

TITLE 27 – COMMERCE CODE

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TITLE 27 – CHAPTER 01 – BUSINESS LICENSES

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27.0101 Authority.

The rules codified in this chapter are issued pursuant to the authority granted the territorial planning commission under Chapter 27.02 A.S.C.A.

History: Rule 3-77, eff 14 Sep 77, § 1.

27.0102 Applicability-Commission review required when.

- (a) Any applicant who wishes to operate a business in the territory who is not an American Samoan as defined by the A.S.C.A., shall appear before the territorial planning commission, following referral to the commission by the Governor, for review of and subsequent recommendation on the business license application.
- (b) A partnership in which any interest is owned by a non-American Samoan must appear before the commission for review of a subsequent recommendation on the business license application.
- (c) A corporation with majority capital stock held by non-American Samoans must appear before the commission for review of and subsequent recommendation on the business license application.

History: Rule 3-77, eff 14 Sep 77, § 2.

27.0103 Appearance before commission-Appeal.

- (a) Upon submission of a business license application, and upon referral by the Governor to the executive secretary of the territorial planning commission, the applicant’s name will be placed on the agenda of the next meeting of the commission. The applicant will be informed by the secretary regarding the time and place of the meeting and will be asked to appear before the commission to present his business proposal.
- (b) The recommendation of the commission, following the presentation of the applicant, will be forwarded in writing to the Governor with a copy to the applicant.
- (c) Should the commission deny the issuance of a license, the applicant has the right to appeal the decision to the governor of American Samoa. Since under present law the Governor cannot reverse a denial for license from the commission, the commission will, upon referral from the Governor, consider such appeals where there are special circumstances or conditions not previously considered or presented to the commission.
- (d) The Governor, under authority of the licensing laws may reverse a positive recommendation of the commission and withhold license approval.

History: 3-77, eff 14 Sep 77, § 3.

27.0104 Recommendation basis-Objectives.

- (a) A foremost factor among the priorities which influence recommendations of the commission is the economic contribution, or benefit to the economy of American Samoa, proposed by a new business. Economic contribution means the direct and indirect benefits received by the community through establishment of the proposed business. Such benefits include employment opportunities to American Samoan residents, potential ASG tax revenues, payroll, capital investments, etc.
- (b) The objectives for license review by the commission are not only to promote and establish a more viable private sector economy through establishment of new industrial and commercial activity, but as well to provide an atmosphere in which American Samoan entrepreneurs may enter into business activity in

keeping with their increasing capacity to invest in and manage such activities.

- (c) The commission recognizes that competition is necessary in a free enterprise system and it will be constantly alert that licensing restrictions not create an overly protective altitude which enables establishment of monopolies, regardless of ownership. The welfare of the American Samoan people will not be sacrificed in pursuing the application of the Economic Development Act and the licensing law.

History: Rule 3-77, eff 14 Sep 71, § 4.

27.0105 Information required-Deposit.

- (a) New businesses that are majority-owned by non-American Samoans must submit certified financial statements for each non-American Samoan principal.
- (b) Industries seeking establishment in the territory, must transmit a formal business proposal to the commission.
- (c) A license application form must be filled out by each applicant.
- (d) It is to the advantage of the applicant to submit any relevant documents which would solidify his proposal.
- (c) The commission may at times request a sum of money to be placed in escrow to offset unanticipated payroll deficit and/or other liability.
- (f) The commission shall have the authority to demand additional information if original data submitted is not satisfactory.

History: Rule 3-77, eff 14 Sep 7, § 5.

27.0106 Confidentiality.

The commission recognizes that in assessing the merits of business proposals and license applications, it is necessary for applicants to submit information which is of a confidential nature and which may conceivably benefit competitors of the proposed business. The commission thus recognizes the confidentiality of such submittals and will restrict review of same to members of the commission and such officials of government as are necessary.

History: Rule 3-77, eff 14 Sep 77, § 6.

27.0107 Classification of business-Separate license.

A license must be obtained for each separate business activity as defined in the classification set out in this section. No single classification includes any other unless specifically referenced.

- (a) Retail outlets: covers retailing only of any merchandise not covered in any of the following classifications;
- (b) Wholesale outlet: covers wholesaling only of any merchandise not covered in any of the following classifications;
- (c) Professional services: includes doctors, lawyers, architects, engineers, surveyors, beauticians, accountants, and all other activity which provides a service in which the practitioner is licensed, controlled, or qualified by passing examinations or by formal acceptance of qualifications by a regulatory agency;
- (d) Service organization: includes, with the exception of those in subsection (c) of this section, all other businesses where a fee is paid for service rendered. Transportation is also covered under this caption;
- (e) Hotels and restaurants;
- (f) Bars, nightclubs, discotheques, taverns, cocktail lounges;
- (g) Package liquor sales: includes all outlets, not otherwise licensed to sell alcoholic beverages, who sell packaged alcoholic beverages across the counter;
- (h) Automotive sales and services: includes sale of new and used motor vehicles and the provision of repair and maintenance services;
- (i) Manufacturing/processing: includes all activities which involve the fabrication, assembly, finishing, processing, or preprocessing of organic or inorganic substances into any product which is intended for wholesale or retail distribution within or outside of the territory of American Samoa. Each such license must specify the product (s);
- (j) Printing and publication: includes any performance of the titled activities which is for monetary compensation.

History: Rule 3-77, eff 14 Sep 77, § 7.

[End Of Title 27 – Chapter 1]

TITLE 27 – CHAPTER 02 – INDUSTRIAL PARK COMMISSION

Sections:

- 27.0201 Authority.
- 27.0202 Applicability-Scope.
- 27.0203 Accounting.
- 27.0204 Legal affairs-AG opinion requests.
- 27.0205 Membership-Chairman-Vacancies.
- 27.0206 Development bank responsibilities-Chairman duties-Call for meeting.
- 27.0207 Appeal hearings-Meetings procedure-Quorum.
- 27.0208 Lease standards.
- 27.0209 Tenant-selection guidelines.
- 27.0210 Purpose-Space distribution-Interagency cooperation.

27.0201 Authority.

The rule codified in this chapter is issued pursuant to the authority granted the industrial park commission under 4.1002 A.S.CA.

History: Rule 4-77, eff 14 Sep 77, § 1.

27.0202 Applicability-Scope.

The rules in this chapter shall govern all internal procedures of the industrial park commission (hereinafter called the “commission”) established by General Memorandum 15-75, regarding the direction and management of the American Samoa Industrial Park (hereinafter called the “park”) located at Tafuna, Tutuila, American Samoa, and shall establish guidelines for all dealings with tenant, the public, and other branches of government.

History: Rule 4-77, eff 14 Sep 77, § 2.

27.0203 Accounting.

The financial affairs of the park and the commission shall, be established and maintained in an Enterprise Fund within the ASG financial management system (hereinafter called the “fund”) regarding all revenues and disbursements. The treasurer shall maintain the accounts as Fund 435 and shall maintain proper records of expenditures charged to MACC 740357. He shall also render advice and assistance regarding matters pertaining to the fund.

History: Rule 4-77, eff 14 Sep 77, § 3.

27.0204 Legal affairs-AG opinion requests.

The attorney general of American Samoa shall render legal advice and assistance to the commission. When a formal opinion on any matter is sought, a written request should normally be submitted by the

chairman at least 2 weeks before the opinion is required.

History: Rule 4-77, eff 14 Sep 77, § 4.

