MEMORANDUM

TO: Distributors of Bottled Water in West Virginia

FROM: David P. Thornton, R.S., Program Manager

RE: Renewal of Permit to Distribute Bottled Water in the State of West Virginia

Your current Permit to Distribute Bottled Water in the State of West Virginia will expire within the next 30 days. If you wish to continue distributing water in West Virginia, you must complete the attached application and submit it with the required documentation and fees to this office.

For your convenience we now have the capability to take your renewal application on-line with payment by credit card at www.wvdhhr.org/phs/bottledwater. Procedure details can be found at this site.

If I can be of assistance to you in completing this application, please feel free to contact me at (304) 356-4328 or e-mail David.P.Thornton@wv.gov.

DPT: emt

Attachment
APPLICATION FOR A PERMIT TO DISTRIBUTE BOTTLED WATER
IN THE STATE OF WEST VIRGINIA

New ____  Renewal ____  (Check One)  WV Permit No. (if Renewal) __________________________

COMPANY NAME:  __________________________________________________________________________
(Name as you wish it to appear on permit)

F. E. I. N. NUMBER:  ______________________  TELEPHONE:  ______________________  FAX:  ______________________
(Federal Employer Identification Number)

ADDRESS:  __________________________________________________________________________
(Mailing Address)  (City)  (State)  (Zip)

PERMIT CONTACT PERSON:  ______________________  Title:  ______________________

Contact E-mail Address  __________________________________________________________________________

PERMIT MAILING ADDRESS:  __________________________________________________________________________
(If different than above address)

OWNER:  __________________________________________________________________________

NAME OF WATER BOTTLING PLANT:  __________________________________________________________________________

PLANT ADDRESS:  __________________________________________________________________________

PLANT TELEPHONE:  ______________________  FAX:  ______________________

Approximate Volume Produced per Year (Gal.):  ______________________

PART A. PRODUCT

1. Source of water (check one):
   ____ Artesian Well  ____ Drilled Well  ____ Spring
   ____ Public Water (list name and describe type treatment provided):  __________________________________________________________________________

   ____ Other (specify):  __________________________________________________________________________

2. Type and size container(s) distributed in West Virginia:  __________________________________________________________________________

3. Attach samples of all labels.
PART B. DISTRIBUTION

1. List counties in West Virginia served by your plant: ________________________________

2. Location of distribution warehouse in West Virginia: ______________________________

3. Will your company distribute bottled water in West Virginia for any other processor?
   Yes _____ No _____ If Yes, give name and address of processor(s): ______________

4. List any other companies that will be distributing your product in West Virginia: ______

5. List any other states in which your product is or will be distributed: ______________

PART C. LABORATORY ANALYSIS

1. The results of a recent chemical analysis on both raw water and finished product Must be
   Submitted With This Application. (New Plants may submit finished product analysis after
   startup)

2. Name and address of certified laboratory which will conduct analysis of water processed by your
   plant:
   Name: __________________________________________________________
   Address: _________________________________________________________

NOTE: A minimum of one sample per week must be collected for bacteriological analysis and
the laboratory results submitted to this office by the 10th day of the month following the
month in which the samples were collected.

PART D. OUT-OF STATE PLANTS
Attach a copy of your most recent Permit to Operate from your state regulatory agency.

PART E. IN-STATE PLANTS
See Application Requirements sheet (attached).

Out of State Bottlers Distributing in West Virginia. A check in the amount of $100, made payable to
the West Virginia Department of Health & Human Resources must accompany this application.
In State Bottlers see attached letter for amount of permit fee.

I hereby certify that the above information is correct to the best of my knowledge.

