

## Article - Health - General

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§21–336.

- (a) (1) In this section, “approved source” means a source of water that is:
- (i) Sampled and found through laboratory analysis to comply with:
    - 1. The microbiological standards adopted by the Department, with testing on a monthly basis; and
    - 2. The chemical and radiological standards adopted by the Department, which shall meet or exceed the standards prescribed by the federal Food and Drug Administration, with testing annually for chemical analyses and once every 4 years for radiological analyses; and
  - (ii) If applicable, constructed and inspected in accordance with regulations adopted by the Department of the Environment under §§ 9–204, 9–1305, and 9–1306 of the Environment Article.
- (2) “Approved source” includes:
- (i) An artesian well;
  - (ii) A drilled well;
  - (iii) A glacier;
  - (iv) A public water supply;
  - (v) A spring; and
  - (vi) A source of mineral water that complies with the standards specified in paragraph (1) of this subsection but fails to meet the standards with respect to those properties of mineral water related to the limitations on chloride, iron, manganese, sulfate, total dissolved solids, zinc, or any other exemptions listed under 21 C.F.R. 165.110.
- (3) The Department may approve a source that does not meet standards regulated by the United States Environmental Protection Agency as a secondary standard if the bottler shows by analysis that a particular treatment used reduces the level of contaminants in the bottled water to a level below the maximum contaminant level.
- (b) The requirements of this section are in addition to any other provision of law.

(c) Artesian water, mineral water, natural water, purified water, spring water, well water, and any other type of bottled water shall meet the requirements of the standard of identity for bottled water under 21 C.F.R. 165.110(a).

(d) (1) A person may not bottle water unless the person is licensed by the Department under § 21–305 of this subtitle.

(2) The Department may not issue a license if the Department determines that the water is:

- (i) Not from an approved source; or
- (ii) In any way injurious to the public health.

(3) To apply for a license to bottle water, a bottler shall:

(i) Submit an application to the Department on the form that the Department requires;

(ii) List on the application form the types of bottled water that the applicant proposes to bottle; and

(iii) Pay to the Department an annual fee established by the Secretary under § 2–104 of this article.

(4) While it is effective, a license to bottle water authorizes a bottler to bottle and sell in the State the types of bottled water identified in the license.

(e) (1) (i) A person who is licensed under this section shall submit to the Department the results of:

1. Annual chemical and radiological analyses of a representative sample of the person's source water and bottled water; and

2. A monthly microbiological analysis of a representative sample of the source water and bottled water.

(ii) The analyses shall demonstrate that the source water and bottled water comply with the chemical, radiological, and microbiological standards adopted by the Department, which shall meet or exceed the standards prescribed by the federal Food and Drug Administration.

(iii) 1. Except as otherwise required by law, mineral water is not subject to the limitations on chloride, iron, manganese, sulfate, total dissolved solids, zinc, or any other exemptions listed under 21 C.F.R. 165.110.

2. Bottled water may not exceed:

A. 10 parts per billion of total trihalomethanes;

- B. 5 parts per billion of lead; or
- C. 100 parts per billion of chlorine.

(2) (i) Analyses required under this subsection may be performed by a laboratory certified by:

1. A state's Laboratory Certification Program in accordance with the United States Environmental Protection Agency's primacy conditions under the Agency's Public Water System Supervision Program; or

2. The United States Environmental Protection Agency.

(ii) The Department shall accept analyses performed by any laboratory authorized under subparagraph (i) of this paragraph.

(3) A person licensed or registered under this section shall:

(i) For at least 2 years, maintain all inspection and sampling records at the person's principal place of business; and

(ii) Make inspection and sampling records available to the Department upon request.

(4) Notwithstanding the analyses required under paragraph (1) of this subsection, the Department may sample and analyze any bottled water.

(5) The provisions of this subsection do not prevent the Department from prohibiting the use or sale of bottled water in the State, if, in the judgment of the Department:

(i) The water is shown by analysis to be unfit for drinking;

(ii) The water has been misbranded under § 21-210 of this title; or

(iii) Its quality is in any way injurious to the public health.

(f) Bottled water in individual containers shall be marked on each container with a stencil, stamp, or label that clearly indicates:

(1) The identifying batch code for the water; and

(2) In compliance with subsection (g) of this section, the type of water and any additional ingredients.

(g) Labeling of the type of bottled water and any additional ingredients, as required under subsection (f) of this section, shall conform to the labeling requirements for bottled water under 21 C.F.R. 165.110(a).

(h) In accordance with regulations adopted by the Department, a person licensed under this section shall establish written procedures and implement those procedures to:

(1) Prevent contamination during the processing, packaging, transportation, or storage of bottled water; and

(2) Recall bottled water when the person, the Department, or any other government agency determines that a supply is injurious in any way to the public health.

(i) The Department may suspend or revoke a license issued under this section if the licensee:

(1) Violates or fails to satisfy any requirement of this title or any regulation adopted under this title; or

(2) Fraudulently or deceptively obtains a license.

(j) (1) In addition to any other penalty applicable at law, a person who violates any provision of this section shall be liable for a civil penalty of:

(i) Not less than \$1,000 and not more than \$5,000 for a first offense; and

(ii) Not less than \$5,000 and not more than \$10,000 for a second offense within 2 years of the first offense.

(2) Each day on which a violation occurs constitutes a separate offense.

(k) By October 1, 2008, the Department shall adopt regulations to implement the provisions of this section.

(l) (1) The Department shall establish a Bottled Water Advisory Committee to advise and assist the Department in the development and adoption of the regulations required under subsection (k) of this section.

(2) The Advisory Committee shall consist of the following representatives:

(i) The Secretary of Health and Mental Hygiene or the Secretary's designee, who shall serve as chairman of the Advisory Committee;

(ii) The Secretary of the Environment or the Secretary's designee;

(iii) A hydrogeologist;

(iv) At least two individuals from the bottled water processing industry;

(v) At least one individual from the bottled water distribution industry;

(vi) At least one individual from the environmental community or consumer advocacy community; and

(vii) At least one consumer of bottled water.

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