

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

WSG 52

Date Signed: December 14, 1989

Charles S. Mahan, M.D.
Deputy Secretary for Health
and State Health Officer
Department of Health and Rehabilitative
Services
1317 Winewood Boulevard
Tallahassee, Florida 32399-0700

Dear Dr. Mahan:

This is in response to your August 16, 1989, letter requesting clarification on EPA's official position on the use of bottled water by a non-community system to avoid being considered a public water system subject to the Safe Drinking Water Act (SDWA). I understand that this has particular importance to the Florida program as systems subject to the SDWA are under the jurisdiction of the Florida Department of Environmental Regulation and the "other" systems are under the control of the Florida Department of Health and Rehabilitative Services.

A public water system is defined by Section 1401(4) of the SDWA as "a system for the provision to the public of piped water for human consumption." "Human consumption" has been interpreted by the U.S. District Court for the Eastern District of California in the case of U.S. v. Midway Heights County Water District as including such normal uses as bathing, showering, cooking, dishwashing, and oral hygiene. If a system provides water for these normal uses, then, it is providing water for human consumption and is a public water system subject to regulation under the SDWA.

The fact that a non-community water system provides bottled water for drinking would not, by itself, affect this determination since human consumption includes more than simply drinking the water. Further, it is important to keep in mind that according to 40 CFR 141.101, a public water system may not use bottled water or point of use devices may only be used on a temporary basis, usually as a condition of a variance or an exemption, to avoid an unreasonable risk to health. Point of entry devices may be used to achieve compliance with an MCL only if the conditions specified in 40 CFR 141.100 are satisfied.

In conclusion, in general, a non-community water system may not escape regulation by providing bottled water for drinking if this system provides water for other normal, everyday uses. In such situations, the system is providing water for human consumption and is subject to the SDWA and the National Primary Drinking Water Regulations (NPDWRs).

I would be pleased to discuss this further. If you have any further questions on this matter, please contact me or have your staff contact Betsy Devlin at (202) 382-2303.

Sincerely,

Michael B. Cook, Director
(signed by Peter L. Cook)
Office of Drinking Water

cc: Mike Leonard, Region IV