

**ARIZONA DEPARTMENT OF WATER RESOURCES
SUBSTANTIVE POLICY STATEMENT
BOTTLED WATER; TRANSPORTATION OF GROUNDWATER**

This substantive policy statement is advisory only. A substantive policy statement does not include procedural documents that only affect the internal procedures of the agency and does not impose additional requirements or penalties on regulated parties or include confidential information or rules made in accordance with the Arizona administrative procedures act. If you believe that this substantive policy statement does impose additional requirements or penalties on regulated parties, you may petition the agency under Arizona Revised Statutes § 41-1033 for a review of the statement.

I. BACKGROUND

Title 45, Chapter 2, Articles 8 and 8.1, Arizona Revised Statutes (A.R.S.), set forth a number of restrictions on the transportation of groundwater between groundwater basins or subbasins, or into or away from an AMA. In certain circumstances groundwater may not legally be transported; in others, legal transportation of groundwater is subject to payment of damages. A.R.S. 45-402 defines transportation as “the movement of groundwater from the point of withdrawal to the point of use.”

Occasionally questions arise whether groundwater that is bottled within an AMA or groundwater basin and shipped to locations outside the AMA or groundwater basin is subject to the restrictions described in the transportation statutes cited above.

A survey of other agencies’ regulation of bottled water includes:

- The U.S. Food and Drug Administration (FDA) regulate bottled water as a packaged food product. FDA relies on state and local government agencies to approve water sources for safety and sanitary quality. Domestic bottled water producers engaged in interstate commerce, i.e. selling their products in states other than the site of production, are subject to periodic, unannounced FDA inspections.
- The U.S. Environmental Protection Agency (EPA) sets standards for tap water, such as from municipal water systems, pursuant to the 1974 Safe Drinking Water Act (SDWA). In some cases, water from a municipal source is further treated and bottled for sale.
- Arizona Department of Environmental Quality (ADEQ) requires that public water systems meet federal water quality standards. ADEQ does not regulate the production or sale of bottled water, although ADEQ can require that under certain circumstances a public water system provide bottled water, point of use devices, or point of entry devices for its customers.

- Bottled water production facilities are subject to inspection by state and county health departments – similar to requirements for other establishments that prepare food, such as restaurants.

II. TRANSPORTATION OF BOTTLED GROUNDWATER IS NOT SUBJECT TO GROUNDWATER TRANSPORTATION STATUTES

Bottled water production is regulated by the FDA as the production of a food product – similar to soft drinks, beer, and other packaged beverages. A.R.S. § 45-402 defines transportation as the movement of groundwater from the point of withdrawal to the point of use; in the case of bottled water, the point of use would be the water bottling facility. Therefore the transportation of packaged, bottled groundwater across boundaries of AMAs, basins or subbasins does not constitute transportation of groundwater as defined in A.R.S. § 45-402.32 and is not subject to the statutes governing the transportation of groundwater in Articles 8 and 8.1 of the Groundwater Code.

III. EFFECTIVE DATE

This substantive policy statement shall become effective immediately. The Director may modify or revoke this policy at any time.

Date: March 11, 2009

Herbert R. Guenther

Herbert R. Guenther, Director
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