_________________________________  ____________________________  ________________
Name                  Signature                  Title

_________________________________
Date
IN-STATE BOTTLING PLANTS
APPLICATION REQUIREMENTS

In addition to the Application for a Permit to Distribute Bottled Water in West Virginia, information regarding the bottling plant, if located in West Virginia, is also required. Prior to any construction, installation of equipment, or operation, complete plans must be submitted to and approved by the West Virginia Division of Health. Plans must include the following data:

A. Floor plan, equipment list, and detailed layout of the complete operation including:
   • bottling room
   • return bottle washroom (if applicable)
   • toilet rooms
   • storage rooms (warehouse)
   • water treatment facilities
   • sewage treatment facilities
   • solid waste storage facilities

B. Source of single service packaging (if applicable).

Please forward completed plans to:

West Virginia Department of Health and Human Resources
Office of Environmental Health Services
Public Health Sanitation Division
350 Capital Street Room 313
Charleston, WV 25301-3713

RENEWAL APPLICANTS: Submit any changes in A or B above which have not been previously reported. If no changes, submit a signed statement that no changes have been made in the prior year.
These design standards shall apply in determining whether the facilities, methods, practices, controls used in the processing, bottling, holding, transporting and shipping of bottled drinking water are in compliance to assure a safe water product.

A. Plant Construction and Design

1. The bottling room shall be separated from other plant operations or storage areas by tight walls, ceilings, and self-closing doors.

2. Adequate ventilation shall be provided in processing rooms, bottling rooms, and in container washing and sanitizing areas.

3. The washing and sanitizing of containers for bottled drinking water shall be performed in an enclosed room.

4. Rooms in which product water is handled, processed, or held or in which containers, utensils, or equipment are washed or held shall not open directly into any room used for domestic household purposes.

B. Equipment and Utensils

1. All plant equipment and utensils shall be suitable for their intended use. This includes all collection and storage tanks, piping, fittings, connections, bottle washers, fillers, cappers, and other equipment which may be used to store, handle, process, package or transport product water.

2. All product water-contact surfaces shall be constructed to be adequately cleaned and sanitized.

3. Storage tanks shall be of the type that can be closed and shall be adequately vented.
C. Sanitary Operations

1. The product water-contact surfaces of all multisurface containers, utensils, pipes, and equipment used in the transportation, processing, handling, and storage of product water shall be clean and adequately sanitized.

2. After cleaning, all multiservice containers, utensils, and disassembled piping and equipment shall be stored to assure drainage and shall be protected from contamination.

3. Single-service containers and caps or seal shall be stored in sanitary closures and kept clean therein in a clean dry place until used. Prior to use they shall be examined, and as necessary, washed, rinsed, and sanitized and shall be handled in a sanitary manner.

4. Filling, capping, closing, sealing and packaging of containers shall be done in a sanitary manner so as to preclude contamination of the bottle drinking water.

5. Multiservice primary containers shall be adequately cleaned, sanitized, and inspected just prior to being filled, capped and sealed.

6. Sanitizing operations, including those performed by chemical means or by any other means such as circulation of live steam or hot water, shall be adequate to effect sanitization of the intended product water-contact surfaces and any other critical area.

D. Bacteriological Sampling Compliance

At least one (1) water sample per week for bacteriological analysis shall be collected in standard sterilized water containers by a responsible official of the plant from representative points in the bottled water supply system and submitted to the West Virginia State Hygienic Laboratory or other certified laboratory. In-state plants may obtain sterilized water containers from the West Virginia State Hygienic Laboratory.
BOTTLED WATER – INITIAL ANALYSIS AND RENEWALS

Water intended for use as bottled drinking water must be tested for the following contaminants and parameters. Analysis must be performed by a laboratory certified by the Bottled Water Plants Home State to analyze drinking water samples.

