

John D. Rockefeller IV
Governor



L. Clark Hansbarger, M.D.
Director

State of West Virginia

DEPARTMENT OF HEALTH

CHARLESTON 25305

Notice

Legislative Rule: Retail Food Store Sanitation Rule,
Chapter 16-1, Series XX, (1983)

The above titled legislative rule is hereby submitted to
the Legislative Rule-Making Review Committee.

A handwritten signature in cursive script, reading "L. Clark Hansbarger".

L. Clark Hansbarger, M. D.
Secretary
West Virginia Board of Health

FILED IN THE OFFICE OF
A. JAMES MANCHIN
SECRETARY OF STATE

THIS DATE 11-24-82

Administrative Law Division
Entered

John D. Rockefeller IV
Governor



L. Clark Hansbarger, M.D.
Director

State of West Virginia

DEPARTMENT OF HEALTH
CHARLESTON 25305

Certification

Legislative Rule: Retail Food Store Sanitation Rule,
Chapter 16-1, Series XX, (1983)

The above titled legislative rule constitutes the official rule approved by the West Virginia Board of Health on November 19, 1982 and filed pursuant to law in the Office of the Secretary of State, State of West Virginia.

A handwritten signature in cursive script, reading "L. Clark Hansbarger".

L. Clark Hansbarger, M.D.
Secretary
West Virginia Board of Health

FILED IN THE OFFICE OF
A. JAMES MANCHIN
SECRETARY OF STATE

THIS DATE 11-24-82

Administrative Law Divis
Entered

DATE:

November 22, 1982

TO:

Legislative Rule-Making Review Committee

FROM:

Health Department

SUBJECT:

INFORMATION TO BE SUPPLIED TO THE COMMITTEE

RULES:

Retail Food Store Sanitation Rule, Chapter 16-1, Series XX (1983)

INFORMATION REQUIRED

1. Please give the citation of the statute which authorizes your promulgation of these rules.

Chapter 16, Article 1, Section 7

2. If the statute under which you promulgated the submitted rules requires certain findings and determinations to be made as a condition precedent to their promulgation: (29A-3-5)

- a. Give the date upon which you filed in the State Register a notice of the time and place of a hearing for the taking of evidence and a general description of the issues to be decided.

n/a

- b. Was the hearing held on the date scheduled and were all interested parties permitted to be heard?

n/a

- c. On what date did you file in the State Register the findings and determinations required together with the reasons therefor?

n/a

- d. Is the transcript of all evidence received preserved and available for public inspection and copying?

n/a

3. For all rules promulgated:

- a. When did you file the rules in the State Register together with notice of a hearing time, date and location? (29A-3-5)

August 20, 1982 and October 15, 1982

- b. Did you give at least 30 days notice and no more than 60 days notice? (29A-3-7)

yes

- c. What other notice, including advertising, did you give of the hearing? (29A-3-5)

Posted 55 county health departments and courthouses, WV Retail Grocery Association, WV Retailing Association, Department of Agriculture, Capitol News Service, Published in 8 local newspapers, hand delivered to over 500 stores, mailed by request to 21 individuals.

- d. Was the hearing held on the scheduled date? If not, why not?

yes

- e. Was the opportunity given for all interested parties to submit data, objections, suggested amendments, views, evidence or arguments?

yes

- f. List all persons who appeared at the hearing and what type of comment they made about the proposed rules (for, against, suggested and amendments). Please attach a copy of the minutes of the hearing.

See attached attendance records and summary of comments received.

#0 Original

Proposed

WEST VIRGINIA LEGISLATIVE RULES
BOARD OF HEALTH

RETAIL FOOD STORE SANITATION

FILED IN THE OFFICE OF
A. JAMES MANCHIN
SECRETARY OF STATE

THIS DATE 11-24-82
Administrative Law Division

WEST VIRGINIA LEGISLATIVE RULES
BOARD OF HEALTH

Retail Food Store Sanitation

Chapter 16-1
Series XX
(1983)

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WEST VIRGINIA LEGISLATIVE RULES
BOARD OF HEALTH

Retail Food Store Sanitation

Chapter 16-1
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WEST VIRGINIA LEGISLATIVE RULES
BOARD OF HEALTH

Chapter 16-1
Series XX
(1983)

FILED IN THE OFFICE OF
A. JAMES MANCHIN
SECRETARY OF STATE

THIS DATE 10/15/82

Subject: Retail Food Store Sanitation

Section 1. General

1.1. Scope - These legislative rules establish the minimum sanitation requirements of the West Virginia Board of Health governing the construction and operation of retail food stores.

1.2. Authority - These legislative rules are issued under the authority of and are related to Chapter 16, Article 1, Section 7(1) of the West Virginia Code of 1931, as amended.

1.3. Filing Date - These legislative rules were promulgated on the day of _____, 19____, and filed on the _____ day of _____, 19____, in the Secretary of State's office.

1.4. Effective Date - These legislative rules became effective on the day of _____ 19____.

Section 2. Supersession and Repeal of Former Regulations

These legislative rules supersede and repeal West Virginia Board of Health Regulations Chapter 1, Article 3A "Grocery Store and Meat Market Regulations" adopted by the West Virginia Board of Health December 6, 1951 and effective July 1, 1952.

Section 3. Application and Enforcement

3.1. Application - These legislative rules apply to the construction and the operation of all retail food stores.

3.2. Enforcement - Enforcement of these legislative rules is vested with the director of the West Virginia department of health or his lawful designee.

Section 4. Definitions

4.1. Approved - A procedure of operation, installation, or construction which is in accordance with the standards, specifications, or instructions established by the director.

4.2. Construct - The term construct shall mean and include the terms install, extend, establish, alter or modify.

4.3. Corrosion-Resistant Materials - Those materials that maintain their original surface characteristics under prolonged influence of the food to be contacted, the normal use of cleaning compounds and bactericidal solutions, and other conditions-of-use environment.

4.4. Delicatessen - The area of a retail food store where primarily specialty food items, i.e., meats, fish, poultry, salads, cheeses and other table delicacies, are prepared and sold, or offered to the general public.

4.5. Director - The director of the West Virginia Department of Health or his lawful designee.

4.6. Distressed Merchandise - Any food or container of food which has had the label lost, or which has been subjected to possible damage due to accident, fire, flood, adverse weathering, or to any other similar cause, or which may have been rendered unsafe or unsuitable for human consumption or use, i.e., seam or lid dents, hard or soft swells, leaking containers.

4.7. Easily Cleanable - Surfaces that are readily accessible and made of such materials and finish and so fabricated that residue may be effec-

tively removed by normal cleaning methods.

4.8. Employee - The permit holder, individuals having supervisory or management duties, and any other person working in a food service establishment.

4.9. Equipment - Items other than utensils used in the storage, preparation, display and transportation of food, including, but not limited to such as slicers, grinders, meat blocks, work tables, shelving, refrigerators, freezers, display cases, sinks, and similar items used in the operation of a retail food store.

