

INTERNATIONAL BOTTLED WATER ASSOCIATION

Restaurant Over-the-Counter Tap Water Filtration Units Design, Maintenance, Regulatory and Disclosure Considerations

Introduction

During the past few years, restaurateurs have invested in “self-contained” standardized over the counter units that, connected to the restaurant’s tap water supply, are filtering, chilling and in some instances carbonating the tap water. The resulting water is then dispensed into reusable bottles with or without a cap.

Restaurateurs would be well advised to carefully consider the design, maintenance, regulatory and disclosure requirements associated with the equipment they choose.

Equipment Performance Considerations

A good filtration system should employ three basic filtration components: Control of water taste and odor, removal of particulates, removal of microorganisms. These filtration components must be designed based on the characteristics of the water entering the building. Considerations should include:

- Water hardness
- Water chemical composition (presence of undesirable turbidity, elements such as manganese, arsenic...)
- The age and status of the distribution system both outside and inside the building (presence of lead piping...)

Most Filtration systems traditionally include:

1. A carbon filter to remove taste and odors and other organic impurities. In the case of a municipal water source, carbon columns and beds are used to remove the majority of excess chlorine and chlorination by-products which are the result of the Municipal Treatment disinfection process.
2. A sediment filter to remove particles that come from the water source.
3. Pre- and final filters typically installed to remove microorganisms.

Proper sizing of the filtration system must be based on the characteristics of the incoming water source. The filtration system should be optimized for the expected flow rate, incoming water pressure, and the type and level of contaminants present in the incoming water. All of these parameters impact the appropriate type and size the filtration system whether it is installed in a restaurant or bottled water facility.

RECOMMENDATION:

Any restaurateur should contract a filtration/water treatment expert to carefully evaluate the characteristics of the incoming water in order to ensure proper sizing and design of the filtration system which will be installed.

Independent third party certification of filtration/water treatment equipment will help to provide assurance that specific contaminant reduction claims have been tested to the NSF/ANSI American National Standards for point-of-use drinking water treatment equipment.

Equipment Maintenance Considerations

Any water filtration equipment must be maintained by proper cleaning and sanitization at regular intervals. For a water dispensing machine, this can range from daily to weekly cleaning and sanitization of the entire system (tubing, piping, dispensing nozzles, etc.) All surfaces that potentially come in contact with the incoming water supply must be maintained on a frequent basis.

Best practices include the use of commercially available cleaning and sanitization chemicals for sanitizing dispensing equipment. These are typically performed with dilute solutions at warm to hot water temperature conditions followed by rinsing and flushing the filtration system to remove any residual cleaning and sanitization chemicals. Such chemicals are typically chlorine, chloramine or peroxy acid/hydrogen peroxide based chemicals that can be obtained from water treatment chemical suppliers and food equipment cleaning and sanitization chemical suppliers.

Cleaning and sanitization can be performed with the filters installed or removed from the filtration systems depending on the filter manufacturer's recommendations for the cleaning and sanitization chemicals used by the restaurant.

What to do during when a “boil water advisory” is issued?

Best practices involve immediate removal of any potentially contaminated filters that have been installed in the filtration system. This should be followed by cleaning and sanitizing the filtration system as soon as practical with commercially available cleaning and sanitization chemicals. Plugs can be inserted instead of filters in the filter housings or fittings to prevent leaks if the filters are removed for cleaning.

After the “boil water advisory” is lifted, new, unused filters should be installed after sanitization of the system is completed.

Considerations for the cleaning of reusable bottles

It is important that any bottle that is returned from a customer table be entirely cleaned and sanitized every time like any plate, piece of silverware or serving dish. Care must be taken to ensure that the design of the bottle is such that cleaning and sanitizing are easy to perform and efficient.

RECOMMENDATION:

Proper maintenance, cleaning and sanitizing of any water contact surface including inside tubing and dispensing equipment as well as bottles or other vessels used to serve the water must be integrated in the restaurant’s personnel duties on a daily and weekly basis.

Special attention should be directed to checking for damage or cracks in any rubber seals on ceramic closures or hairline fractures in a glass container.

Regulatory and Disclosure Considerations

When water is filtered and bottled for table service in restaurants, caution must be used to avoid running afoul of both the vast array of federal, state, and local food safety laws and the federal, state, and local consumer protection laws.

