

**TITLE 64  
LEGISLATIVE RULE  
BUREAU FOR PUBLIC HEALTH**

**SERIES 3  
PUBLIC WATER SYSTEMS  
SECTIONS RELATED TO BOTTLED WATER FACILITIES  
2007**

**§64-3-3. Definitions.**

3.1. Bottled Water. -- Water that is intended for human consumption and is sealed in bottles or other containers with no added ingredients except that it may contain safe and suitable antimicrobial agents, and includes bottled mineral waters.

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

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

3.5. 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.

**§64-3-7. Public Water System Disinfection Requirements.**

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.

**§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) and 165.110(b)(2).

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. The bottler shall determine microbiological acceptability in accordance with 40 CFR §141.63, as adopted by this rule.

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, final regulations promulgated and published as a final rule prior to the adoption of this rule.

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.**

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.

#### **§64-3-15. Administrative Due Process.**

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 Division of 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>