4.10. Food - Any raw, cooked, or processed edible substance, ice, beverage or ingredient used or intended for use or for sale in whole or in part for human consumption.

4.11. Food-Contact-Surfaces - Those surfaces of equipment and utensils with which food normally comes into contact, and or those surfaces from which food may drain, drip, or splash back onto surfaces normally in contact with food.

4.12. Operator - A person who is in charge of a retail food store.

4.13. Packaged - Bottled, canned, cartoned, bagged or securely wrapped.

4.14. Permit - A written document issued by the director giving a designated person permission to construct a specific retail food store or to operate a specific retail food store.

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

4.16. Person-in-Charge - The individual present in a food service

establishment who is the apparent supervisor of the retail food store at the time of inspection.

4.17. Potentially Hazardous Food - Any food that consists in whole or in part of milk or milk products, eggs, meat, poultry, fish, shellfish, edible crustacea, or other ingredients, in a form capable of supporting rapid and progressive growth of infectious or toxigenic micro-organisms. The term does not include clean, whole, uncracked, odor-free shell eggs or food which have a pH level of 4.6 or below or a water activity (Aw) value of 0.85 or less.

4.18. Retail Food Store - Any place, structure, premise, vehicle, or any part thereof in which food products are is sold retail, offered for retail sale, or served not to be consumed on the premises. For the purpose of this regulation, the term "retail food store" shall not include establishments which handled only prepackaged, non-potentially hazardous foods; roadside markets that offer only fresh fruits or fresh vegetables; or does not apply to the delicatessen operation of a retail food store. or to roadside stands that sell only fresh fruits or produce.

4.19. Safe Materials - Article manufactured from or composed of materials that may not reasonably be expected to result, directly or indirectly, in their becoming a component or otherwise affecting the characteristics of any food.

4.20. Safe Temperatures - As applied to potentially hazardous food shall mean temperatures of 45°F or below and 140°F or above.

4.21. Sanitization - Effective bactericidal treatment by a process that provides enough accumulative heat or concentration of chemicals for enough

time to reduce the bacterial count, including pathogens, to a safe level on utensils and equipment.

4.22. Sealed - Free of cracks or other openings that permit the entry or passage of moisture.

4.23. Single-Service Articles - Cups, containers, lids, knives, forks, spoons, straws and packaging materials, including bags and similar articles, that are designed for one-time use only.

4.24. Utensil - Any implement used in the storage, preparation, transportation, or service of food.

Section 5. Permits, Hearings, Notices and Orders

5.1. Construction and Modification - Whenever a retail food store is constructed or extensively remodeled and whenever an existing structure is converted to use as a retail food store, ~~properly prepared~~ plans and specifications for such construction, remodeling or conversion shall be submitted to the director for review and approval before construction, remodeling, or conversion is begun. The plans and specifications shall show and indicate the proposed layout and arrangement of the equipment. mechanical plans and construction materials of work areas, and the type and model of proposed fixed equipment and facilities. Once completed plans are received by the director, the plans shall be reviewed within a period of time not to exceed 45 days.

5.2. Permit to Operate

5.2.1. No person shall operate a retail food store within the State of West Virginia who does not possess a valid permit issued to him by the director.

5.2.2. An application for a permit to operate a retail food store shall be made in writing to the director on a form prescribed by the West Virginia department of health and signed by the applicant or his authorized representative.

5.2.3. Prior to approving the application for a permit, the director shall inspect the proposed retail food store to determine compliance with this regulation. Only persons who comply with the applicable provisions of these regulations shall be entitled to retain a permit.

5.2.4. Retail food stores in operation at the time these regulations become effective, and meeting all applicable prior regulations, shall be deemed to be eligible for a permit to operate. Provided, that the store shall be required to meet the applicable operational requirements of this regulations. Provided further, that any construction taking place after the effective date of these regulations shall be in compliance with these regulations. ~~Only persons who comply with the applicable provisions of these regulations shall be entitled to retain a permit.~~

5.2.5. Permits shall not be transferable or assignable and shall automatically become invalid upon a change of ownership or upon suspension or revocation.

5.2.6. The director may without warning, notice, or hearing suspend a permit to operate a retail food store if the operation of the retail food store constitutes a ~~substantial~~ imminent hazard to public health. When a permit is suspended, the sale of food shall immediately cease.

5.2.7. The director may revoke a permit to operate for repeated or serious violations of any of the requirements of these regulations or for the

interference with the director in the performance of his duties.

5.2.8. Any person whose permit has been suspended or revoked may, at any time, make application for a reinspection for the purpose of reinstatement of the permit. Within ten (10) days following receipt of a written request, including a signed statement by the applicant that in his opinion the conditions causing the suspension of the permit have been corrected, the director shall make a reinspection. If the applicant complies with the provisions of these regulations, the permit shall be reinstated.

5.2.9. Operational permits shall be posted within the retail food store and said permit shall be readily available to the director.

5.3. Hearings, Notices and Orders

5.3.1. Any person whose application for a permit to operate a retail food store has been denied, or whose permit has been suspended or revoked may petition and may be granted a hearing in accordance with Section 28.

5.3.2. The filing of a petition for a hearing on a permit denial, suspension or revocation shall not stay or suspend the execution of the notice or order resulting in such permit denial, suspension, or revocation.

5.3.3. Whenever the director makes an inspection of a retail food store and discovers that any of the provisions of these regulations have been violated, he shall notify the operator of such violations by means of an inspection report form or other written notice. Correction of the violations shall be accomplished within the time specified in the notice that is in accordance with the following provisions:

5.3.3.(a). When the rating score of the store is 90 or more, all violations of 1 or 2 point weighted items shall be corrected by the time of

the next routine inspection.

5.3.3.(b). When the rating score of the store is 80 but not more than 89, all violations of 1 or 2 point weighted items shall be corrected within a specific record of time not to exceed thirty (30) days.

5.3.3.(c). When the rating score of the store is at least 70 but not more than 79, all violations of 1 or 2 point weighted items shall be corrected within a specified period of time not to exceed ten (10) days.

5.3.3.(d). All violations of 4 or 5 point weighted items shall be corrected within a specified period of time not to exceed ten (10) days following inspection.

5.3.3.(e). When the rating score of the store is 69 or less, the permit shall be immediately suspended.

5.3.4. Whenever the director finds that any retail food store constitutes a imminent hazard ~~potential threat~~ to public health, he may without notice or hearing issue a written order to the operator or person in charge citing the existence of such condition and requiring such action to be taken as he may deem necessary to remedy the condition, including the suspension of the permit to operate. Notwithstanding any other provision of these regulations, such order shall be effective immediately. Any person for whom such order is directed shall comply therewith immediately, but upon written petition to the director shall be afforded a hearing on the matter as set forth in Section 5.3.1 of these regulations.

