a particular result.” Water can be “treated” with a chemical agent, such as sodium silicate, in order to bring about a reduction in corrosion. The addition of such a substance necessarily changes the chemical composition of the water into which it is added. As such, the addition of chemicals into drinking water to reduce corrosion should be considered “treatment” within the meaning of the SDWA, Section 1411(a). The legislative history of Section 1411 makes it clear, moreover, that Congress only intended to exempt those public water systems, such as hotels or trailer parks, which “merely store and distribute water.”⁶

Thus, when the operator of a public water system treats drinking water to reduce corrosion, and does not merely store and distribute it, the Section 1411 exemption is not intended to apply.

Furthermore, the standard dictionary definition of a “facility” is “something designed to serve a specific function.” Presumably, the on-site addition of corrosion-reducing chemicals into a water supply requires devices, holding tanks, or units to regulate the mixture. Therefore, the addition of corrosion-reducing substances into water supplies presumably requires “treatment facilities” within the meaning of the SDWA.

Generally, the term “treatment facilities” should be interpreted broadly. Otherwise, the unregulated proliferation of individual on-site chemical treatment of drinking water supplied by public water systems could seriously interfere with efficient regulation of the quality of drinking water, contrary to the purpose of the SDWA to regulate all public water systems “to protect health to the maximum extent feasible.”⁷

SUMMARY

Thus, for example, a hotel which serves at least twenty-five individuals, and which adds a corrosion-reducing chemical, or any chemical, to its drinking water supply, is a public water system which is not exempt from regulation under the SDWA.

⁵ SDWA, Section 1411, see House Report No. 93-1185, pp. 16-17.

⁶ House Report No. 93-1185, p. 17 (emphasis added).

⁷ House Report No. 93-1185, p. 1.

