TITLE 64

LEGISLATIVE RULE

WEST VIRGINIA DEPARTMENT OF HEALTH AND HUMAN RESOURCES
BUREAU FOR PUBLIC HEALTH

SERIES 3
PUBLIC WATER SYSTEMS
2015

SECTIONS RELATED TO BOTTLED WATER FACILITIES
§64-3-3. Definitions.

3.1. Bottled Water. -- All water which is sealed in bottles, packages or other containers and offered for sale for human consumption, including bottled mineral water.

3.2. Bottled Water Distributor. -- A person who buys and sells bottled water on a wholesale basis.

3.4. Commissioner -- Commissioner of the bureau for public health or his or her designee.

3.10. Person. -- An individual, partnership, association, syndicate, company, firm, trust, corporation, government corporation, institution, department, division, bureau, agency, federal agency or any other entity recognized by law.


7.1. Disinfection with chlorine, chlorine dioxide, chloramine or ozone is required of all public water systems, provided the requirements of Subsection 7.6 of this section are met.

7.6. For all public water systems, at least 0.2 milligrams per liter of total chlorine residual shall be maintained throughout the distribution system at all times and shall measure the total chlorine residual at least one time per day when serving water to the public and report the results in accordance with section 12 of this rule.
§64-3-11. Bottled Water Treatment Plants and Distributors.

11.1. No person shall operate a bottled water treatment plant in this State without first receiving from the commissioner a permit to bottle and distribute water.

11.2. No person shall distribute bottled water in this State without first receiving from the commissioner a permit to distribute bottled water.

11.3. Application for a permit to bottle and distribute water shall be made to the commissioner on forms prescribed by the commissioner. A completed application and a set of plans and specifications for the treatment plant shall be submitted to the commissioner for approval at least forty-five (45) days prior to the date on which a permit from the commissioner is desired.

11.4. The source of the water to be bottled and the bottled water shall comply with Beverages, 21 CFR, §165 final regulations promulgated and published as final rules prior to the adoption of this rule, with the exception of Sections 165.3(b), 165.110(a)(2)(ii).

11.4.a. The name of the water from a subsurface saturated zone that is under a pressure equal to or greater than atmospheric pressure is “ground water”. Ground water found to be under the direct influence of surface water as defined in 40 CFR §141.2, as adopted by this rule, shall be treated by a method approved by the commissioner.

11.4.b. The bottler shall conduct microbiological monitoring not less than weekly on the finished product.

11.5. A bottled water treatment plant shall be operated in accordance with the provisions of the federal standards, Current Good Manufacturing Practice in Manufacturing, Packaging or Holding Human Food, 21 CFR Part 110, and Processing and Bottling of Bottled Drinking Water, 21 CFR §129.

11.6. The commissioner shall inspect each in-state bottled water treatment plant every twelve (12) months or as he or she otherwise determines.

11.7. An out-of-state bottled water treatment plant desiring to distribute bottled water in West Virginia shall apply for a permit to bottle and distribute bottled water on forms approved by the commissioner. The out-of-state treatment plant shall comply with the requirements of this rule and the federal regulations adopted in this rule for in-state bottled water treatment plants. Subsequent to the initial evaluation, monitoring of the treatment plant by the regulatory agency of the state in which the treatment plant is located is considered acceptable for the purposes of this rule. The out-of-state treatment
plant shall notify the commissioner of any corrective action it is required to take by its state regulatory authority and shall notify the commissioner of any change in ownership or in the event that it closes.

11.8. A person wishing to distribute bottled water in the State who does not operate a bottled water treatment plant shall apply for a permit to distribute bottled water on a form approved by the commissioner. The applicant shall identify the location of the plants from which the bottled water is obtained and any distributor other than the bottled water plant from which the bottled water is obtained and shall provide other information required by the commissioner. The commissioner shall grant a permit to distribute bottled water if the bottled water complies with the requirements of this rule.

11.9. The commissioner may revoke a permit for failure to comply with provisions of this rule.

§64-3-14. Penalties.

17.1 Any person who violates any provision of this rule or orders issued under this rule is subject to injunction, criminal prosecution, and criminal, civil and administrative fines, all as provided in W. Va. Code §§116-1-9, 16-1-9a, 16-1-17 and 16-1-18.

17.2. Any individual or entity who violates the provisions of this rule or any orders issued pursuant to this rule is liable for a civil penalty of not less than $1,000 nor more than $5,000. Each day’s violation constitutes a separate offense.

17.3. Any individual or entity who commits a willful violation of any provision of this rule or orders issued pursuant to this rule shall be subject to a civil penalty of not more than $10,000 and each day’s violation shall be grounds for a separate penalty.

17.4 Civil penalties under this section are payable to the commissioner. All monies collected under this rule shall be deposited into a restricted account known as the Safe Water Drinking Fund. All moneys deposited in the fund shall be used by the commissioner to provide technical assistance to public water systems.

17.5 The commissioner may also seek injunctive relief in the circuit court of the county in which all or part of the public water system is located.


Those persons adversely affected by the enforcement of this rule desiring a contested case hearing to determine any rights, duties, interests or privileges shall do so in
accordance with the Bureau for Public Health rule, “Rules and Procedures for Contested Case Hearings and Declaratory Rulings,” §64CSR1.

NOTE: The full Public Water Systems Legislative Rule can be found at: http://www.wvsos.com/csr/verify.asp?TitleSeries=64-03