5.3.5. The director may examine food or collect samples of such food as often as he deems necessary for enforcement of these regulations. The director may, upon written notice to the operator, place a hold order on any

food which he believes in violation of any provision of these regulations. The director shall tag, label, or otherwise identify any food subject to the hold order. Food subject to a hold order shall not be used, served, or removed from the store. The director shall permit storage of the food under conditions specified in the hold order, unless storage is a risk to the public health, in which case immediate destruction shall be ordered and accomplished. The hold order shall specify that a written request for a hearing may be filed with the director within ten (10) ~~five (5)~~ working days and that if no hearing is requested the food shall be destroyed under supervision of the director. On the basis of evidence produced at the hearing, the director may vacate the hold order or the owner or person in charge of the food may be directed by written order to destroy such food.

Section 6. Inspection

6.1. Each retail food store shall be inspected at least once each six months. The director shall also make such additional inspections as he deems necessary to determine satisfactory compliance with the provisions of the regulations, or any orders, notices, instructions, or specifications issued pursuant thereto.

6.2. The State Director of Health shall have the authority to inspect or to have inspected any retail food store in any county in the state, and to act through the county's board of health and or prosecuting attorney in the enforcement of these regulations.

6.3. The inspection report shall be discussed with the person in charge of the store at the time of inspection and the inspection report shall be posted adjacent to the permit. ~~in a place designated by the director.~~

Section 7. Food Supplies

7.1. All food offered for sale in a retail food store shall be ~~from approved sources,~~ clean, wholesome, free from spoilage, adulteration, and misbranding, and safe for human consumption.

7.2. Fluid milk and fluid milk products shall be pasteurized and shall meet the requirements of the West Virginia Board of Health Grade "A" Pasteurized Milk Regulations.

7.3. Fresh and frozen shucked shellfish shall be packed in non-returnable packages identified with the name and address of the original shell stock processor, shucker-packer, or repacker, the kind and quantity of shellstock, and the interstate certification number issued thereto. Shell stock and shucked shellfish shall be kept in the container in which they were received until they are offered for sale.

~~7.4. Frozen food and refrigerated potentially hazardous food shall be inspected by an employee upon receipt of the food and, if conditions warrant, shall be rejected.~~

7.4. Only ice which has been manufactured from potable water and handled in a sanitary manner shall be used or offered for sale. Ice offered for sale shall be packaged.

Section 8. Food Protection

8.1. All food shall be protected against contamination.

8.2. All perishable food shall be stored or transported at such temperatures as will protect against spoilage.

8.3. Only such poisonous and toxic materials including pesticides, as

are used to maintain sanitary conditions and for sanitization purposes may be used or stored in food processing areas.

8.4. Poisonous and toxic materials including pesticides shall be prominently identified and shall be used and stored only in such manner and under such conditions as will not contaminate food or constitute a hazard to employees or purchasers.

8.5. In the event of a fire, flood, prolonged power outage, or similar event that might result in the contamination of food, or that might prevent potentially hazardous food from being held at safe temperatures, the operator or person-in-charge shall immediately contact the director.

8.6. Metal stem type numerically scaled indicating thermometers, accurate to $\pm 2^{\circ}\text{F}$ shall be provided and used to assure the safe temperatures of all potentially hazardous foods.

Section 9. Food Display Areas

9.1. All food display areas shall be kept clean.

9.2. ~~Accurate~~ Thermometers accurate to $\pm 2^{\circ}\text{F}$ shall be provided and properly located in all refrigerated food display cases.

9.3. Fruits and vegetables shall be wholesome and free from spoilage.

9.4. Food in the frozen food display cases shall be stocked below the loadline and ~~maintained at such temperatures as to remain frozen.~~ shall be kept frozen and stored at an air temperature of 0°F or below.

9.5. Dairy products, meat, poultry and fish display cases shall be stocked below the loadline and maintained at 45°F or below.

9.6. Packaged fruits, vegetables, meat and fish shall not be stored or displayed in contact with water or undrained ice.

9.7. Potentially hazardous meat, poultry, fish, grocery products, and bakery products shall be kept at safe temperatures.

9.8. Containers of food shall be properly labeled, sound, free of dents on the horizontal and lid seams of cans.

9.9. The sale or offering of distressed merchandise is prohibited.

Section 10. Refrigerated and Frozen Food Storage Areas

10.1. Walk-in cooler and freezer floors, walls, and ceilings shall be kept clean and in good repair.

10.2. Walk-in cooler floors shall be properly drained.

10.3. ~~Accurate~~ Thermometers accurate to $\pm 2^{\circ}\text{F}$ shall be provided and properly located in walk-in freezers and coolers.

10.4. Condensation drip trays, blowers, and overhead coils shall be kept clean.

10.5. Shelves shall be kept clean.

10.6. Meat hooks shall be kept clean and shall be sanitized after cleaning.

10.7. Walk-in coolers provided for potentially hazardous foods shall be maintained at 45°F or below.

10.8. Frozen food in walk-in freezers shall be ~~maintained at such temperatures as to remain frozen.~~ kept frozen and stored at an air temperature of 0°F or below.

Section 11. Grocery Storage Area

Containers of food shall be stored a minimum of six inches above the floor or stored on dollies, racks, or pallets, provided such equipment is easily movable, either by hand or the use of pallet-moving equipment that is

on the premises and used. Cased food packages in cans, glass, or other sealed containers need not be elevated when the case of food is not exposed to floor moisture and the storage area is kept clean. Shelves, racks, dollies, pallets and floors shall be kept clean and in good repair.

Section 12. Produce Preparation Area

12.1. At least a two compartment A sink with drainboards shall be provided A produce preparation sink or an approved wet table and drainage system shall be provided.

12.2. Work tables shall be kept clean.

12.3. Knives, cleavers and other utensils shall be kept clean.

12.4. Produce packaging and wrapping materials shall be properly protected and stored.

12.5. A hand sink shall be provided within 20 feet of the produce department.

Section 13. Meat Department

13.1. At least a three compartment sink with drainboards or an approved automatic dishwasher shall be provided.

13.2. A hand sink shall be provided within the meat department.

13.3. All equipment and utensils used in processing, handling and storage of meat, poultry, and fish shall be clean and shall be sanitized after cleaning.

13.4. Meat, poultry, and fish packaging and wrapping materials shall be properly protected and stored.

13.5. If refrigerated, the temperature of the meat cutting room shall be maintained at 55°F 45°F or below.

13.6. Meat grinders, slicers, cubers and similar meat processing equipment shall be located in refrigerated areas, or stored under refrigeration between usage or washed and sanitized after each use.

Section 14. Delicatessens - Delicatessens shall comply with the provisions of the West Virginia Food Service Sanitation regulations.

Section 15. Personnel

15.1. No person, while infected with a disease in a communicable form that can be transmitted by foods, or who is a carrier of organisms that cause such a disease, or while affected with a boil, an infected wound, or an acute respiratory infection, shall work in a retail food store in any capacity in which there is a likelihood of such person contaminating food or food contact surfaces with pathogenic organisms or transmitting disease to other persons.

