

SUBCHAPTER 140-20.5
STANDARD GOVERNING THE IMPORTATION, SALE AND DISTRIBUTION OF
FOREIGN BOTTLED WATER FOR HUMAN CONSUMPTION

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Subchapter Authority: 3 CMC § 2716(a); 3 CMC § 2123(a).

Subchapter History: Adopted 28 Com. Reg. 26185 (Sept. 27, 2006); Proposed 28 Com. Reg. 25779 (June 19, 2006).

Commission Comment: PL 1-8, tit. 1, ch. 12, codified as amended at 1 CMC §§ 2601-2633, created the Department of Public Health and Environmental Services (DPHES) within the Commonwealth government. See 1 CMC § 2601. 1 CMC § 2603(a) grants the Department the power and duty to maintain and improve health and sanitary conditions in the CNMI. 1 CMC § 2605 directs the Department to adopt rules and regulations regarding those matters over which it has jurisdiction.

Executive Order 94-3 (effective August 23, 1994) reorganized the Commonwealth government executive branch, changed agency names and official titles, and effected numerous other revisions. According to Executive Order 94-3 § 105:

Section 105. Department of Public Health.

The Department of Public Health and Environmental Services is re-designated the Department of Public Health.

The full text of Executive Order 94-3 is set forth in the Commission comment to 1 CMC § 2001.

The Pure Food, Drug and Cosmetic Device Act of 1998, Public Law 11-40 codified at 3 CMC §§ 2701-2798, regulates the advertising, sale and manufacture of foods, drugs and cosmetics in the Commonwealth. Public Law 11-40 authorizes the Secretary of Public Health to establish by regulation standards necessary “to prevent injury to the health of the consumer or purchaser of food.” 3 CMC § 2716(a). The regulations set forth in this subchapter are intended to “establish minimum quality control requirements for the importation, sale and distribution of bottled water in the Commonwealth.” 28 Com. Reg. 25779 (June 19, 2006).

Public Law 16-51 (effective Jan. 15, 2010), the “Commonwealth Healthcare Corporation Act of 2008,” codified at 3 CMC § 2801 et seq., established the Commonwealth Healthcare Corporation, which assumed the duties of the Department of Public Health as of January 15, 2011.

Part 001 - General Provisions

§ 140-20.5-001 Authority

Pursuant to the authority of Public Law 11-40 (Pure Food, Drug and Cosmetic Act of 1998), the Secretary of the Department of Public Health is authorized to establish a standard for a food, by regulation, as being necessary to prevent injury to the health of the consumer or purchaser of food in the Commonwealth of the Northern Mariana Islands. 3 CMC § 2716(a).

Modified, 1 CMC § 3806(g).

History: Adopted 28 Com. Reg. 26185 (Sept. 27, 2006); Proposed 28 Com. Reg. 25779 (June 19, 2006).

Commission Comment: The Commission inserted “the” before “health of the consumer” and removed “the” before “food in the Commonwealth.”

§ 140-20.5-005 Purpose

The regulations in this subchapter shall be known as the “Foreign Bottled Water Standard” and may be listed as such. The purpose of this subchapter is to establish minimum quality control requirements for the importation, sale, and distribution of bottled water in the Commonwealth. Bottled water manufactured within the Commonwealth is subject to the CNMI Bureau of Environmental Health’s “Water and Ice Manufacturing Regulations.” Since it is not possible to determine whether water bottled outside the Commonwealth satisfies the regulatory requirements of the “Water and Ice Manufacturing Regulations” [NMIAC, title 140, subchapter 20.6], this subchapter is prescribed to set a standard for foreign bottled water. Bottled water is considered “food” under the “Public Health and Food Regulations” [NMIAC, title 140, subchapter 20.7] and as such, is subject to those regulations also. The regulations in this subchapter are in addition to “Public Health and Food Regulations” [NMIAC, title 140, subchapter 20.7] and the “Water and Ice Manufacturing Regulations” [NMIAC, title 140, subchapter 20.6].

