

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

WSG 2

Date Signed: May 17, 1976

Revised: April 8, 1998

Revised by: Jennifer Melch

MEMORANDUM

SUBJECT: Hand-pumped Wells

FROM: Alan Levin, Director (signed by Alan Levin)
State Programs Division, Office of Water Supply (WH-550)

TO: Water Division Directors

The South Atlantic Division, Corps of Engineers, has asked for an interpretation of the term "public water supply" as it applies to hand-pumped wells. The Water Quality Division, Office of General Counsel, has advised us that subject to certain conditions, hand-pumped wells are public water systems within the meaning of Section 1401(4) of the PHS Act, as amended by the Safe Drinking Water Act.

Section 1401(4) defines a public water system as "a system for the provision to the public of water for human consumption, through pipes or other constructed conveyances if such system has at least fifteen service connections or regularly¹ serves at least twenty-five individuals." The House Committee on Interstate and Foreign Commerce Report accompanying the SDWA states that this definition "encompasses nearly all public accommodations, such as restaurants, motels, and trailer parks which serve the public." (Report No. 93-1185, at 16.)

Despite this broad definition though, a hand pumped well must be a "system" and it must provide water for human consumption through pipes or other construction conveyances" in order to be included in the basic definition of a public water system.

Although the term "piped water for human consumption" is not defined in the Act, hand pumped wells are designed to bring water from underground sources to the surface through a pipe. In many instances, it can be assumed that this water will be used for human consumption. Inasmuch as Congress defined public water systems alternatively in terms of physical size (at least fifteen service connections) or public use (regularly serve at least twenty-five individuals), it is apparent that Congress did not intend to preclude a water source with one service connection

¹The 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.

(presumably a hand pump) so long as that source regularly serves at least twenty-five persons. This interpretation is borne out by the House Committee's concern with small systems in recreational parks and at highway rest stops (House Report, at 5).

Furthermore, the purpose of the Safe Drinking Water Act is to assure a safe supply of water to the public. Whether drinking water is supplied to the public by means of a hand pumped well, a sink at a gas station, or a drinking fountain in a park would seem to be irrelevant in light of this purpose.

Similarly, although a hand pumped well is not a sophisticated apparatus, it should nonetheless be interpreted to be a "system" in light of the above-noted legislative history and the overall purpose of the Act. Congress sought to protect the public from unsafe drinking water and whether that water is supplied through a simple or complex mechanism should not be pertinent. By definition, it is not pertinent if a "system" has fifteen service connections or one service connection, so long as it regularly serves twenty-five individuals.

The vast majority of hand pumped wells are presumably "non-community systems", i.e. they regularly serve fewer than twenty-five year around residents. Non-community water systems may be either transient (TNCWS) or nontransient (NTNCWS). A TNCWS serves a population that is not stable over a six month period (e.g. campgrounds, rest stops). A NTNCWS serves a fairly stable nonresidential population over at least a six month period (e.g. schools, day care centers, factories).

Monitoring requirements for noncommunity water systems vary depending upon type of noncommunity water system and upon whether the contaminant is acute or chronic. NTNCWS must monitor for the same contaminants as community water systems. [40 CFR 141.23]. However, TNCWS need only monitor for acute contaminants (e.g. coliform, nitrate).

However, Section 1416 of the Act would allow an existing hand pumped system to be exempted from any maximum contaminant level or treatment technique requirement upon a showing of economic hardship and that the exemption will not result in an unreasonable risk to the public health. Public notice under Section 142.16 of the Regulations would be required for such an exemption.

If a hand pumped well does not regularly serve twenty-five individuals daily at least sixty days out of the year, it is not a public water system as defined in the Regulations under the SDWA.

With these conditions in mind, hand pumped wells are public water systems within the meaning of Section 1401(4) of the Act.