15.2. Employees engaged in food preparation and utensil washing operations shall thoroughly wash their hands with soap and warm water before starting work; after smoking, eating, or using the toilet; before and after handling raw meat, raw poultry, or raw fish, and as often as necessary during work to keep them clean. Employees shall wear clean outer clothing.

15.3. Employees shall consume food and use tobacco only in designated areas. Such areas must be located so that the eating or tobacco use of an employee does not result in contamination of food, equipment, or utensils.

15.4. Employees shall maintain a high degree of personal cleanliness and shall conform to good hygiene practices while on duty.

15.5. Employees shall use effective hair restraints where necessary to prevent the contamination of food or food contact surfaces.

Section 16. Equipment and Utensils (Construction and Installation)

16.1. All equipment and utensils used in the preparation, storage, or display of food shall be of such material and so constructed, installed, and maintained as to be easily cleanable and to permit the easy cleaning of the surrounding areas and shall be non-toxic, corrosion-resistant, and non-absorbent.

16.2. No enamelware or graniteware shall be used in the preparation, storage or display of food.

16.3. Single service articles shall be manufactured from safe material and shall be used only once.

16.4. Work tables shall be made of impervious materials and the surfaces shall be of such materials that they will not be readily scratched or scarred by contact with sharp utensils, except that wooden meat blocks and cutting boards may be constructed of hard maple or equivalent.

16.5. Metal shelving shall be provided on the interior of walk-in coolers.

16.6. All equipment installed in a retail food store prior to the effective date of these regulations and which is in good repair and capable of being cleaned, may be continued in use.

16.7. Equipment which is placed on tables or counters, unless considered portable, shall be sealed thereto or mounted on legs at least four inches high and shall be installed to facilitate the cleaning of the equipment and adjacent areas.

16.8. Floor mounted equipment shall be on casters; on six inch legs; on raised platforms of concrete or other smooth masonry in such a manner as to prevent liquids or debris from seeping or settling underneath; or sealed to

the floor.

16.9. The space between adjoining units of equipment and between a unit and the adjacent wall shall be sealed, or sufficient space shall be provided to facilitate easy cleaning between, behind, and beside all such equipment.

Section 17. Cleaning, Sanitization & Storage of Equipment and Utensils

17.1. Utensils and food contact surfaces of equipment shall be cleaned and sanitized:

17.1.1. After any interruption of operations during which time contamination may occur;

17.1.2. Between processing raw pork, or raw poultry, or raw fish, and before processing any different kind of product;

17.1.3. Between processing of raw and ready to eat foods; and,

17.1.4. After final use each working day.

17.2. Non-food contact surfaces of equipment, including transport vehicles, shall be cleaned as often as is necessary to keep the equipment free of accumulation of dust, dirt, food soil, and other debris.

17.3. Cloths or sponges used for wiping food spills or used for cleaning surfaces of equipment shall be clean and used for no other purpose. These cloths and sponges shall be stored in a sanitizing solution between uses.

17.4. For manual cleaning and sanitizing of equipment and utensils, a three compartment sink must be provided in the meat and bakery departments. A ~~two compartment sink must be provided in the produce department.~~ Sink compartments shall be large enough to accommodate the immersion of all meat equipment and utensils, and each sink compartment shall be supplied with hot and cold potable running water. Fixed equipment and equipment too large to

be cleaned in sink compartments shall be cleaned and sanitized manually or cleaned and sanitized through pressure spray methods.

17.5. Drain boards or easily movable utensil tables shall be provided for proper handling of soiled utensil prior to cleaning and for cleaned utensils following sanitization.

17.6. Equipment and utensils shall be preflushed or prescraped and, when necessary, presoaked to remove food particles and soil.

17.7. When a three compartment sink is utilized for ~~warewashing,~~ washing equipment and utensils, the equipment and utensils shall be washed, rinsed, and sanitized in that order.

17.8. When a two compartment sink is utilized for ~~warewashing,~~ washing equipment and utensils, the equipment and utensils shall be washed and sanitized ~~rinsed,~~ and ~~sanitized~~ in that order.

17.9. The food contact surfaces of all equipment and utensils shall be sanitized by one of the following methods.

17.9.1. Immersion for at least 1/2 minute in clean, hot water of a temperature of at least 170°F; or,

17.9.2. Immersion for at least 1 minute in a clean solution containing at least 50 parts per million of available chlorine as a hypochlorite and having a temperature of at least 75°F; or,

17.9.3. Immersion for at least 1 minute in a clean solution containing at least 12.5 parts per million of available iodine at a temperature of at least 75°F; or,

17.9.4. Immersion in a clean solution containing or any other approved chemical sanitizing agent that will provide the equivalent bactericidal

effect of a solution containing at least 50 PPM of available chlorine as a hypochlorite at a temperature of at least 75°F for 1 minute; or,

17.9.5. Treatment with culinary steam in the case of equipment too large to sanitize by immersion, but in which steam can be confined; or;

17.9.6. Rinsing, spraying, or swabbing with a chemical sanitizing solution of at least twice the strength required for that particular sanitizing solution under Section 17.9.

17.10. When chemicals are used for sanitation an approved test kit that accurately measures the parts per million concentration of the solution shall be provided and used.

17.11. Unless used immediately after sanitation, all equipment and utensils shall be air dried. Towel drying shall not be permitted.

17.12. Cleaned and sanitized equipment and utensils and single service articles shall be handled and stored in a way that protects them from contamination and stored at least six inches above the floor in a clean, dry location. Stored utensils shall be covered or inverted whenever practical.

17.13. Food equipment, utensils, or single service articles shall not be stored in locker rooms, toilet rooms, garbage rooms, or mechanical rooms.

Section 18. Water Supply

18.1. Potable water for the needs of the retail food store shall be provided from an approved source.

18.2. Water under pressure shall be provided to all applicable fixtures and equipment that use water.

18.3. Only culinary steam shall be used in contact with food or food contact surfaces.

Section 19. Sewage Disposal - All sewage shall be disposed of in a public sewer system or, in the absence thereof, in a manner approved by the director.

Section 20. Plumbing

20.1. Plumbing shall be sized, installed, and maintained in accordance with local plumbing codes or, in the absence thereof, the National Plumbing Code.

20.2. A non-potable water system is permitted only for purposes such as air conditioning and fire protection, and only if the system is properly installed and the non-potable water does not contact, directly or indirectly, food, potable water, equipment that contacts food, or utensils. The piping of any non-potable water system shall be durably identified so that it is readily distinguishable from piping that carries potable water.

20.3. Approved backflow prevention devices shall be installed to protect against backflow and backsiphonage at all fixtures and equipment where an air gap at least twice the diameter of the water supply inlet is not provided between the water supply inlet and the fixture's flood level rim. A hose shall not be attached to a faucet unless an approved backsiphonage prevention device is installed.

20.4. If used, grease traps shall be located to be easily accessible for cleaning.

20.5. Except for properly trapped open sinks, there shall be no direct connection between the sewer system and any drain originating from equipment in which food, portable equipment, or utensils are placed.