27.0205 Membership-Chairman-Vacancies.

- (a) Members of the commission shall be the directors, respectively, of the office of development planning, office of material management, department of public works, department of agriculture and office of industrial development, the treasurer, attorney general, president of the development bank of American Samoa, and 2 members of the Legislature. The president of the Senate and speaker of the House of Representatives shall each select 1 member of the Legislature.
- (b) The chairman shall be elected from and by the members every 2 years, on the odd year, at the July meeting or the meeting next following the month of July. The chairman shall vote only in the case of ties.
- (c) Vacancies shall be filled for the remainder of term.

History: Rule 4-77, eff 14 Sep 77, § 5.

27.0206 Development bank responsibilities-Chairman duties-Call for meeting.

- (a) The general administration of the business of the commission shall be as spelled out in this section.
- (b) The development bank shall have responsibility for administration of the affairs of the park and the fund, between meetings.

This interim management shall continue until there is sufficient economic base to enable the hiring of a full-time manager of the park. The development bank shall execute policy decisions of the commission between meetings, and as guided in subsection (c) of this section.

- (c) The development bank shall, without limitation, collect rents, send tenants’ notices, preserve property, handle correspondence of all matters needing immediate attention, and such usual matters between meetings that require business judgment ordinarily reposed in a project manager. Copies of all written materials and memoranda of all significant discussions shall be filed as soon as possible with the chairman.

- (d) Nonbinding negotiations of business matters may be handled by the development bank between meetings of the commission.

However, all contracts, binding business decisions, and matters of policy shall be decided, either in advance or by ratification, by the commission.

- (e) The chairman shall schedule meetings, send meeting notices, keep records and minutes of meetings, record all policy decisions and results of hearings, and render consultation do the development bank, as needed. A majority of the commission may always call a meeting or hearing, with 10 days, advance written notice to members and parties concerned.

History: Rule 4-77, eff 14 Sep 77, § 6.

27.0207 Appeal hearings-Meeting procedure-Quorum.

- (a) Any person believing he is aggrieved by any action or inaction of the commission, or representative thereof, may request a hearing and review by the full commission. All actions and decisions of the commission or its representatives shall be deemed final and binding within 10 days of written notice thereof unless such a hearing is requested. Hearings shall be as scheduled by the chairman. Meetings shall be at least quarterly, held on the 2nd Tuesday of the 1st month of each quarter and additionally as called by the chairman.
- (b) Hearings may be formal or informal. All requests for a hearing will be treated as informal unless the request is specific to request a formal hearing. An informal hearing shall take place, first, before any member of the commission designated by the chairman, who shall obtain the facts and issues in dispute, and report to the full commission. The person in an informal proceeding need not be heard by the full commission unless recommended by the investigating member.
- (c) Formal hearings shall not be held with the formality of court proceedings. If any person desires recording or transcription of the proceedings, it shall be their obligation and expense to provide the same. Where a recording or transcript is made, it must be transcribed and a free copy given to the commission within 30 days. If no record is made or stenographic notes taken, the minutes ordered and kept by the

chairman or his designee are conclusively presumed as an accurate record of all that took place. If a transcript is not provided within 30 days, the commission may determine the matter against the person requesting the recording or stenographic record.

- (d) The chairman shall determine, subject to the majority vote of the commission if any member disagrees, the procedures of all hearings and meetings, as closely as possible to the efficient practice of a private business corporation. The chairman shall allow all persons reasonable, but not excessive, time to present their views, question the factual support for decisions, and present their factual data. The chairman shall determine what records of the commission are public and what records relate to confidential and sensitive business matters that are not public records.
- (e) Five members of the commission constitute a quorum. A majority of those present with a quorum determine a favorable vote.

History: Rule 4-77, eff 14 Sep 77, § 7.

27.0208 Lease standards.

The commission shall adopt and amend, from time to time, standards for leases, and such standards shall be available at the office of the chairman for inspection by the public.

History: Rule 4.77, eff 14 Sep 77, § 8.

27.0209 Tenant-selection guidelines.

The commission shall adopt and amend, from time to time, guidelines for selection of tenants, and such guidelines shall be available at the office of the chairman for inspection by the public.

History: Rule 4-77, eff 14 Sep 77, § 9.

27.0210 Purpose-Space distribution-Interagency cooperation.

- (a) All decisions shall be made with a view toward the purpose for which the park was developed, which is to provide a fully serviced area in the territory of American Samoa in which prospective manufacturing and related service establishments. Park space will be provided primarily to international firms which are committed to the establishment of manufacturing facilities in American Samoa,
- (b) Without setting rigid and inflexible standards, the commission shall seek to devote normally

accepted distribution in industrial parks to manufacturing and related service establishments.

- (c) The commission desires to cooperate fully with the office of industrial development and the economic development commission to make a reality of the above goals for American Samoa. Particularly, the commission shall further consider the standards of 27.0207 (b) A.S.C.A., and rules thereunder, and the Environmental Quality Act, 24.0101 A.S.C.A., et seq.

History: Rule 4-77, eff 14 Sep 77, § 10.

[End Of Title 27 – Chapter 2]

TITLE 27 – CHAPTER 03 – COMMUNITY DEVELOPMENT BLOCK GRANTS

Sections:

- 27.0301 Administration.
- 27.0302 DPO director duties-Program monitoring, compliance enforcement.
- 27.0303 Rulemaking-DPO director authority.
- 27.0304 Payment-request approval required.
- 27.0305 Environmental review certifications.
- 27.0306 Cooperation of ASG agency and personnel.

1. *Editor's Note: The following preceded § 1 of Ex. Ord. 5-180:*

“Whereas, Title 1 of the Housing and Community Development Act of 1974 (Pub. Law 93.383,42 U.S.C.5301) as amended, establishes the Community Development Block Grant (CDBG) Program, a federal program to assist localities to plan and carry out programs for community and economic development for the principal benefit of low and moderate income persons, for the prevention of slums and blight, and for meeting other community development needs having a particular urgency; and

Whereas, the Territory of American Samoa is a participant in the CDBG Program and has received grants of funds from the United States Department of Housing and Urban Development (HUD) for the purpose of carrying out such a CDBG Program in the Territory; and

Whereas, the said Housing and Community Development Act of 1974, as amended, other applicable federal laws and numerous federal agency regulations, including but not limited to rules and regulations governing the CDBG Program, the administration of federal grants and environmental matters, create certain requirements which must be carried out by the Territory under its CDBG Program; and

Whereas, the Territory has been advised by HUD that responsibility and authority for the administration of the CDBG Program of the Territory should be vested in a single agency of the Territory; and

Whereas, HUD has recommended and the Governor has concurred that the Office of Development Planning should be the agency of the American Samoa Government vested with the responsibility and authority for administering the CDBG Program; and

Whereas, it is the policy of the Territory to continue to carry out a CDBG Program and to improve its capacity to effectively and efficiently administer the same, in accordance, with all federal laws and regulations; and

Whereas, the goals of the CDBG Program of the Territory are to improve the quality of life of the people of the Territory, to improve the service delivery systems of the Territory and of the villages, to broaden and increase the tax base of the Territory, to encourage local capital formation and to foster the development and expansion of industry and commerce

in order to achieve, the economic independence of the Territory.

Now, therefore, I, Peter Tali Coleman, Governor of American Samoa, by virtue of the authority vested in the pursuant to Sections 6 and 12 of Article IV of the Revised Constitution of American Samoa and Chapters 1 and 3 of Title 3 of the American Samoa Code, do hereby order as follows:”

27.0301 Administration.

The office of development planning is hereby designated and appointed as the agency of the ASG which shall have the duty and the authority to administer, within the territory, the community development block grant (CDBG) program as authorized by Title I of the Housing and Community Development Act of 1974 (PL 93-383), as amended, and administered by the United States Department of Housing and Urban Development (HUD).