Modified, 1 CMC § 3806(d), (f), (g).

History: Adopted 28 Com. Reg. 26185 (Sept. 27, 2006); Proposed 28 Com. Reg. 25779 (June 19, 2006).

Commission Comment: The Commission inserted “and” between the words “Health Food” and removed the comma found after “Food Regulations” in the last sentence of this section to correct manifest errors.

§ 140-20.5-010 Definitions

“Foreign Bottled Water”: Any bottled water produced outside of the Commonwealth of the Northern Mariana Islands.

Modified, 1 CMC § 3806(f).

History: Adopted 28 Com. Reg. 26185 (Sept. 27, 2006); Proposed 28 Com. Reg. 25779 (June 19, 2006).

Commission Comment: The Commission inserted quotation marks around terms defined.

Part 100 - Foreign Bottled Water Standard

§ 140-20.5-101 Water Bottling Trade Associations

(a) Foreign bottled water imported, distributed, or offered for sale in the Commonwealth must be manufactured and bottled by a facility that is a member in good standing of a water bottling trade association recognized by the Secretary of Public Health as one that assures that its membership meets the requirements of the International Bottled Water Association Model Code. Such associations that the Secretary recognizes include:

- (1) Asia Bottled Water Association;
- (2) Australasian Bottled Water Institute Inc.;
- (3) Canadian Bottled Water Association;
- (4) European Federation of Bottled Waters;
- (5) Latin American Bottled Water Association;
- (6) International Bottled Water Association (USA).

(b) The Secretary may review and approve petitions from other water bottling trade associations seeking to be recognized.

Modified, 1 CMC § 3806(f), (g).

History: Adopted 28 Com. Reg. 26185 (Sept. 27, 2006); Proposed 28 Com. Reg. 25779 (June 19, 2006).

Commission Comment: The Commission created the title for this section and inserted the semi-colons and the period in subsection (a).

Part 200 - Enforcement

§ 140-20.5-201 Examination and Condemnation

(a) Bottled water may be examined or sampled by the Secretary or his/her authorized representative as often as necessary for enforcement of the regulations in this subchapter. The Secretary or his/her authorized representative may, upon written notice to the owner or person in charge, specifying with particularity the reasons therefore, place a hold order on any bottled water which he or she believes does not comply with the foreign bottled water standard. The Secretary or his/her authorized representative shall tag, label, or otherwise identify any bottled water subject for destruction, disposal, or condemnation. All bottled water that does not comply with the foreign bottled water standard shall be immediately condemned and be disposed of in a sanitary manner that will be determined by the Secretary or his/her duly authorized representative.

(b) The following guidelines shall be used in the condemnation of bottled water that does not comply with the foreign bottled water standard.

- (1) The importer, seller, or distributor of bottled water that does not comply with the foreign bottled water standard, upon request, shall be given a written notice of condemnation from the Secretary or his/her duly authorized representative of the Bureau stating that such bottled water was found to be in non-compliance with the foreign bottled water standard and shall be properly disposed in a sanitary manner; and

(2) The importer, seller, or distributor of bottled water that does not comply with the foreign bottled water standard and the duly authorized representative of the Secretary shall be present to witness the disposal and/or destruction of such bottled water found to be in non-compliance with the foreign bottled water standard; and

(3) A copy of all condemnation records shall be filed with the Bureau and a copy shall be forwarded to the importer, seller, or distributor for their documentation of such condemnation.

Modified, 1 CMC § 3806(d), (g).

History: Adopted 28 Com. Reg. 26185 (Sept. 27, 2006); Proposed 28 Com. Reg. 25779 (June 19, 2006).

Commission Comment: The Commission designated subsections (a) and (b). The Commission changed “water was found” to “water found” in subsection (b)(2) and inserted “the” before “importer” in subsection (b)(3). The Commission inserted a comma after the word “disposal” in subsection (a) pursuant to 1 CMC § 3806(g).