Section 21. Toilet Facilities

21.1. Each retail food store shall provide for its employees approved and properly located toilet facilities in the number required by the director. Toilet facilities shall be accessible to employees at all times.

21.2. Toilets and urinals shall be designed to be easily cleaned.

21.3. Toilet rooms shall be completely enclosed and shall have tight-fitting, self-closing doors, which shall be closed except during cleaning or maintenance.

21.4. Toilet fixtures shall be kept clean and in good repair. A supply of toilet tissue shall be provided at each toilet at all times. Easily cleanable receptacles shall be provided for waste materials. Toilet rooms used by women shall have at least one covered waste receptacle.

Section 22. Handwashing Facilities

22.1. Handwashing facilities shall be provided in or within 20 feet of any food preparation, food processing, or utensil washing area. Sinks used for food preparation or for washing equipment or utensils shall not be used for hand washing. Handwashing facilities shall also be located in or immediately adjacent to toilet rooms.

22.2. Each handwashing facility shall be provided with hot and cold water tempered by means of a mixing valve or combination faucet. Any self-closing, slow-closing, or metering faucet shall be designed to provide a flow of water for at least 15 seconds without the need to reactivate the faucet. Steam mixing valves are prohibited at handwashing facilities.

22.3. A supply of hand-cleansing soap or detergent shall be available at each handwashing facility. A supply of sanitary towels or a hand-drying device providing heated air shall be located adjacent to each handwashing

facility. Common towels are prohibited. If disposable towels are used, easily cleanable waste receptacles shall be located near the handwashing facilities.

22.4. Handwashing facilities, soap dispensers, hand-drying devices and all other related fixtures shall be kept clean and in good repair.

Section 23. Garbage and Refuse

23.1. Garbage and refuse shall be held in durable, easily cleanable, insect-resistant, and rodent-proof containers that do not leak and do not absorb liquids. Plastic bags and wet-strength paper bags may be used to line these containers, and they may be used for storage inside the retail food store.

23.2. Containers used in food preparation, food processing, and utensil washing areas shall be kept covered during non-working hours and after they are filled.

23.3. Containers stored outside the establishment, including dumpsters, compactors, and compactor systems, shall be easily cleanable, shall be provided with tight fitting lids, doors, or covers, and shall be kept covered when not in actual use. In containers designed with drains, drain plugs shall be in place at all times, except during cleaning.

23.4. There shall be a sufficient number of containers to hold all the garbage and refuse that accumulates.

23.5. Soiled containers shall be cleaned at a frequency to prevent insect and rodent attraction. Each container shall be thoroughly cleaned on the inside and outside in a way that does not contaminate food, equipment, utensils, or food preparation/processing areas. Suitable facilities,

including hot water and detergent or steam, shall be provided and used for cleaning containers. Liquid waste from compacting or cleaning operations shall be disposed of as sewage.

23.6. Garbage and refuse on the premises shall be stored in a manner to make them inaccessible to insects and rodents. Outside storage of unprotected plastic bags, wet strength paper bags, or baled units which contain garbage or refuse is prohibited. Cardboard or other packaging material not containing garbage or food wastes need not be stored in covered containers.

23.7. Garbage or refuse storage rooms shall be constructed of easily cleanable, non-absorbent, washable materials, shall be kept clean, shall be insect and rodent resistant, and shall be large enough to store all the garbage and refuse containers that accumulate.

23.8. Outside storage areas or enclosures shall be kept clean and shall be large enough to store the garbage and refuse containers that accumulate. Garbage and refuse containers, dumpsters, and compactor systems located outside shall be stored on metal racks or on a smooth surface of non-absorbent material such as concrete or machine-laid asphalt, that is kept clean and maintained in good repair.

23.9. Garbage and refuse shall be disposed of often enough to prevent the development of odor and the attraction of insects or rodents.

23.10. Where garbage or refuse is burned on the premises, it shall be done by incineration that is approved by the director, the department of natural resources, and the West Virginia air pollution control commission. Areas around incineration facilities shall be clean and orderly.

Section 24. Insect and Rodent Control

24.1. Effective measures shall be utilized to minimize the entry and presence of rodents, flies, cockroaches, or other insects. The premises shall be maintained in a condition that prevents the harborage or feeding of insects or rodents.

24.2. Openings to the outside shall be effectively protected against the entry of rodents. Outside openings shall be protected against the entry of insects by tight fitting self-closing doors; closed windows; screening; or other means acceptable to the director. Screen doors shall be self-closing, and screens for windows, doors, skylights, transoms, intake and exhaust air ducts, and other openings to the outside shall be tight fitting and free of breaks. Screening material shall be not less than 16 mesh to the inch.

Section 25. Construction and Maintenance of Physical Facilities

25.1. Floors and floor coverings of all food preparation, food storage, and warewashing areas, and the floors of all walk-in refrigerators, dressing rooms, locker rooms, toilet rooms and vestibules, shall be constructed of smooth durable material such as sealed concrete, terrazzo, quarry tile, ceramic tile, durable grades of vinyl asbestos or plastic tile, or tight fitting wood impregnated with plastic, and shall be maintained in good repair. Nothing in this section shall prohibit the use of anti-slip floor covering in areas where necessary for safety reasons.

25.2. Floors which are water flushed or receive discharges of water or other fluid wastes or are in areas where pressure spray methods for cleaning are used, shall be provided with trapped drains, properly installed. Such floors shall be constructed only of sealed concrete, terrazzo, quarry tile, ceramic tile or similar materials and shall be graded to drain. The floor

and wall junctures shall be coved and sealed.

25.3. Floor carpeting, if used as a floor covering, shall be of a closely woven construction, properly installed, easily cleanable, and maintained in good repair. Carpeting shall not be used in food preparation, food processing, and utensil washing areas, in food storage areas, or in toilet room areas where urinals or toilet fixtures are located.

25.4. Sawdust, wood shavings, granular salt, baked clay, diatomaceous earth, or similar materials shall not be used as a floor covering; however, sawdust, granular salt, baked clay, or diatomaceous earth may be used in amounts necessary for immediate spot clean-up of spills or drippage on floors.

25.5. Mats and duckboards shall be on non-absorbent, grease resistant materials, and of such size, design, and construction to facilitate cleaning and shall be maintained in good repair.

25.6. Exposed utility service lines and pipes shall be installed in a way that does not obstruct or prevent cleaning of the floor. In all new or extensively remodeled establishments, installation of exposed horizontal utility service lines and pipes on the floor is prohibited.

25.7. All floors shall be kept clean and in good repair.

25.8. Walls and ceilings, including doors, windows, skylights, and similar closures, shall be kept clean and in good repair.

25.9. The walls, wall coverings, and ceilings of walk-in refrigeration units, food preparation areas, food processing areas, utensil washing areas, and toilet rooms and their vestibules shall be smooth, non-absorbent, and easily cleanable. Concrete or pumice blocks and bricks used for interior

wall construction in these locations shall be finished and sealed to provide a smooth easily cleanable surface.