History: Rule 14-80 (Ex. Ord. 5-1980), eff 28 Jul 80, § 1.

27.0302 DPO director duties-Program monitoring, compliance enforcement.

The responsibility for the direction of the CDBG program and for the administration of all HUD grants pursuant to Title I of the Housing and Community Development Act of 1974 (PL 93-383), as amended, is hereby vested in the director of development planning. This responsibility shall include, but shall not be limited to, the monitoring of all actions of the departments, offices, agencies, and instrumentalities of the ASG and of all actions of persons, firms, and corporations contracting with the government which relate to the CDBG program and the taking of all necessary steps to assure that there is full compliance with all applicable federal requirements in the implementation of the CDBG program.

History: Rule 14-80 (Ex. Ord. 5-1980), eff 28 Jul 80, § 2.

27.0303 Rulemaking-DPO director authority.

In order to carry out the responsibilities under this chapter, the director of development planning is authorized to propose to the Governor for his promulgation, pursuant to the provisions of the Administrative Procedure Act, Chapter 4.10 A.S.C.A., such rules as may be necessary and proper for the effective implementation and administration of this chapter and the policies thereunder established. The director shall also have authority to review and approve all contract documents and awards, progress payments to contractors, requests for draw-downs of CDBG funds from letters of credit, the determination of final costs in all CDBG project

closeouts, and to take and require such actions as the director deems necessary and appropriate to ensure that all CDBG funds are obligated, expended, and accounted for in accordance with all applicable federal laws and regulations. Pursuant to this authority, the director may require written reports and copies of records of other departments, offices, agencies, and instrumentalities of the ASG pertaining to the CDBG program or the use of CDBG funds.

History: Rule 14-80 (Ex. Ord. 5-1980), eff 28 Jul 80, § 3.

27.0304 Payment-request approval required.

No request for payment under CDBG letters of credit may be signed by any authorized signature unless it has first been delivered to the office of development planning for review and has been approved in writing by the director or his authorized designee.

History: Rule 14-80 (Ex Ord. 3-1980), eff 28 Jul 80, § 4.

27.0305 Environmental review certifications.

The director of development planning is designated as the “Responsible Federal Official” pursuant to the environmental review requirements set forth at 24 CFR Part 58, and is authorized to make the certifications required thereunder.

History: Rule 14-80 (Ex Ord. 5-1980), eff 28 Jul 80. § 5.

27.0306 Cooperation of ASG agency and personnel.

All departments, offices, agencies, and instrumentalities of the ASG, and all officers and employees thereof, shall cooperate to the fullest extent possible to assist the office of development planning and director of development planning in carrying out the responsibilities and duties hereunder.

History: Rule 14-80 (Ex. Ord. 5-1980), eff 28 Jul 80, § 6.

[End Of Title 27 – Chapter 3]

TITLE 27 – CHAPTER 04 – CUSTOMS
REGULATIONS

Under 27.1030 A.S.C.A., in situations not covered by 27.10 A.S.C.A., the provisions of the United States Code and Code of Federal Regulations relating to customs are used as a guide, insofar as practicable.

[End Of Title 27 – Chapter 4]

TITLE 27 – CHAPTER 05 – ALCOHOLIC BEVERAGE CONTROL

Sections:

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I. ALCOHOLIC BEVERAGE CONTROL BOARD

27.0501 Authority.

The rules of the Alcoholic Beverage Control Board promulgated in this chapter are pursuant to the authority granted under 27.0503 (1) (A) A.S.C.A.

History: Alc. Bev. Con. Ed. Regs. eff prior to 1975, § 1.01; and Rule 11-79, eff 13 Dec 79, § 2.

27.502 Policy.

It is the declared policy of the board in promulgating the rules set out in this chapter to implement the enforcement and administration of Chapter 27.05 A.S.C.A., and to protect not only persons consuming or purchasing alcoholic beverage but to provide for the safety, protection, and furtherance of the general welfare of the people of American Samoa with reference to the consumption, purchase, sale, and importation of beer and alcoholic beverages in American Samoa.

History: Alc. Bev. Con. Ed. Regs. eff prior to 1975, § 1.02; and Rule 11-79, eff 13 Dec 79, § 3.

27.0503 Meetings-Quorum-Majority.

The alcoholic beverage control board will meet at least once a quarter at a time and place to be designated by the chairman. Special meetings may be called at the discretion of the chairman or at the request of at least 2 members of the board. At least 4 members of the board are necessary to constitute a quorum and a majority of those present shall be sufficient to decide any issue.

History: Alc. Bev. Con. Bd. Regs. eff prior to 1975, § 1.03; and Rule 11-79, eff 13 Dec 79, § 4.

II. LICENSES

27.0505 Eligibility.

All persons, whether an individual, a partnership, joint venture or similar entity, or a corporation, who are in compliance with all applicable laws and rules of American Samoa, are eligible for an alcoholic beverage license, beer tavern license, beer vendor’s license, beer importer’s license, alcoholic beverage vendor’s license or alcohol beverage importer’s license.

History: Alc. Bev. Con. Bd. Regs: eff prior to 1975, § 2.01; and Rule 11-79, eff 13 Dec 79, § 5; and Rule 285, eff 27 Jun 85, § 1.

27.0506 Application-Public notice-Temporary license.

Application for license will be processed according to the following procedures:

- (a) The applicant shall submit an application to the chairman of the alcoholic beverage control board on such form as is prescribed by the board. The form must be completed fully.
- (b) Upon receipt by the chairman of the board of the application, the chairman shall set a date, time,

and place for a public hearing to hear any objections concerning the application. The hearing shall be a minimum of 15 days from the date of receipt of the application.

(c) Upon receipt of the date, time and place of the public hearing, the applicant shall forth-with post 10 consecutive days before the public hearing on or immediately adjacent to the main entry door to the premises to be used under the license a notice of intent to sell alcoholic beverages or beer upon the premises or to import beer or alcohol on such form as is prescribed by the board. The notice shall be in both the Samoan and English languages and shall contain at a minimum, the following information:

- (1) Name of the proposed license;
- (2) Nature of the license being applied for;
- (3) The date, time and place of the hearing to consider the application; and (4) A statement that all interested persons may submit objections or other views to the board orally or in writing at the hearing.

(d) At or before the public hearing, the applicant shall present to the board an affidavit or other evidence satisfactory to the board that he has complied with the notice requirement.

(e) At or before the public hearing, the applicant shall also provide certificates, in forms satisfactory to the board, as follows:

- (1) From the pulenu'u of the village in which the premises are located, that the village council and himself approve the application;
- (2) From the director of public health, that the premises and operation as contemplated will comply with the health and sanitation provisions of the laws of American Samoa;
- (3) From the commissioner of public safety, that the location of the premises and parking therefor will not create traffic hazards, and setting forth the applicant's criminal record, if any;
- (4) From the fire chief, that the premises comply with all safety requirements regarding fire equipment, emergency exits, and other safety measures for the public;

(5) From the building inspector, that the premises comply with the building laws of American Samoa for the type of occupancy for which it is to be used;

(6) From the director of development planning, that the use of the premises as contemplated is permitted in the zone in which the premises are located under the laws of American Samoa; and

(7) From the attorney general or chief immigration officer, that the applicant is a United States national, or an American Samoan, permanent resident, or otherwise eligible with respect to the immigration laws of American Samoa for the license.

