

Chapter 30

SAFE DRINKING WATER STANDARDS

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25.3001 Short title.

The act codified in this chapter shall be known and may be cited as the “Safe Drinking Water Act”.

History:1979, PL 16-13 § 1.

25.3002 Definitions.

As used in this chapter:

(a) “Administrator” means the Administrator of the U.S. Environmental Protection Agency.

(b) “Agency” means the Department of Health or such other Territorial agency as shall be charged with responsibility for implementation and enforcement of this chapter.

(c) “Contaminant” means any physical, chemical, biological, or radiological substance or matter in water.

(d) “Director” means the Director of the Health agency or his designee.

(e) “Federal act” means the federal Safe Drinking Water Act PL 93-523 and PL 95-190 and any amendments to them.

(f) “Federal agency” means any department agency, or instrumentality of the United States.

(g) “Municipality” means a district, county, village or other public body created by or pursuant to territorial law.

(h) “National primary drinking water regulations” means primary drinking water regulations promulgated by the administrator under the federal act.

(i) “Person” means an individual, corporation, company, association, partnership, municipality, or federal agency, or department of the government other than the department of health.

(ii) “Primary drinking water rules” means a Territorial rule which:

(1) applies to a public water system;

(2) specifies contaminants which, in the judgment of the Director, may have any adverse effect on the health of persons;

(3) specifies for each contaminant either;

(A) a maximum contaminant level, if in the judgment of the director it is economically and technologically feasible to ascertain the level of such contaminant in public water systems; or

(B) if in the judgment of the Director it is not economically or technologically feasible to ascertain the level of the contaminant, each treatment technique known to the Director which leads to a reduction in the level of the contaminant sufficient to satisfy the requirements of 25.3003: and

(4) contains criteria and procedures to assure a supply of drinking water which dependably complies with such maximum contaminant levels: including quality control and testing procedures to insure compliance with such levels and to insure proper operation and maintenance of the system and requirements as to:

(A) the minimum quality of water which may be taken into the system: and

(B) new construction or alteration of public water systems.

(k) "Public water system" means a system for the provision to the public of piped water for human consumption through pipes or other constructed conveyances; if that system has at least 15 service connections or regularly serves at least 25 individuals. A public water system includes:

(1) any collection, treatment, storage, and distribution facilities under control of the operator of such system and used primarily in connection with such system;

(2) any collection or pretreatment storage facilities not under such control which are used primarily in connection with such systems.

(1) "Supplier of water" means any person who owns or operates a public water system.

History: 1979, PL 16-13 § 1; amd 1980, PL 16-61 § 1; amd 2002, PL 27-30.

Amendments: 1980 Subsection (e): added "and PL 95-190 and any amendments to them". Subsection (1): added ", or department of the government other than the department of health".

25.3003 Drinking water standards.

(a) The Director shall adopt and enforce primary drinking water rules that at any given time shall be no less stringent than the complete interim or revised national primary drinking water regulations in effect at that time.

(b) Subject to 25.3004 the primary drinking water rules shall apply to each public water system in American Samoa.

(c) The Director shall adopt and implement adequate procedures for the enforcement of the primary drinking water rules including monitoring and inspection procedures that comply with regulations established by the administrator under the federal act.

(d) The Director shall keep records and make reports with respect to his activities under subsections (a) and (c) as may be required by regulations established by the Administrator under the federal act.

(e) No primary drinking water rule may require the addition of substances for preventive health care purposes unrelated to the contamination of drinking water other than fluoride.

History: 1979, PL 16-13 § 1; and 1980, PL 16-68 § 1.

Amendments: 1980 Subsection (e): added "other than fluoride" at the end of sentence.

25.3004 Variances and exemptions.

Rules adopted under 25.3003 under conditions and in a manner as he considers necessary and desirable; provided, that those variances or exemptions are permitted under conditions and in a manner in which variances and exemptions may be granted under the federal act.

History:1979, PL 16-13 § 1.

25.3005 Imminent hazards.

The Director, upon receipt of information that a contaminant which is present in or is likely to enter a public water system may present an imminent and substantial endangerment to the health of persons, may take action as he considers necessary in order to protect the health of those persons. The actions which the Director may take include, but shall not be limited to:

(1)issuing orders as may be necessary to protect the health of persons who are, or may be, users of that system, including travelers: and

(2) commencing a civil action for appropriate relief, including a restraining order or permanent or temporary injunction.

History:1979, PL 16-13 § 1.

25.3006 Plan for emergency provision of water.

The Director shall adopt an adequate plan for the provision of safe drinking water under emergency circumstances. When, in the judgment of the director, emergency circumstances exist in American Samoa with respect to a need for safe drinking water he may take action as he considers necessary in order to provide that water where it otherwise would not be available.