25.10. Studs, joists, and rafters shall not be exposed in those areas listed in 25.9 of this regulation. If exposed in other rooms or areas, they shall be finished to provide an easily cleanable surface.

25.11. Utility service lines and pipes shall not be unnecessarily exposed on walls and ceilings in those areas listed in 25.9 of this regulation. Exposed utility service lines and pipes shall be installed in a way that does not obstruct or prevent cleaning of the walls and ceilings.

25.12. Light fixtures, vent covers, wall mounted fans, decorative materials, and similar equipment attached to walls and ceilings shall be easily cleanable and shall be kept clean and in good repair.

25.13. Permanently fixed artificial light sources shall be installed to provide at least 20 foot candles of light on all food preparation surfaces and at utensil washing work levels.

25.14. Permanently fixed artificial light sources shall be installed to provide, at a distance of 30 inches from the floor:

25.14.1. At least 20 foot candles of light in sales areas, utensil and equipment storage areas, and in handwashing and toilet areas and,

25.14.2. At least 10 foot candles of light in walk-in refrigeration units, dry food storage areas, and in all other areas.

25.15. Shielding to protect against broken glass falling onto unpackaged food shall be provided for all artificial lighting fixtures located over or within food storage, food preparation, food display facilities, and facilities where utensils and equipment are cleaned and

stored.

25.16. Infrared or other heat lamps shall be protected against breakage by a shield surrounding and extending beyond the bulb, leaving only the face of the bulb exposed.

25.17. All rooms shall have sufficient ventilation to keep them free of excessive heat, steam, condensation, vapors, obnoxious odors, smoke and fumes. Ventilation systems, when vented to the outside, shall not create a nuisance or public health hazard.

25.18. Intake and exhaust air ducts shall be located and maintained to prevent the entrance of dust, dirt, and other contaminating materials.

25.19. In all new or in extensively remodeled retail food stores, all rooms from which obnoxious odors, vapors, or fumes originate shall be mechanically vented to the outside.

25.20. Adequate facilities shall be provided for the orderly storage of employees' clothing and personal belongings.

25.21. Where employees routinely change clothes within the establishment, one or more dressing rooms or designated areas shall be provided for this purpose.

25.22. Such designated areas shall be located outside of the food preparation, storage and processing areas, and equipment washing and storage areas.

Section 26. Interior Maintenance and Cleaning

26.1. At least one (1) service sink or curbed cleaning facility with a floor drain shall be provided and used for the cleaning of mops, or similar wet floor cleaning tools and for the disposal of mop water or similar liquid

wastes. Handwashing or utensil washing facilities, or food preparation sinks shall not be used for this purpose.

26.2. Maintenance and cleaning tools such as brooms, mops, vacuum cleaners, and similar equipment shall be maintained in good repair and stored in a way that does not contaminate food, utensils, equipment, or linens and shall be stored in an orderly manner to facilitate the cleaning of that storage location.

26.3. All parts of the establishment shall be kept clean and free of litter and rubbish.

26.4. Cleaning operations shall be conducted in such a manner so as to minimize contamination of food and food contact surface, such as after closing.

26.5. None of the operations connected with a retail food establishment shall be conducted in any room used as living or sleeping quarters.

26.6. Soiled linens, coats and aprons shall be kept in laundry bags or other suitable containers until removed for laundering.

26.7. Live animals shall be excluded from within the retail food store operational premises and from adjacent areas under the control of the operator. This exclusion does not apply to edible fish, crustacea, or shellfish. Guide dogs accompanying blind or deaf persons, and patrol dogs accompanying police officers may be permitted in retail food stores. Live or dead fish bait shall be stored separately from food or food products.

26.8. If provided, laundry facilities in a retail food store shall be restricted to the washing and drying of linens and work cloths used in the operation. If such items are laundered on the premises, an electric or gas

dryer shall be provided and used. Separate rooms shall be provided for laundry facilities except that such operations may be conducted in storage rooms containing only packaged foods or packaged single-service articles.

Section 27. Exterior Maintenance and Cleaning

27.1. Retail food stores and all parts of the property used in connection with operations of the establishment shall be reasonably free of litter and articles not essential to the operation and maintenance of the establishment.

27.2. The walking and driving surfaces of all exterior areas of retail food stores shall be surfaced with concrete, asphalt, or with gravel or similar material effectively treated to facilitate maintenance and minimize dust. These surfaces shall be graded to facilitate drainage.

27.3. Sentry dogs may be permitted to run loose in outside fenced areas for security reasons.

Section 28. Administrative Due Process - Those persons adversely affected by the enforcement of these legislative rules desiring a contested case hearing to determine any rights, duties, interests or privileges shall do so in a manner prescribed in the West Virginia Procedural Rules, Board of Health, Chapter 16-1, Series I, 1981, Rules of Procedure for Contested Case Hearings and Declaratory Rulings. The aforementioned procedural rules are incorporated herein by reference.

Section 29. Severability - If any provisions of these rules or the application thereof to any person or circumstance shall be held invalid, such invalidity shall not affect the provisions or application of these rules which can be given effect without the invalid provisions or application, and

to this end the provisions of these rules are declared to be severable.

Section 30. Penalties - Any person violating any of the provisions of these rules or orders issued pursuant thereto, shall be punishable by a fine of not more than two hundred dollars or by imprisonment for not more than thirty days, or both. Each day's failure to comply with any applicable provision of these regulations shall constitute a separate offense.

WEST VIRGINIA BOARD OF HEALTH
REGULATION ABSTRACT

TITLE: Retail Food Market Regulations

TYPE: Legislative Rule

NUMBER: 16-1, Series XX, 1983

AUTHORITY: 16-1-7(1)

ABSTRACT: This is a proposed amended rule establishing the minimum sanitation requirements for the construction and operation of retail food stores. This rule supersedes and repeals the "Grocery Store and Meat Market Regulations" adopted in 1951. Since this is a major revision, strike throughs and underlining have been omitted. The circumstances requiring this major revision are:

1. The old rules are over 30 years old and out of date.
2. The existing regulations contains requirements which are contrary to current public health and food safety practices.

CONTACT PERSON: Rich O. Hartman, Staff Assistant, Regulatory Services Division
348-2411.

RESPONSIBLE DIVISION: General Environmental Health, Office of Environmental
Health Services, Ron Forren, Program Chief 348-2967.

PUBLIC HEARING ATTENDANCE RECORD

In re Public Hearing on proposed legislative rule Retail Food
Store Sanitation, Chapter 16-1, Series XX, (1983). Charleston, W.Va.
Capitol Conference Center, Room E; Monday Sept. 27, 1982, 1:00pm
Hearing Moderator- Richard O. Hartman ,State Health Dept.

P L E A S E P R I N T

Name JESS SPILLER

✓ Address P. O. BOX 2191 CITY 25304

Representing KROGER

Do you wish to make a comment? yes X no _____

Name ALLAN C. ROBINSON, Jr.