(f) Notwithstanding the foregoing procedures, the board may, upon the written approval of at least 4 members, approve a temporary license to sell alcoholic beverages or beer upon the premises in connection with single fundraising events licensed under the laws of American Samoa.

History: Alc. Bev. Con. Bd. Regs. eff prior to 1975, § 202; and Rule 11-79, eff 13 Dec79, §6; and Rule 2-85, eff 27 Jun 85, § 2.

27.0507 Public hearing-Issuance-Conditions.

The board shall consider all objections to issuance of the license. If, after consideration of all evidence presented at the public hearing, the board finds that issuance of a license will not be detrimental to the public interest or the health, safety, and welfare of the people of American Samoa, the board may authorize a license to the applicant. Nothing herein shall limit the board's power to impose conditions upon issuance of the license in addition to those required by the fire chief, public health officer, building inspector, or commissioner of public safety if, after consideration of the matter, the board finds that such additional requirements are necessary for the protection of patrons or the general public.

History: Alc. Bev. Con. Bd. Regs. eff prior to 1975, § 2.03.

27.0508 Grounds for refusal.

The board may refuse any applicant if it has reasonable grounds to believe:

- (1) that the granting of a license in the locality set out in the application is not consistent with public interest or convenience; proposed location within 50 yards of any public school, private school authorized by the director of

education, or church is prima facie evidence of inconsistency with public interest or convenience;

- (2) that any applicant to sell for consumption on the premises has been financed or furnished with money or property or has any connection with a member or members of the board;
- (3) that the applicant has been convicted at any time of a felony;
- (4) that the applicant has maintained a noisy, lewd, disorderly, or unsanitary establishment;
- (5) that the applicant did not have a previous good record of compliance with the alcoholic beverage laws of American Samoa and the rules of the board;
- (6) that the applicant is not eligible under the provisions of 27.0505;
- (7) that the applicant is unable to understand the alcoholic beverage control laws of American Samoa or rules of the board pursuant thereto;
- (8) that the applicant is substantially under the direction and control, through family or other relationship, of mother person, whether an individual, a member of a partnership, joint venture, or similar entity or an owner of a corporation connected with the refused original license or a revoked or suspended license;
- (9) the applicant has failed to meet any other requirement determined; necessary by the board.

History: Alc. Bev. Con. Ed. Regs. eff prior to 1975, § 2-04; and Rule 11-79, eff 13 Dec 79, § 7.

27.0509 Personal-privilege native-Term.

Any license granted by the board shall be:

- (1) purely a personal privilege;
- (2) valid until suspended, or revoked by action of the board provided the annual license fees as required by 27.0211 and 27.0240 A.S.C.A., are paid.

History: Alc. Bev. Con. Ed. Regs. eff prior to 1975, § 2.05; and Rule 11-79, eff 13 Dec. 79, § 8.

III. MANUFACTURE

27.0515 Rulemaking upon application.

The board does not contemplate that any person will be manufacturing beer, or alcoholic beverages in American Samoa for some time. Therefore, the board

has not promulgated rules in relation to the manufacture of beer or alcoholic beverages. Should an application be received for manufacture of alcoholic beverages or beer, the board will promulgate rules governing the applications.

History: Alc. Bev. Con. Bd. Regs. eff prior to 1975, § 3.01.

IV. CONDUCT OF BUSINESS

27.0520 Licensee's responsibility.

Licensees are at all times responsible for the conduct of their business and are at all times directly responsible for any act or conduct of any employee which is in violation of Chapter 27.05 A.S.C.A., or the rules of the board, whether the licensee is present at any such time or not. This section is defined to mean that any unlawful, unauthorized, or prohibited act on the part of any agent or employee shall be construed as the act of the employer and the employer shall be proceeded against as though he were present and had an active part in such unlawful, unauthorized, or prohibited act and as if the act has been at the employer's direction and with his knowledge.

History: Alc. Bev. Con. Bd. Regs., eff prior to 1975, § 4-01; and Rule 11-79, eff 13 Dec 79, § 9.

27.0521 Peace and good order-Supervision.

Regarding licenses which permit consumption of beer or alcoholic beverages on the premises, the licensee or an authorized representative capable of maintaining peace and good order shall be on the premises at all times the establishment shall be open for business. The individual performing this function must be mature and in strong physical condition appropriate to the task.

History: Alc. Bev. Con. Bd. Regs. eff prior to 1975, § 4.02.

27.0522 Transferability of licenses.

Licenses issued under this chapter are non-transferable.

History: Alc. Bev. Con. Bd. Regs. eff prior to 1975, § 4-03.

27.0523 Location change.

Any licensee desiring to change the location of his business must make application for such change to the board. Such application shall contain a statement that he owns or has proper lease on the premises and shall contain such other information as the board requires, including a copy of the new lease if such premises are leased. No licensee shall change the location of his place of business unless and until the board endorses

on the license that such licensee has approval of such change of location.

History: Alc. Bev. Con. Bd. Regs., eff prior to 1975, § 4.04.

27.0524 Intoxicated persons and minors.

If at any time hereafter it is made to appear to this board that any licensee or employee of any licensee has sold or permitted to be sold to any person under the age of 21 any beer or alcoholic beverage, or permitted a person under the age of 21 to be on the premises without his parent or guardian, or has allowed anyone to become intoxicated or has sold or permitted to be sold any beer or alcoholic beverage to any intoxicated person on the premises, it shall be deemed to have been done knowingly by such licensee or his employee and the licensee shall upon proper notice and hearing have his license suspended pursuant to Article VI of this Chapter.

History: Alc. Bev. Con. Bd. Regs., eff prior to 1975, § 4.05.

27.0525 Consumption near beer vendors' or alcoholic beverage vendors' premises.

Beer vendors' licenses and alcoholic beverage vendors' licenses are for consumption off premises only and there shall be no alcoholic beverage or beer consumed within 50 yards of a licensed premises.

History: Alc. Bev. Con. Bd. Regs. eff prior to 1975, § 4.06; and Rule 2-85, eff 27 Jun 85, § 3.

27.0526 Inspection-Right of entry.

No licensee shall prohibit any person, authorized by the board or the commissioner of public safety, director of public works, or director of health, or their authorized representatives, to enter the premises of the licensee for purposes of making an inspection to determine whether the licensee is operating in compliance with this chapter and laws in effect in American Samoa.

History: Alc. Bev. Con. Bd. Regs. eff prior to 1975, § 4.07; and Rule 11-9, eff 13 Dec 79, § 10.

27.0527 Special conditions-Segregated display, sales and sales records.

(a) Alcohol Beverage Vendors. If the premises for which an alcohol beverage vendors' license is issued is not used exclusively for the sale of liquor, then a space upon said premises shall be set aside in a manner approved by the board exclusively for the display and sale of liquor. Liquor display and sales shall only be conducted from that approved segregated, space and minors

shall be strictly prohibited therefrom. Records of liquor sales by alcohol beverage vendors must be segregated from records of all other sales and maintained in a manner approved by the board. Licensees shall file with the board quarterly sale reports at the treasurer's office.