Food Safety Laws

Whether served in traditional sealed bottles or in open containers, federal, state, and local food safety laws apply. The regulations of the U.S. Food and Drug Administration (FDA) define “bottled water,” in relevant part, as “water that is intended for human consumption and that is sealed in bottles or other containers.” 21 C.F.R. 165.110(a)(1).

Thus, water in sealed containers is subject to the FDA's stringent bottled water regulations, as well as the similar, and often more stringent, state bottled water regulations and licensing requirements. These include Standards of Identity governing what the water is called and, more importantly, Standards of Quality, which limit the amount of certain substances that may be present in the water. 21 C.F.R. 165.110. Additionally, water bottlers must adhere to the Current Good Manufacturing Practices set forth in 21 C.F.R. § 129, which include mandatory finished product testing regimens. If water containers are sealed in some manner, governmental authorities, as well as consumers, would expect that all applicable laws are being followed.

When unsealed, food safety laws still apply to the filtered water served to restaurant customers. Pursuant to the FDA's Food Code—a model code that has been adopted, in some form, in at least 49 of the 50 states—foods and beverages served at restaurants “shall only contact surfaces of equipment and utensils that are cleaned as specified under Part 4-6 of this Code and sanitized as specified under Part 4-7 of this Code.” Food Code § 3-304.11. Further, all foods and beverages “shall be protected from environmental sources of contamination.” Food Code § 3-305.14. Thus, if not sealed and placed in reused containers by staff, great care and extensive training should be used to assure compliance with all applicable food safety laws.

Consumer Protection

When a restaurant serves its filtered water in a sealed container, consumers would reasonably believe that the product (and the facility that bottled it) meets all state and federal safety standards and licensing requirements. If the restaurant is not a licensed water bottler and has not adhered to all applicable bottled water laws, the consumer would be misled. This type of deception would be a violation of Section 5 of the Federal Trade Commission Act, 15 U.S.C. §45, as well as similar state consumer protection laws. It could also serve as the basis for private litigation. Importantly, if a restaurant customer is asked if “bottled” or “tap” water is preferred, and answers with a preference for “bottled” water, then serving filtered water in a bottle would potentially be a deceptive practice and actionable under state consumer protection laws. This is because the consumer, in that circumstance, would expect to be served one specific type of beverage but, in fact, would be receiving a different type. This could be significant if the price charged would appear to be for a “premium” beverage.

Even if its filtered water containers are not sealed, a restaurant may still run the risk of deceiving its customers. Restaurants may intentionally or unintentionally be promoting their filtered water as equivalent or superior to bottled water, without acknowledging the

key quality and safety safeguards that are not met by the filtered offering. This, too, could be construed as a type of false and misleading promotional activity in violation of Section 5 of the Federal Trade Commission Act, 15 U.S.C. §45, as well as similar state consumer protection laws. ^{1/} Restaurants would also be expected to have in their files adequate substantiation for any express or implied claims about superiority or equivalency to bottled water. In addition, the Food Code requires that foods and beverages be honestly presented by restaurants, saying “food shall be offered for human consumption in a way that does not mislead or misinform the consumer.” Food Code § 3-601.12. Unless the restaurant has put into place measures to ensure the same safety and quality required of bottled water, it is not clear what the basis for an equivalency or superiority claim would be.

RECOMMENDATION:

Restaurants should ensure that their patrons are fully aware of the type of product served at their table.

CONCLUSION:

The International Bottled Water Association supports the restaurateur’s offering and making available bottled water as defined by the FDA and over-the-counter filtered tap water. We encourage the restaurateur to follow the aforementioned suggested recommendations to properly inform their customers of the product they are receiving and to provide customers a safe and sanitary water alternative.

^{1/} The FTC has been active in regulating claims made in connection with water filtration products. Notably, in *FTC v. New Medical Techniques Inc. (NMT)* in 1987, the FTC charged NMT with using deceptive advertising for its water distillers and alleged that NMT claimed its water distillers removed all impurities from water providing users with absolutely safe water. In a resulting Consent Order, NMT was prohibited from making such claims unless it had scientific data that its devices will provide absolutely pure water, protect users from particular health hazards, or remove contaminants or chemicals from water.