P. O. BOX 1078
Address SALEM, VA. 24153

Representing KROGER Co.

Do you wish to make a comment? yes _____ no ✓

Name JIM McINTIRE

Address 1014 VINE ST. Cannadota, Ohio 45901

Representing The Kroger Co.

Do you wish to make a comment? yes _____ no X

P L E A S E P R I N T

P L E A S E P R I N T

Name Paul W. McKown - West Va. Retailers Assn.

Address 240 Capitol St. Chas. Wv. 25301

Representing West Va. Retailers Association

Do you wish to make a comment? yes _____ no

Name GARY L. HAMILTON

Address 211 6TH STREET, PARKERSBURG WV

Representing Mid Ohio Valley Health Dept.

Do you wish to make a comment? yes no _____

Name DOUGLAS G. POWERS

Address 211 6TH ST.

Representing MID OHIO VALLEY H. D.

Do you wish to make a comment? yes _____ no

Name JAMES SAULTERS

Address Box 386 Milton Wv. 25541

Representing DAVIS DIVISION OF FOX INDUSTRIES.

Do you wish to make a comment? yes no _____

P L E A S E P R I N T

P L E A S E P R I N T

Name James Randall

Address Kanawha - Charleston Health Dept.

Representing Charleston, W. Va.

Do you wish to make a comment? yes _____ no _____

Name William Hamady

Address 1408 Bigley ave, Charleston, W. Va.

Representing W. Va. assoc. of Retail Groc.

Do you wish to make a comment? yes _____ no

Name _____

Address _____

Representing _____

Do you wish to make a comment? yes _____ no _____

Name _____

Address _____

Representing _____

Do you wish to make a comment? yes _____ no _____

P L E A S E P R I N T

Summary of Comments Received at
Public Hearing(s) in re

Title, Type and Number: Retail Food Store Sanitation, Legislative
Rule, Chapter 16-1, Series XX (1983)

Date(s) and Location(s): Monday, September 27, 1982, 1:00 p.m.,

Room E, Capitol Conference Center, Charleston, West Virginia

1. Comment: Section 4.6. - The definition of "Distressed Merchandise" needs to be defined more precisely.
Response: Agreed
Proposed: Refer to 4.6.
2. Comment: Section 5.1. - Should contain a specific deadline for approval or rejection of plans by the department. Suggest 30 to 45 days.
Response: Agreed
Proposed: Refer to 5.1.
3. Comment: Section 5.1. - "Extensive" needs better defined.
Response: Disagree, it is difficult to define and as such will be left to the local sanitarian with the help of the owner or operator.
Proposed: No change at this time.
4. Comment: Section 5.2.6. - A time factor should be included, such as "substantial and imminent."
Response: Agreed
Proposed: Refer to 5.2.6.
5. Comment: Section 5.2.7. - Change "repeated or serious violations" to repeated and serious violations."
Response: Disagree; repeated violations should not be allowed as a matter of policy nor should only one serious violation tolerated. If amended as requested, we would only be allowed to act following several serious violations.
Proposed: No change.

6. Comment: Section 5.2.7. - Change to "knowing or willful interference."
Response: Disagree. 16-1-17 of the Code does not differentiate between such conditions of interference. We can not add such conditions in regulations which are not included in the penalty provided by the Code.
Proposed: No change.
7. Comment: Section 5.3.3.(B), (C) and (D) - Time limits should be consistant and no less than 48 hours.
Response: Disagree; the wide variety of violations makes it difficult to apply a set minimum of time. Some can and should be done immediately. Such conditions are judgment calls based upon cooperation between the sanitarian and the owner.
Proposed: No change.
8. Comment: Section 5.3.3.(E) - These should be an opportunity to correct prior to revocation.
Response: Disagree; it will take a considerable amount of violations to reach a score of less than 69. Similar to restaurants; such a score presents serious threats to public health. A hearing is afforded after revocation.
Proposed: No change.
9. Comment: Section 5.3.4. - Danger should be "imminent" not "potential."
Response: Agreed
Proposed: Refer to 5.3.4.
10. Comment: Section 5.3.5. - Change to "10" days.
Response: Agreed
Proposed: Refer to 5.3.5.
11. Comment: Section 6.3. - Spell out location of posted reports.
Response: Agreed
Proposed: Refer to 6.3.
12. Comment: Section 7.1. - Delete "approved sources".
Response: Agreed
Proposed: Refer to 7.1.
13. Comment: Section 7.4. - Delete
Response: Agreed
Proposed: Refer to 7.4.
14. Comment: Section 8.3. - Add "pesticides".
Response: Agreed
Proposed: Refer to 8.3.
15. Comment: Section 8.5. - Too vague about length of power outage.
Response: Agreed

- Proposed: Refer to 8.5.
16. Comment: Section 12.1 - Two compartment sinks too expensive and unnecessary.
Response: Agreed
Proposed: Refer to 8.5.
17. Comment: Section 13.5. Change to "55°".
Response: Agreed
Proposed: Refer to 13.5.
18. Comment: Section 4.6. - Need beeter definition.
Response: Disagre, same as FDA definition.
Proposed: No change.
- 19 Comment: Section 4.11. - "drain or drip" should be removed.
Response: Disagree, same as in Food Service Rules.
Proposed: No change
20. Comment: Section 8.4. - More specific about placement of poisonous and toxic materials.
Response: Disagree, it is the operators responsibility to see there will be no contamination. Location will be his decision a long as it meets this standard.
Proposed: No change
21. Comment: Section 8.6. - Metal stemmed thermoneters should not be required if there are no potentially hazardous foods.
Response: Agreed, the rule states this fact.
Proposed: No change
22. Comment: Section 9.2. and 10.3. - Add "accurate to $\pm 2^{\circ}\text{F}$ ".
Response: Agreed
Proposed: Refer to 9.2. and 10.3.
23. Comment: Section 15.2. - Add "hair restraints".
Response: Agreed
Proposed: Refer to 15.5.
24. Comment: Section 16.5. - Specify kind of metal and durability.
Response: Disagree, such specificity is unnecessary as quality is a decision of the owner.
Proposed: No change
25. Comment: Section 16.7. - Define portable by weight.
Response: Disagree, impossible to determine weight of all equipment available and how much weight is portable for all persons.
Proposed: No change

26. Comment: Section 5.3.5. - Define "hold order".
Response: Disagree, it is defined in 5.3.5.
Proposed: No change
27. Comment: Section 23 - Add more detail concerning cleaning dumpsters, compactors, water, drains, etc.
Response: Disagree, unnecessary detail
Proposed: No change
28. Comment: Section 26.7. - Specify distance of at least 100 feet from adjacent areas under the control of the operator.
Response: Disagree, too stringent.
Proposed: No change
29. Comment: Section 9.4. - Needs a specific temperature.
Response: Agreed
Proposed: Refer to 9.4.
30. Comment: Section 16.4. - Prohibit wood blocks in the future.
Response: Disagree, as long as they are cleanable and in good repair.
Proposed: No change

PUBLIC HEARING ATTENDANCE RECORD

In re Public Hearing on Retail Food Store Sanitation Rules

Legislative Rule, Chapter 16-1 Series XX, 1983; 1:00 p.m. Monday

Nov. 15, 1982, Capitol Conf. Center, Rm. D 1900 Wash. St. E. Chas. W.Va.