(b) Alcohol Beverage Importers. If the premises for which an alcohol beverage importer's license is issued is not used exclusively for the importation of liquor, then a space upon said premises shall be set aside in a manner approved by the board exclusively for the importation, wholesale display and wholesale sale of liquors. Wholesale liquor sales and display shall be conducted only from that approved segregated space and minors are to be prohibited therefrom, and such sales shall be made only to those license holders so authorized by statute and not to any other individuals or entities. Import records and records of liquor sales by alcohol beverage importers must be segregated from records of all other sales and maintained in a manner approved by the board. Licensees shall file with the board quarterly sales reports at the treasurer's office.

History: Rule 2-85, eff 27 June 85, § 4.

V. PURCHASERS

27.0530 Age.

A person must be 21 years of age or over to be qualified to purchase beer or alcoholic beverages.

History: Alc. Bev. Con. Bd. Regs. eff prior to 1975, § 5.01.

VI. SUSPENSION AND REVOCATION

27.0535 Grounds.

The board may revoke or suspend any license if it finds or has reasonable grounds to believe that the licensee or any of his employees:

- (1) has violated any provision of Chapter 27.05 A.S.C.A., or any lawful rule promulgated by the board;
- (2) has made any false representation or statement to the board in order to induce or prevent action by the board;
- (3) maintains a noisy, lewd, disorderly, or unsanitary establishment;
- (4) knowingly has sold alcoholic beverages to persons under 21 years of age, to persons known to be drunkards, or to persons visibly intoxicated at the time of sale;

- (5) any other reason which, in the opinion of the board, based on public interest, warrants canceling or suspending such license.

History: Alc. Bev. Con. Bd. Regs., eff prior to 1975, § 6.01.

27.0536 Hearing notice.

The board shall furnish notice of hearing to suspend or revoke any license to the licensee or, in the event of the licensee’s absence from American Samoa, the person in charge of licensed premises, by personally serving a copy of the notice on the licensee or person in charge of the licensed premises in the event of the licensee’s absence from American Samoa. The notice shall serve at least 7 days prior to the date set for hearing and shall include the time, place, purpose of hearing, and a clear, concise statement of the basis of the board’s intended action.

History: Alc. Bev. Con. Bd. Regs. eff prior to 1975, § 6.02.

27.0537 Summary suspension.

No license shall be suspended without a hearing as provided for in this article unless the board determines that the public welfare requires emergency action, and incorporates such a finding in its order. Under this section the board may order a summary suspension of a license for a period nor to exceed 120 days pending other action,

History: Alc. Bev. Con. Bd. Regs. eff prior to 1975, § 6.03.

27.0538 Failure to appear at hearing.

Any licensee who fails to appear before the board as directed to present a defense to the offense alleged after having been first given proper notice of contemplated suspension or revocation of his license by reason of an alleged violation of the law or rules, then the board may proceed with suspension or revocation if it appears, after having heard the evidence, that the violation did in fact occur, whether or not such licensee appears before the board on the date of the hearing.

History: Alc. Bev. Con. Bd. Regs., eff prior to 1975, § 6.04.

27.0539 Criminal prosecution.

A licensee may be prosecuted for any violation of the law in addition to the penalties provided under this chapter.

History: Alc. Bev. Con. Bd. Regs., eff prior to 1975, § 6.05.

27.0540 Hearing procedure.

The agency hearing procedures prescribed by 4.1025 through 4.1034 A.S.C.A., shall be followed in all proceedings before the board for the suspension or revocation of a license.

History: Alc. Bev. Con. Bd. Regs. eff prior to 1975, § 6.06; and Rule 11-79, eff 13 Dec 79, § 11.

VII. IMPORTATION

27.0545 Defined.

“Import” means to bring into or cause to bring into American Samoa and, as used in this article, pertains to beer and alcoholic beverages.

History: Alc. Bev. Con. Bd. Regs., eff prior to 1975, § 7.01.

27.0546 Legal and regulatory conformance required.

Except as otherwise provided by this chapter and laws in effect in American Samoa, the importation of any beer or alcoholic beverage into the territory of American Samoa is prohibited.

History: Alc. Bev. Con. Bd. Regs. eff prior to 1975, 7-02; and eff 23 Oct 75.

27.0547 Importation by individuals.

Any person entering American Samoa may have in possession not more than 1 gallon of alcoholic beverage, provided that such beverage is unopened in the container in which it was retailed.

History: Alc. Bev. Con. Bd. Regs. eff prior to 1975, § 7.03; and eff 23 Oct 75; Rule 3-76, eff 29 Mar 76.

[End Of Title 27 – Chapter 5]

AMERICAN SAMOA ADMINISTRATIVE CODE – 2024 EDITION

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	27.0642	Color contrast.
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I. WEIGHING AND MEASURING DEVICES

27.0601 Authority.

The rule codified in this article is adopted under the authority of 27.0605 (3) and (15) A.S.C.A.

History: Rule 7-76, eff 19 Oct 76, § 1.

27.0602 Applicability-Government, nonprofit exemption.

This article shall apply to all weighing and measuring devices that are commercially used or susceptible of commercial usage within the territory, except:

- (1) weighing and measuring devices used by the ASG;
- (2) weighing and measuring devices used by the federal government; and
- (3) weighing and measuring devices used by nonprofit organizations.

History: Rule 7-76, eff 19 Oct 76, § 2.

27.0603 Definitions.

- (1) “accurate” means a piece of equipment that meets the performance or value within the applicable tolerances and other performance requirements;
- (2) “commercially used”, “commercial usage”, and “commercial use” means both retail and wholesale transactions;
- (3) “computing scale” means one that indicates the money values of amounts of commodity weight, at predetermined unit prices; through all or part of the weighing range’ of the scale;
- (4) “correct” means that a piece of equipment is correct when, in addition to being accurate, it meets all applicable specification requirements;
- (5) “director” means the director of the consumer protection bureau;
- (6) “suitability” means that a piece of commercial equipment is suitable for the service in which it is used with respect to elements of its design.

History: Rule 7-76, eff 19 Oct 76, § 3; and Rule 4-87, eff 21 Apr 87.

27.0604 Suitability.

- (a) Any person who sells or intends to purchase any weighing and measuring device for commercial use shall first inquire at the weights and measures branch to determine the suitability of the device for the intended use as approved by the director.
- (b) A hanging spring dial scale or a household spring dial scale is not suitable for weighing meat, poultry, fish, or produce.

History: Rule 7-76, eff 19 Oct 76, § 4; and Rule 4-87, eff 21 Apr 87.

27.0605 Accuracy.

Weighing and measuring devices that are approved for suitability by the director shall be accurate and correct.

History: Rule 7-76, eff 19 Oct 76, § 5; and Rule 4-87, eff 21 Apr 87.

27.0606 Inspection-Frequency.

The director shall within 90 days after 1 Oct of each year, or more often in his discretion, cause all devices or appliances used for the ascertainment of weight, length, or measure in connection with buying or selling, or with transporting or receiving for shipment any commodity offered for sale or to be offered for sale, or for any purpose, to be inspected, proved as to accuracy, and sealed.

History: Rule 7-76, eff 19 Oct 76, § 6; and Rule 4-87, eff 21 Apr 87.

27.0607 Inspection-Exhibition for.

Every merchant, corporation, or person using or having on his premises a device or appliance for use in the ascertainment of weight, length, or measure in connection with buying or selling, or with transportation or receiving for shipment any commodity offered for sale or to be offered for sale, or for any other commercial purpose, shall exhibit the same to the director for his designated representative upon his request for inspection and examination.

History: Rule 7-76, eff 19 Oct 76, § 7; and Rule 4-87, eff 21 Apr 87.