Coliform Bacteria
Hardness
Alkalinity
Turbidity
Nitrate (as nitrogen)
TDS
Nitrite
Combined Radium 226 &
Radium 228
Gross Alpha Particle
Activity
Gross Beta Particle
Activity
Uranium
Arsenic
Aluminum
Barium
Cadmium
Chromium
Fluoride
Selenium
Antimony
Beryllium
Cyanide
Nickel
Thallium
Sodium
Sulfate
Copper
Lead
Silver
Iron
Manganese
Zinc
Phenols
Mercury
Benzene
Carbon Tetrachloride
p-Dichlorobenzene
1,2-Dichloroethane
1,1-Dichloroethylene
1,1,1-Trichloroethene
Trichloroethylene
Vinyl Chloride
o-Dichlorobenzene
Cis-1,2-Dichloroethylene
Trans-1,2-Dichloroethylene
1,2-Dichloropropane
Ethylbenzene
Monochlorobenzene
Styrene
Tetrachloroethylene
Toluene
p-xylene
o-xylene
m-xylene
Dichloromethane
1,2,4-Trichlorobenzene
1,1,2-Trichloroethane
Alachlor
Atrazine
Carbofuran
Chlordane
Dibromochloropropane (DBCP)
2,4-D
Ethylenedibromide (EDB)
Heptachlor
Heptachlor Epoxide
Lindane
Methoxychlor
PCBs
Pentachlorophenol
Toxaphene
2,4,5-TP (Silvex)
Dapsone
Dinoseb
Diquat
Endothall
Endrin
Glyphosate
Oxymal (Vydane)
Picloram
Simazine
Benzo(a)pyrene
D1(2-ethylhexyl)adipate
Hexachlorobenzene
Hexachlorocyclopentadiene
2,3,7,8-TCCD (Dioxin)

Byproduct Testing Required:
Municipal Source Water - Not required if PWS has it. Otherwise finished product test.
Natural Source Water - No Disinfection. No monitoring.
Natural Source Water - Ozone treated - bromate, HAA (5), TTHMs.
Natural Source Water - Chlorine based disinfection - HAA (5), TTHMs.
Final Products - Chlorine Chloramine, Chlorine Dioxide Bromate, Chlorite, HAA (5) TTHMs.
Chemical Testing Required for Those
RENEWING Permits
to Bottle or distribute Bottled Water
in West Virginia

1. Chemical tests results must be submitted each year for each source used.

2. Chemical tests results must be submitted each year from 1 finished product from
each source (not one from each label).

3. Chemical tests required each year shall be the same as on the Initial Chemical Test
List except as noted below:

   A. Radiological testing is required once every 4 years after the initial permit.

   B. Plants bottling in the states that do not require testing for Phase V VOC’s or
   Phase V SOC’s are not required to test for these chemicals but must submit
   a letter from their state regulatory agency that this is the case.

   C. Plants bottling in states that issue exemptions from testing for certain
   pesticides, etc., after initial tests or series of tests showing “none detected”
   are not required to submit the exempted tests but must submit a letter or
   statement from their state regulatory agency that the exemption has been
   granted and its requirements.

4. Plants requesting variations from testing as shown on the Initial Chemical Test
Required are responsible for submitting the proper documentation required.

   A. If not submitting radiological testing results, a statement must be submitted
   saying “Radiological testing results were last submitted _______________.

   B. If not submitting chemical tests results under 3B above, a letter from your
   regulatory agency must be submitted stating that they do not require these
   tests.

   C. If not submitting chemical tests results under 3C above, then a copy of your
   exemption letter or notice from your state regulatory agency must be
   submitted with your application.
MEMORANDUM

TO: WV Bottled Water Companies
Companies shipping Bottled Water into WV

FROM: David P. Thornton, R.S., Program Manager
Bottled Water Program

DATE: April 1, 2013

RE: Chemical Water Testing

West Virginia Public Water Supplies have been issued the following waivers on chemical testing. Therefore, I am extending it to the bottled water facilities.

State-wide waivers are being granted for:

1.  Dioxin
2.  Diquat- a pesticide
3.  Endothall - a pesticide
4.  Glyphosate - a pesticide

However, I would remind you that if you ship out of state you may want to check with that state before eliminating this testing because they may not accept our waiver and may require these tests to ship into their states.

Out of state bottlers shipping into West Virginia must have an exemption from their home state for their area to be exempt from these requirements. I will accept their exemption for shipping into West Virginia (an exemption is not a state saying they have no chemical testing requirements for bottled water, specific chemicals can be exempted due to prior testing in the state).