Hearing Moderator- Richard O. Hartman, Staff Assistant, Reg Serv. Div.

P L E A S E P R I N T

Name KAREN J. WALL

Address 13316 HAL GREER BLVD, HUNTINGTON, WV 2570

Representing CABELL HUNTINGTON HEALTH DEPT.

Do you wish to make a comment? yes _____ no

Name Eileen Asbury

Address 1202 NORFOLK AVE WAYNE, WV. 25670

Representing ASBURY'S SUPER MKT

Do you wish to make a comment? yes ? no _____

Name JOHN WILLEY

Address 502 IOWA STREET CHAS. W.VA 25302

Representing JOHNNIES MIDGET MKT

Do you wish to make a comment? yes _____ no

P L E A S E P R I N T

P L E A S E P R I N T

Name CLUSTER F. WAUGH

Address 816 BEECH AVE CHAS. 25302

Representing MAPLE GROCERY

Do you wish to make a comment? yes _____ no X

Name ROBERT W. TAYLOR

Address 1340 FRANK ST CHAS WVA 25302

Representing TAYLORS CASH MKT

Do you wish to make a comment? yes _____ no NO

Name DENZIL P. TRIMMIX SR.

Address 3306 CAMDEN AVE PARKERSBURG WVA 26101

Representing CAMDEN CASH MKT

Do you wish to make a comment? yes _____ no ✓

Name ROBERT MC CABE

Address 29 ST DUNSMITH WEST VA 25701

Representing BIG BEAR STORES

Do you wish to make a comment? yes _____ no ✓

P L E A S E P R I N T

P L E A S E P R I N T

Name LARRY HOWARD

Address 2825 5TH AVE HUNTINGTON W.VA 25701

Representing BIG BEAR STORES Co.

Do you wish to make a comment? yes _____ no

Name ALLAN C. ROBINSON, JR.

Address P.O. Box 1078 SALEM, VA. 24153

Representing KROGER Co.

Do you wish to make a comment? yes _____ no

Name JESS SPILLER

Address 6313 MCCORKLE P.O. Box 2191
25328

Representing KROGER

Do you wish to make a comment? yes no _____

Name Toul W. McKown

Address Charleston WV

Representing WV Petaloes Association

Do you wish to make a comment? yes _____ no

P L E A S E P R I N T

PLEASE PRINT

Name

Paul Burgess

Address

MOV HD - PARK 528 Bu Pl

Representing _____

Do you wish to make a comment? yes _____

no

X

Name

EDINARA R. WELLS

Address

1400 Commerce Line Hampton, Texas 25701

Representing

W. Va Retail Grocers Assn

Do you wish to make a comment? yes _____

no

✓

Name _____

Address _____

Representing _____

Do you wish to make a comment? yes _____

no _____

Name _____

Address _____

Representing _____

Do you wish to make a comment? yes _____

no _____

PLEASE PRINT

Summary of Comments Received at
Public Hearing(s) in re

Title, Type and Number: Retail Food Store Sanitation Rule, Legislative

Rule, Chapter 16-1, Series XX (1983)

Date(s) and Location(s): Monday, November 15, 1982, 1:00 p.m., Charleston,

West Virginia, Capitol Conference Center, Room D.

1. Comment: Exempt general stores and community food stores.

Response: Disagree - That would exempt virtually all retail food stores.

Proposed: No change.

2. Comment: Section 5.3.3.E: Reduce score from 69 to 60.

Response: Disagree - The scoring system devised for retail food stores is comparable to that for food service establishments. The scoring system provided in the proposed regulation offers a greater degree of public health protection to the citizenry of the state than what is recommended in the FDA model code. The model code is a minimum standard only.

Proposed: No change.

3. Comment: Section 12 - Allow for use of "wet tables".

Response: Agree

Proposed: Refer to Section 12.

4. Comment: Section 30 Change the penalty Section.

Response: Disagree, not within our authority

Proposed: No change.

STATEMENT OF ECONOMIC IMPACT OF PROPOSED RULES OR REGULATIONS

Agency Health

Rule No. 16-1, Series XX

Subject Retail Food Store Sanitation

1. Explanation of Overall Economic Impact of Proposed Rule.

A. Economic Impact on State Government.

This proposed regulation would not have any economic impact on state government.

B. Economic Impact on Political Subdivisions; Specific Industries;

Specific groups of citizens. The proposed regulation would not cause any significant financial burden to the retail food industry of which the vast majority of stores are operating in satisfactory compliance with present regulations. To the contrary, by identifying the critical control points in a retail food store operation, these regulations would aid the industry in directing their limited resources to those areas which have been shown to be most cost beneficial in controlling foodborne diseases and consumer complaints. The regulations parallel The Food and Drug Adminis-

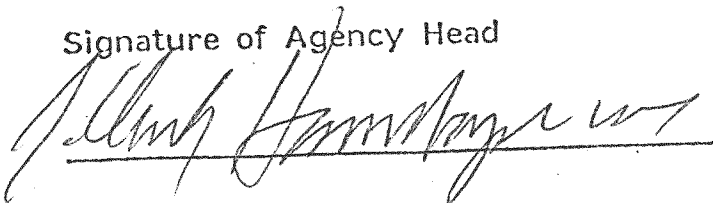
C. Economic Impact on Citizens/Public at Large.

This proposal would have a beneficial social impact by increasing consumer protection. The proposal updates and expands current sanitary regulations in order to (1) prevent food related morbidity; (2) avoid cost-associated adversities resulting from foodborne illness; and (3) create and maintain an environment in which foods are processed, stored, and/or prepared that promotes mental health as well as physical health, by providing safe foods and beverages which meet society's accepted aesthetic values.

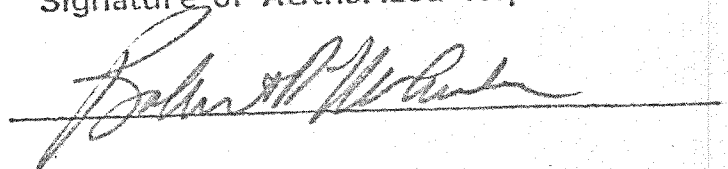
Date 8-20-82

Agency Health

Signature of Agency Head



Signature of Authorized Representative



STATEMENT OF ECONOMIC IMPACT OF PROPOSED RULES OR REGULATIONS (CONTINUED)

Subject Retail Food Store Sanitation

1. B (continued)

tration's Retail Food Code. Adoption of the proposal will promote uniformity in enforcement and standardize regulations applicable to nationwide retail food chains. Impact of the local health department would be negotiable since the majority of the departments presently have a retail market surveillance program.