27.0608 Inspection-Records.

It shall be the duty of the director to keep a record of all scales, weights, and measures inspected and sealed by him, in which shall be stated the name and owner of the same, the date of inspection, fees received therefor, and whether or not they conform to the standard of the office of the director.

History: Rule 7-76, eff 19 Oct 76, § 8; and Rule 4-87, eff 21 Apr 87.

27.0609 Inspection-Fees.

The director shall collect for each annual inspection of a weighing or measuring device, before delivering to the owner thereof a certificate that it is accurate and correct, the following fees:

- (a) For scales:
 - (1) From 1 to 30lbs.weight capacity \$ 5.00;
 - (2) Over 30 to 100 lbs. weight capacity 7.00;
 - (3) Over 100 to 1,000 lbs. weight capacity 10.00;
 - (4) Over 1,000 to 5,000 lbs. weight capacity 15.00;
 - (5) Over 5,000 to 10,000 lbs. weight capacity 20.00;
 - (6) Over 10,000 to 20,000 lbs. weight capacity 25.00;
 - (7) Over 20,000 lbs. weight capacity 30.00;
- (b) For dry or liquid measures:
 - (1) Less than 1gallon 1.00;
 - (2) More than 1 gallon 3.00;
 - (3) Retail petroleum dispenser 5.00;
 - (4) Petroleum truck meters 15.00;
 - (5) Petroleum rack meters 30.00;
 - (6) Truck-compartment-used measures 20.00;
- (c) For linear measures:
 - (1) Thirty-six-inch yardstick 2.00;
 - (2) Greater than 36-inch wooden measures 3.00;
 - (3) Measuregraph 5.00;
 - (4) Metal tape, 0 to 12 feet 5.00;
 - (5) Wire or rope measures 5.00;
 - (6) Odometer (rent-a-car) 6.00;
 - (7) Taxicab (with meter) 6.00.
- (d) All approvals shall be granted subject to collection of the fees in this section and 27.0610

ASAC. A charge of \$15 will be imposed if a check in payment of the fee is not honored by the bank on which it is drawn. A receipt issued by the director or his delegate for any such fee shall not be binding if a fee is uncollectable. Remittances of fees must be in the form of United States currency, cashiers check or personal check only. Check must be drawn on a bank or other institution located in American Samoa and be payable in United States currency and made payable to “Treasurer-American Samoa Government.”

History: Rule 7-7 6, eff 19 Oct 76, § 9; and Rule 4-87, eff 21 Apr 87.

27.0610 Calibration-Fees.

The director may, at the owner’s request, calibrate a weight or measure device. The minimum charge shall be \$20; thereafter, \$5 per hour.

History: Rule 7-76, eff 19 Oct 76, § 10; and Rule 4-87, eff 21 Apr 87.

27.0611 Deposit of fees.

The director shall deposit to the general fund of the treasury of American Samoa all fees collected pursuant to this article.

History: Rule 7-76, eff 19 Oct 76, § 11; and Rule 4-87, eff 21 Apr 87.

27.0612 Severability.

If any provision or part of a provision of this article, or the application thereof to any person or circumstances, is held invalid, such invalidity shall not affect other provisions or applications of this article, and to this end the provisions of this article are declared to be severable.

History: Rule 7-76, eff 19 Oct 76, § 12.

II. PACKAGES, LABELS, AND PRICES

27.0615 Authority.

The rule codified in this article is adopted under the authority of 27.0605(3) A.S.C.A.,

History: Rule 6-76, eff 19 Oct 76, § 1.

27.0616 Applicability-Exceptions.

This article shall apply to packages and to commodities in package form, but shall not apply to:

- (1) inner wrappings not intended to be individually sold to the customer;
- (2) shipping containers or wrapping used solely for the transportation of any commodities in bulk or

in quantity to manufacturers, packers, or processors, or to wholesale or retail distributors, but in no event shall this exclusion apply to packages of consumer or nonconsumer commodities, as defined in this article;

- (3) auxiliary containers or outer wrappings used to deliver packages of such commodities to retail customers if such containers or wrappings bear no printed matter pertaining to any particular commodity;
- (4) containers used for retail tray pack displays when the container itself is not intended to be sold (e.g., the tray that is used to display individual envelopes of seasonings, gravies, etc. and the tray itself is not intended to be sold); or
- (5) open carriers and transparent wrappers or carriers for containers when the wrappers or carriers do not bear any written, printed, or graphic matter obscuring the label information required by this article.

History: Rule 6-76, eff 19 Oct 76, §2.

27.0617 Definitions.

As used in this article:

- (1) “commodity in package form” means commodity put up or packaged in any manner in advance of sale in units suitable for either wholesale or retail sale; an individual item or lot of any commodity not in package form as defined in this section, but on which there is marked a selling price based on an established price per unit of weight or of measure, shall be construed to be a commodity in package form;
- (2) “consumer package” or “package of consumer commodity” means a commodity in package form that is customarily produced or distributed for sale through retail sales agencies or instrumentalities for consumption by individuals, or use by individuals for the purposes of personal care or in the performance of services ordinarily rendered in or about the house hold or in connection with personal possessions;
- (3) “label” means any written, printed, or graphic matter affixed to, applied to, attached to, blown into, formed, molded into, embossed on, or appearing upon or adjacent to a consumer commodity or a package containing any consumer commodity, for purposes of branding, identifying, or giving any information with

respect to the commodity or to the contents of the package; except, that an inspector’s tag or other nonpromotional matter affixed to or appearing upon a consumer commodity shall not be deemed to be a label requiring the repetition of label information required by this article;

- (4) “multiunit package” means package containing 2 or more individual packages of the same commodity, in the same quantity, with the individual packages intended to be sold as part of the multiunit package but capable of being individually sold in full compliance with all requirements of this article;
- (5) “nonconsumer package” or “package of nonconsumer commodity” means any commodity in package form other than a consumer package, and particularly a package intended solely for industrial or institutional use or for wholesale distribution;
- (6) “person” means both a singular and plural, and shall include any individual, partnership, company, corporation, association, and society;
- (7) “principal display panel or panels” means that part, or those parts, of a label that is, or are, so designed as to most likely be displayed, presented, shown, or examined under normal and customary conditions of display and purchase; wherever a principal display panel appears more than once on a package, all requirements pertaining to the “principal display panel” shall pertain to all such principal display panels;
- (8) “random package” means package that is one of a lot, shipment, or delivery of packages of the same consumer commodity with varying weights; that is, packages of the same consumer commodity with no fixed pattern of weight.

History: Rule 6-76, eff 19 Oct 76, § 3.

27.0618 Declaration of identity-Consumer packages.

- (a) A declaration of identity on a consumer package shall appear on the principal display panel, and shall positively identify the commodity in the package by its common or usual name, description, generic term, or the like.
- (b) A declaration of identity on a consumer package shall appear generally parallel to the base on which the package rests as it is designed to be displayed.

History: Rule 6-76, eff 19 Oct 76, § 4.

27.0619 Declaration of identity-Nonconsumer packages.

A declaration of identity on a nonconsumer package shall appear on the outside of a package and shall positively identify the commodity in the package by its common or usual name, description, generic term, or the like.

History: Rule 6-76, eff 19 Oct 76, § 5.

