



# Consumer Federation of America

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Food and Drug Administration  
5630 Fishers Lane, Room 1061  
Rockville, MD 20852

## **Comments on Food and Drug Administration Draft Study Report; Feasibility of Appropriate Methods of Informing Customers of the Contents of Bottled Water**

[Docket No. 97N-0436]

Federal Register: February 22, 2000 (Volume 65, Number 35)

Consumer Federation of America (CFA)<sup>1</sup> appreciates this opportunity to comment on the Food and Drug Administration's Draft Study Report: Feasibility of Appropriate Methods of Informing Customers of the Contents of Bottled Water. This comment reflects a basic principle of our members that all consumer products should be appropriately labeled at the point of purchase so that consumers can make informed choices based on the content, cost, and health and safety implications of a particular product.

The 1996 Safe Drinking Water Act (SDWA) Amendments requires that consumers through an annual Consumer Confidence Report (CCR) be informed by their tap water supplier about all contaminants in their water (and the health goals and standards for those contaminants), their supplier's compliance with applicable standards, and the source of their water. SDWA also directs the Food and Drug Administration (FDA) to determine how comparable information should be made available to the consumer of bottled water. This is particularly important because millions of Americans rely upon bottled water believing it to be a safer alternative or substitute for tap water. Indeed immune compromised persons, estimated to comprise 20%-30% of the population have a vital need to know the microbiological quality of a bottled water, its source, the treatment processes used, if any, and other relevant information.

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<sup>1</sup> Consumer Federation of America is a non-profit association of some 250 pro-consumer groups, with a combined membership of 50 million, that was founded in 1968 to advance the consumer interest through advocacy and education.

97N-0436

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Below are the particular issues in the FDA draft report on which comment has been requested:

### **I. Content or Information that Must be Supplied to the Consumer**

CFA agrees with FDA's draft conclusion that certain CCR information is relevant only to public water systems and should not be required for bottled water. However, the draft does not list all of the information that FDA proposes should be omitted. It lists as examples of unnecessary information the definition and statement of MCLG's, operating under a variance, and EPA-specific information such as their Safe Drinking Water Hotline. CFA strongly argues that the MCLG or "health goal"<sup>2</sup> for a detected contaminant is essential information on the bottle label. The consumer needs to know a contaminant's health goal in order to judge the significance of the level detected in the bottled water.

We urge that labels on bottled water include all of the following information:

- (1) The level, expressed in whole numbers, of any contaminant found in the water at a level in excess of a health goal, plus fluoride level (because of this element's asserted public health benefits at low levels, and, at high levels, its detrimental effects), and sodium level (to assist those seeking to reduce their sodium intake for health reasons);
- (2) The health goal and allowable level for those contaminants found in the water and noted in #1, in the same units;
- (3) A statement as to whether the bottler is in substantial compliance with state and federal regulations (based upon an annual certification sent to the state and FDA and not disagreed with in writing by either), and if not, what violations occurred;
- (4) A one-sentence lay person-readable summary of the health effects associated with any contaminant found at a level in excess of a health goal (taken from model language written by FDA and EPA);
- (5) A simplified restatement of the EPA/CDC advice to immunocompromised consumers about the types of bottled water treatment necessary to avoid *Cryptosporidium* contamination, and whether the bottled water meets those criteria.
- (6) The specific source (e.g. Houston public water system"), whether or not the water has received treatment, and the specific type of treatment (e.g. "Reverse osmosis and ozonation").

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<sup>2</sup>The phrase "health goal" refers to an EPA Maximum Contaminant Level Goal (MCLG), if any, or, if there is no MCLG, the lowest EPA Health Advisory Level (HAL), or if there is no MCLG or HAL, the lowest EPA human health-based water quality criteria for that contaminant (see Clean Water Act §§303-304).

- (7) An FDA toll free number for consumers to obtain more information (or a referral to EPA's drinking water hotline);
- (8) The bottler's street address, phone number, and web or email address (if any) for further information

## **II. Feasibility of Appropriate Methods of Conveying this Information to Consumers**

FDA's draft report concludes that it is not feasible to place all the content information that is analogous to that contained in a CCR, on the label of bottled water for two reasons: (1) there is not enough room on the label and (2) frequent labeling changes to reflect changing contaminant test results and other information would impose economic hardship on bottling companies.