If further clarification is needed, please contact me at 304-558-2981.

DPT
July 1, 2013

Due to the length of the Certified Water Quality Laboratories document, and to ensure availability of the most current edition of the listing, please obtain this document via the internet site of the West Virginia Office of Laboratory Services:


Bottled water plants are required to use the laboratories included in the listing, a laboratory that is certified by the FDA or the lab’s home state to conduct microbiological and/or chemical examinations of drinking water pursuant to the requirements of the Safe Drinking Water Act.

If using a lab other than one included in the above listing, please submit the State or Country Certification Number as well as the name and address of the laboratory at the proper location on the application.
TITLE 64
LEGISLATIVE RULE
BUREAU FOR PUBLIC HEALTH
DEPARTMENT OF HEALTH AND
HUMAN RESOURCES

SERIES 3
PUBLIC WATER SYSTEMS
2012

Sections Related to Bottle Water Facilities
§64-3-1. General.

1. Scope. -- This legislative rule establishes State standards and procedures and adopts national drinking water standards for public water systems. It establishes standards for the production and distribution of bottled drinking water, and also adopts federal standards for the certification of laboratories performing analyses of drinking water. This rule should be read in conjunction with W. Va. Code §§16-1-9 and 16-1-9a. The W. Va. Code is available in public libraries and on the Legislature’s webpage, http://www.legis.state.wv.us.


1.3. Filing Date. -- May 2, 2012.

1.4. Effective Date. -- May 2, 2012.

§64-3-2. Application and Enforcement.

2.1. Application. -- This rule applies to public drinking water systems, to bottled water treatment plants and distributors and to laboratories desiring certification to perform analytic tests of drinking water.

2.2. Enforcement. -- This rule is enforced by the Commissioner of the Bureau for Public Health or his or her designee.

§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.

3.3. 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.

3.6. Proficiency Testing Samples (PT). -- A sample provided to the laboratory for the purpose of demonstrating that the laboratory can successfully analyze the sample within specified acceptance limits specified in this rule. The qualitative and/or quantitative composition of the reference material is unknown to the laboratory at the time of analysis.
3.7. Public Water System. -- A public water system is any water supply or system that regularly supplies or offers to supply water for human consumption through pipes or other constructed conveyances, if serving at least an average of twenty-five individuals per day for at least sixty days per year, or which has at least fifteen service connections, and shall include: (1) Any collection, treatment, storage, and distribution facilities under the control of the owner or operator of the system and used primarily in connection with the system; and (2) Any collection or pretreatment storage facilities not under such control which are used primarily in connection with the system. A public water system does not include a system which meets all of the following conditions: (1) Which consists only of distribution and storage facilities (and does not have any collection and treatment facilities); (2) Which obtains all of its water from, but is not owned or operated by a public water system that otherwise meets the definition; (3) Which does not sell water to any person; and (4) Which is not a carrier conveying passengers in interstate commerce.

3.9. Secretary. -- The Secretary of the Department of Health and Human Resources.


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.

7.2. The disinfectant shall be applied during treatment at a point before entering the distribution system which will provide effective log removal.

7.3. Ground water systems shall install chemical disinfection to provide at least a four-log virus inactivation or removal before or at the first customer, for any ground water source. Monitoring requirements are the same as the federal regulations adopted in this rule.

7.4. Surface water systems and groundwater systems under the direct influence of surface waters shall meet the disinfection requirements of the federal regulations adopted in this rule.

7.5. Chlorine residual testing equipment shall enable measurement of free and total chlorine residuals to the nearest 0.2 milligrams per liter.

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.

7.7. The Commissioner may authorize exceptions, in writing, in the chlorine disinfection parameters specified in this section. The Commissioner may impose additional monitoring requirements if an exception is authorized.

§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 working 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 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 §§16-1-9, 16-1-9a, 16-1-17 and 16-1-18.


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 of Procedure for Contested Case Hearings and Declaratory Rulings, 64CSR1.