27.0620 Corporate or business name.

- (a) Any package kept, offered, or exposed for sale, or sold, at any place other than on the premises where packed shall specify conspicuously on the label of the package the name and address of the manufacturer, packer, or distributor. The name shall be the actual corporate name, or, when not incorporated, the name under which the business is conducted. For imported packages, the address shall include street address, city, state, and ZIP code number; however, the street address may be omitted if this is shown in a current city directory or telephone directory. The requirement for inclusion of the ZIP code number shall apply only to labels that have been developed or revised after 1, Jul 68.
- (b) If a person manufactures, packs, or distributes a commodity at a place other than his principal place of business, the label may state the principal place of business in lieu of the actual place where the commodity was manufactured or packed or is to be distributed unless such statement would be misleading. Where the commodity is not manufactured by the person whose name appears on the label, the name shall be qualified by a phrase that reveals the connection such person has with such commodity, such as “Manufactured for and packed by.....” “Distributed by.....” or any other wording of similar import that expresses the facts.

History: Rule 6-76, eff 19 Oct 76, § 6.

27.0621 Whole units and fractions in declarations of quantity.

Where this article requires that the quantity declaration be in terms of the largest whole unit, the declaration shall, with respect to a particular package, be in terms of the largest whole unit of weight or measure, with any remainder expressed in:

- (1) common or decimal fractions of such largest whole unit; or
- (2) the next smaller whole unit, or units, with any further remainder in terms of common or decimal fractions of the smallest unit present in the quantity declaration.

History: Rule 6-76, eff 19 Oct 76, § 7.

27.0622 Net quantity declaration required.

A declaration of net quantity of the commodity in the package, exclusive of wrappers and any other material packed with such commodity, shall appear on the principal display panel of a consumer package and, unless otherwise specified in this article (see 27.0628 through 27.0631), shall be in terms of the largest whole unit.

History: Rule 6-76, eff 19 Oct 76, § 8.

27.0623 Net weight.

The term “net weight” shall be used in conjunction with the declaration of quantity in terms of weight; the term may either precede or follow the declaration of weight.

History: Rule 6-76, eff 19 Oct 76, § 9.

27.0624 Lines of print or type.

A declaration of quantity may appear on 1 or more lines of print or type.

History: Rule 6-76, eff 19 Oct 76, § 10.

27.0625 Weight, liquid measure, or count-Combined description.

- (a) The declaration of the quantity of a particular commodity shall be expressed in terms of liquid measure if the commodity is liquid, or in terms of weight if the commodity is solid, semisolid, viscous, or a mixture of solid and liquid, or in terms of numerical count. However, if there exists a firmly established general consumer usage and trade custom with respect to the terms used in expressing a declaration of quantity of a particular commodity, such declaration of quantity may be expressed in its traditional terms, if such traditional declaration gives accurate and adequate information as to the quantity of the commodity.
- (b) A declaration of quantity in terms of weight shall be combined with appropriate declarations of the measure, count, and size of the individual units unless a declaration of weight alone is fully informative.

- (c) A declaration of quantity in terms of measure shall be combined with appropriate declarations of the weight, count, and size of the individual units unless a declaration of measure alone is fully informative.
- (d) A declaration of quantity in terms of count shall be combined with appropriate declarations of the weight, measure, and size of the individual units unless a declaration of count alone is fully informative,

History: Rule 6-76, eff 19 Oct 76, § 11.

27.0626 Units generally-Abbreviations-Metrics.

- (a) A declaration of quantity:
 - (1) in units of weight shall be in terms of the avoirdupois pound or ounce;
 - (2) in unit of liquid measures shall be in terms of the United States gallon of 231 cubic inches or liquid-quart, liquid-pint, or fluid-ounce subdivisions of the gallon, and shall express the volume at 68 degrees Fahrenheit (20 degrees Celsius), except in the case of petroleum products, for which the declaration shall express the volume at 60 degrees Fahrenheit (15.6 degrees Celsius), and except also in the case of a commodity that is normally sold and consumed while frozen, for which the declaration shall express the volume at the frozen temperature, and except also in the case of a commodity that is normally sold in the refrigerated state, for which the declaration shall express the volume at 40 degrees Fahrenheit (4 degrees Celsius);
 - (3) in units of linear measure shall be in terms of the yard, foot, or inch;
 - (4) in units of area measure shall be in terms of the square yard, square foot, or square inch;
 - (5) in units of dry measure shall be in terms of the United States bushel of 2,150.42 cubic inches, or peck, dry-quart, and dry-pint subdivisions of the bushel;
 - (6) in units of cubic measure shall be in terms of the cubic yard, cubic foot, or cubic inch; provided, that in the case of a commodity packed for export shipment, the declaration of quantity may be in terms of the metric system of weight or measure.

- (b) Any of the following abbreviations for customary units, and none other, may be employed in the quantity statement on a package of commodity:

(1) Avoirdupois	avdp;
(2) Cubic	cu;
(3) Feet or foot	ft;
(4) Fluid	fl;
(5) Gallon	gal;
(6) Inch	in;
(7) Liquid	liq;
(8) Ounce	oz;
(9) Pint	pt;
(10) Pound	lb.;
(11) Quart	qt;
(12) Square	sq;
(13) Weight	wt.;
(14) Yard	yd.

There normally are no periods following, nor plural forms of, these abbreviations. For example, “oz” is the abbreviation for both “ounce” and “ounces”.

- (c) Any of the following metric symbols may be employed in the quantity statement on a package of commodity:

(1) meter	m
(2) millimeter	mm
(3) square meter	m ²
(4) liter	l
(5) gram	g
(6) kilogram	kg.

The liter is widely used for volume in preference to its equivalent, the cubic decimeter (dm³). Symbols are not capitalized unless the unit is derived from a proper name. Periods should not be used after the symbol. Symbols are always written in the singular form do not add “s” to express the plural when the symbol is used. Multiples and submultiples of the above units and symbols may be used provided they follow the guidelines of the International System (IS) of Units or ISO Standard 1000.

History: Rule 6-76, eff 19 Oct 76, § 12.

27.0627 Fluid ounce-Dry pint or quart.

When the term “ounce” is employed in a declaration of liquid quantity, the declaration shall identify the particular meaning of the term by the use of the term “fluid”; however, such distinction may be omitted when, by association of terms (for example, as in “1 pint 4 ounces”), the proper meaning is obvious. Whenever the declaration of quantity is in terms of

the dry pint or dry quart, the declaration shall include the word “dry”.

History: Rule 6-76, eff 19 Oct 76, § 13.

27.0628 Units prescribed for specified quantities.

- (a) The declaration of quantity shall be expressed in terms of:
 - (1) in the case of length measure of less than 1 foot, inches and fractions of inches;
 - (2) in the case of area measure of less than 1 square foot, square inches and fractions of square inches;
 - (3) in the case of weight of less than 1 pound, ounces and fractions of ounces;
 - (4) in the case of fluid measure of less than 1 pint, ounces and fractions of ounces; provided, that the quantity declaration appearing on a random package may be expressed in terms of decimal fractions of the largest appropriate unit, the fraction being carried out to not more than 2 decimal places.
- (b) The declaration of quantity shall be expressed in terms of:
 - (1) in the case of length measure of 4 feet or more, feet, followed in parentheses by a declaration of yards and common or decimal fractions of the yard, or in terms of feet followed in parentheses by a declaration of yards with any remainder in terms of feet and inches;
 - (2) in the case of area measure of 4 square feet or more, weight of 4 pounds or more, fluid measure of 1 gallon or more, the largest whole unit.

History: Rule 6-76, eff 19 Oct 76, § 14.

27.0629 Dual quantity declaration.

- (a) On packages containing 1 pound or more but less than 4 pounds, the declaration shall be expressed in ounces and, in addition, shall be followed by a declaration in parentheses, expressed in terms of the largest whole unit; provided, that the quantity declaration appearing on a random package may be expressed in terms of pounds and decimal fractions of the pound carried out to not more than 2 decimal places.