History:1979, PL 16-13 § 1.

25.3007 Notification of users and regulatory agencies.

Whenever a public water supply system:

- (1) is not in compliance with the primary drinking water rules;
- (2) fails to perform monitoring required by rules adopted by the Director;
- (3) is subject to a variance granted for an inability to meet a maximum contaminant level requirement;
- (4) is subject to an exemption: or
- (5) fails to comply with the requirements prescribed by a variance or exemption; the operator of the system shall, as soon as practicable, and at least every 3 months while the condition continues, notify the director, the administrator, and communications media serving the area served by the system of that fact and the extent and nature and possible health effects of that fact. The Director may adopt by rule notice requirements for the public.

History:1979, PL 16-13 § 1.

25.3008 Prohibited acts.

The following acts are prohibited:

- (1) failure by a supplier of water to comply with the requirements of 25.3007, or dissemination by that supplier of any false or misleading information with respect to notices required under 25.3007 or with respect to remedial actions being undertaken to achieve compliance with primary drinking water rules:
- (2) failure by a supplier of water to comply with rules adopted under 25.3003 or with conditions for variances or exemptions authorized under 25.3004;
- (3) failure by persons to comply with orders issued by the Director under 25.3005.

History:1979, PL 16-13 § 1.

25.3009 Administration.

To carry out the provisions and purposes of this chapter the Director is authorized and empowered to:

- (1) perform any and all acts necessary to carry out the purposes and requirements of this chapter relating to the adoption and enforcement of primary drinking water rules;

(2) administer and enforce the provisions of this chapter and all rules, regulations, and orders adopted, issued, or effective under it;

(3) enter into agreements, contracts, or cooperative arrangements under terms and conditions as he considers appropriate, with other States, Territorial, Federal or interstate agencies, municipalities, political subdivisions, educational institutions, or other organizations or individuals;

(4) receive financial and technical assistance from the federal government and other public or private agencies:

(5) participate in related programs of the federal government, and other states, territories, interstate agencies or other public or private agencies or organization;

(6) establish adequate fiscal controls and accounting procedures to assure proper disbursement of and accounting for funds appropriated or otherwise provided for the purpose of carrying out provisions of this chapter:

(7) delegate those responsibilities and duties considered appropriate for the purpose of administering this chapter:

(8) enter upon and inspect public water systems, and take samples of water or other liquids on the premises for analyses during normal business hours of the government or at any time when the Director is informed of imminent and substantial endangerment to the health of persons to determine the presence of contaminants:

(9) establish and collect fees for conducting inspections and laboratory analyses as necessary; and

(10) adopt rules considered necessary or appropriate to carry out his function under this chapter.

History:1979, PL 16-13 § 1; amd 1980, PL 16-61 § 3.

Amendments:1980 Subsection (8): deleted “private or communal premises” and added “public water systems”.

25.3010 Penalties and remedies.

(a)A fine not less than \$1,000 and not more than \$10,000 may be imposed on persons who violate paragraph (1) of 25.3008.

(b) Persons who violate or fail or refuse to comply with orders issued by the Director under 25.3005, or pay a civil penalty issued pursuant to this section, may, to enforce those orders, be

fined not less than \$1,000 and not more than \$10,000 for each day in which the violation occurs or failure to comply continues.

(c) Persons who violate the provisions of 25.3003 or any rule adopted under it are guilty of a class A misdemeanor punishable by a fine of not less than \$2,000 and not more than \$10,000 per violation. In the instance of a continuing violation, each day of violation constitutes a separate offense.

(d) In addition to the remedies provided in paragraph (c) of this section, for public water systems serving in excess of 10,000 persons the Director may impose by order an administrative penalty of not less than \$1,000 per violation per day for violation of 25.3003 and rules adopted under it. For public water systems serving less than 10,000 persons, the Director may impose administrative penalties of not less than \$500 per violation per day for such violations. However, an administrative penalty shall not be imposed under this chapter without first providing the alleged violator with notice and opportunity for hearing in accordance with the provisions of the Administrative Procedures Act et seq., A.S.C.A.

(e) The Director may institute civil actions for injunctive relief to prevent violations of orders or rules issued or adopted under this chapter, or threatened violations, in addition to other remedies provided for in this section.

(f) The trial division of the High Court of American Samoa has original jurisdiction in actions brought under this chapter.

History: 1979, PL 16-13 § 1; amd 1980, PL 16-61 § 2; amd 2002, PL 27-30.

Amendments: 1980 Subsection (c); added. Subsections (d) and (e) relettered from previous (c) and (d), and “or threatened violations” added to subsection (d).