CFA believes it is clear today that there is sufficient room on bottles for labels containing the key information we list in (1) through (8) above. In almost all cases, substantially less than half of the bottle's surface that could be used to provide written information, is being used for that purpose today. Most public water systems have a short list of detected contaminants. Today many bottlers including Evian, Naya, and Vittel already list levels of dissolved solids and the levels of sodium, potassium, calcium, magnesium, chlorides, sulfate, nitrate bicarbonate, silica and pH levels on their labels. Many bottlers that make claims about low or no sodium content already include nutritional information, text that requires as much, if not more, space than would be necessary for all the consumer information noted above.

Consumers should be given the complete information at the point of sale and if the number or levels of some contaminants change during the course of a year, consumers should be informed. CFA disputes FDA's draft evaluation that frequent labeling changes to reflect changing contaminant test results and other information would impose economic hardship on bottlers. Most of the information required will not change and updated labels can be printed annually. If contaminant level information changes during the course of a year, temporary stickers or bottle hangers (as used by Apollinaris) can be employed to supplement or amend the label. It would be essential that the sticker or hanger contain all the required amended information and remain on the bottle until retail sale. The public health benefits, we contend, outweigh any added costs to the bottled water industry.

## **III. Information Available by a Combination of Label and Company Contact**

CFA does not agree with FDA's proposal for placing only the essential information that does not change frequently on the label, while requiring the consumer to telephone or search a web site for complete information. Consumers must be informed about any water contaminants detected above the health goal and their potential health effects on a label at the point of purchase.

For example, treatment information on the label can not substitute for key contaminant level information. FDA appears to agree that consumers should know from the label how the water

has been treated and if that treatment removes *Cryptosporidium* cysts and other microbial contaminants. But such information will not be sufficient to indicate what other contaminants are removed by that treatment system. For example, consumers at risk for cancer may prefer a bottled water that has no carcinogenic chemicals. Yet FDA's draft text would indicate that detected contaminant information would be available only by a phone call. Consumers do not, nor should they be expected to, visit a store one day, copy phone numbers from several brand labels, make calls and then return another day to purchase their preferred choice of bottled water.

#### **IV Information Provided by Other Means**

We agree with FDA that supplying the consumer information in a pamphlet available at the point of sale is not a feasible method of providing bottled water content information to the consumer. Nor should the Internet be a substitute mechanism to provide the required consumer information.

#### **V. Distribution of an Information Package With Bulk Water Deliveries**

CFA disagrees with FDA's preliminary judgment that the only consumer information required of deliverers of bulk drinking water should be an information packet sent with the bill or invoice. This information should be sent to the bill-payer automatically, but it is also important that the bulk containers or large water bottles be labeled with the complete information. There is no space or significant cost problem associated with labeling large bottles. Those who drink water in offices, schools, hospitals or other work place settings may drink most of their daily water from bulk water shipments. They need to know the same information about that drinking water that would be available to them at the point of purchase for smaller bottles of drinking water.

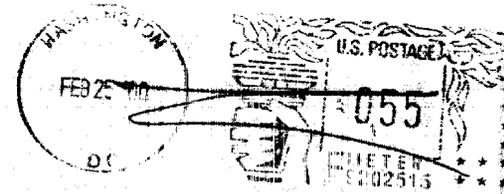
We respectfully request that FDA seriously consider these comments as it prepares its final report. Many consumers buy and depend on bottled drinking water to be safer than tap water and it is essential that they receive, at point of purchase, bottled water information at least as complete as that included in the Consumer Confidence Report.

Respectfully submitted,



Diana Neidle  
Public Policy Associate  
Direct Phone: 202-667-9280

2 Mr. Alan Neidle  
2129 Florida Ave NW Apt 401  
Washington, DC 20008



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-HFA-305  
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-Room 1061  
Rockville MD 20852

Via QMS