- (b) On packages containing 1 pint or more but less than 1 gallon, the declaration shall be expressed in ounces, and, in addition, shall be followed by a declaration in parentheses, expressed in terms of the largest whole unit.
- (c) On packages containing 1 foot but less than 4 feet, the declaration shall be expressed in inches and, in addition, shall be followed by a declaration in parentheses, expressed in terms of the largest whole unit.
- (d) On packages containing 1 square foot but less than 4 square feet, the declaration shall be expressed in square inches and, in addition, shall be followed by a declaration in parentheses, expressed in terms of the largest whole unit.

History: Rule 6-76, eff 19 Oct 76, § 15.

27.0630 Bidimensional commodities.

For bidimensional commodities (including roll-type commodities) the quantity declaration shall be expressed:

- (1) if less than 1 square foot, in terms of linear inches and fractions of linear inches;
- (2) if at least 1 square foot but less than 4 square feet, in terms of square inches followed in parentheses by a declaration of both the length and width, each being in terms of the largest whole unit; provided, that:
 - (A) no square inch declaration is required for a bidimensional commodity of 4 inches width or less;
 - (B) a dimension of less than 2 feet may be stated in inches within the parenthetical; and
 - (C) commodities consisting of usable individual units (except roll-type commodities with individual usable units created by perforations, for which see 27.0631) require a declaration of unit area but not a declaration of total area of all such units;
- (3) if 4 square feet or more, in terms of square feet followed in parentheses by a declaration of the length and width in terms of the largest whole unit; provided, that:
 - (A) no declaration in square feet is required for a bidimensional commodity with a width of 4 inches or less;

- (B) bidimensional commodities, with a width of 4 inches or less, shall have the length expressed in inches followed by a statement in parentheses of the length in the largest whole unit (for example, 2 inches by 360 inches (10 yards));
- (C) a dimension of less than 2 feet may be stated in inches within the parenthetical; and
- (D) no declaration in square feet is required for commodities for which the length and width measurements are critical in terms of end use (such as tablecloths or bed sheets) if such commodities clearly present the length and width measurements on the label.

History: Rule 6-76, eff 19 Oct 76, § 16.

27.0631 Tissues-Toilet paper.

- (a) If the commodity is in individually usable units of 1 or more components or ply, the quantity declaration shall, in addition to complying with other applicable quantity declaration requirements of this article, include the number of ply and the total number of usable units.
- (b) Roll-type commodities, when perforated so as to identify individuals usable units, shall not be deemed to be made up of usable units; however, such roll-type commodities shall be labeled in terms of:
 - (1) total area measurement;
 - (2) number of ply;
 - (3) count of usable units; and
 - (4) dimensions of a single usable unit.

History: Rule 6-76, eff 19 Oct 76, § 17.

27.0632 Fractions.

- (a) A statement net quantity of contents of any consumer commodity may contain common or decimal fractions. A common fraction shall be in terms of halves, quarters, eighths, sixteenths, or thirty-seconds, except that:
 - (1) if there exists a firmly established general consumer usage and trade custom of employing different common fractions in the net quantity declaration of a particular commodity they may be employed; and
 - (2) if linear measurements are required in terms of yards or feet, common fractions may be in terms of thirds.

- (b) A common fraction shall be reduced to its lowest terms; a decimal fraction shall not be carried out to more than 2 places.

History: Rule 6-76, eff 19 Oct 76, § 15.

27.0633 Supplementary declarations-Metric-system description.

- (a) The required quantity declaration may be supplemented by one or more declarations of weight, measure, or count, such declaration appearing other than on a principal display panel. Such supplemental statement of quantity of contents shall not include any terms qualifying a unit of weight, measure, or count that tends to exaggerate the amount of commodity contained in the package; e.g., “giant” quart, “full” gallon, “when packed”, “minimum”, or words of similar import.
- (b) A separate statement of the net quantity of contents in terms of the metric system is not regarded as a supplemental statement, and a statement of quantity in terms of the metric system of weight or measure may also appear on the principal display panel or on other panels.

History: Rule 6-76, eff 19 Oct 76, § 19.

27.0634 Qualification of declaration-Exaggeration.

In no case shall any declaration of quantity be qualified by the addition of the words “when packed”, “minimum”, or “not less than”, or any words of similar import, nor shall any unit of weight, measure, or count be qualified by any term (such as “jumbo”, “giant”, “full”, or the like) that tends to exaggerate the amount of commodity.

History: Rule 6-76, eff 19 Oct 76, § 20.

27.0635 Nonconsumer packages-Declaration of net quantity.

A nonconsumer package shall bear on the outside a declaration of the net quantity of contents. Such declaration shall be in terms of the largest whole unit (see 27.0621).

History: Rule 6-76, eff 19 Oct 76, § 21.

27.0636 Nonconsumer packages-Terms-Trade custom.

The declaration of the quantity of a particular nonconsumer commodity shall be expressed in terms of liquid measure if the commodity is liquid, or in terms of weight if the commodity is solid, semisolid, viscous, or a mixture of solid and liquid, or in terms

of numerical count. However, if there exists a firmly established general consumer usage and trade custom with respect to the terms used in expressing a declaration of quantity of a particular commodity, such declaration of quantity may be expressed in its traditional terms, if such traditional declaration gives accurate and adequate information as to the quantity of the commodity.

History: Rule 6-76, eff 19 Oct 76, § 22.

27.0637 Nonconsumer packages-Units generally-Abbreviations.

- (a) A nonconsumer package declaration of quantity:
- (1) in units of weight shall be in terms of the avoirdupois pound or ounce;
 - (2) in units of liquid measure shall be in terms of the United States gallon of 231 cubic inches or liquid-quart, liquid-pint, or fluid-ounce subdivisions of the gallon, and shall express the volume at 68 degrees Fahrenheit (20 degrees Celsius), except in the case of petroleum products, for which the declaration shall express the volume at 60 degrees Fahrenheit (15.6 degrees Celsius), and except also in the case of a commodity that is normally sold and consumed while frozen for which the declaration shall express the volume at the frozen temperature, and except also in the case of a commodity that is normally sold in the refrigerated state, for which the declaration shall express the volume at 40 degrees Fahrenheit (4 degrees- Celsius);
 - (3) in units of linear measure shall be in terms of the yard, foot, or inch;
 - (4) in units of area measure shall be in terms of the square yard square foot or square inch;
 - (5) in units of dry measure shall be in terms of the United States bushel of 2,150.42 cubic inches, or peck, dry-quart and dry-pint subdivisions of the bushel;
 - (6) in units of cubic measure shall be in terms of the cubic yard, cubic foot, or cubic inch; provided, that noth.in2 in this subsection shall prohibit the labeling of nonconsumer packages in terms of units of the metric system.
- (b) Any generally accepted abbreviation of a unit name may be employed in the quantity statement

on a package of a nonconsumer commodity (for commonly accepted abbreviations, see 27.0626(b) and (c)).

History: Rule 6-76, eff 19 Oct 76, § 23.

27.0638 Nonconsumer packages-Shortage, averaging prohibited.

The average quantity of contents in the package of a particular lot, shipment, or delivery of a nonconsumer commodity shall at least equal the declared quantity, and no unreasonable shortage in any package shall be permitted, even though averages in other packages in the same shipment, delivery, or lot compensate for such shortage.

History: Rule 6-76, eff 19 Oct 76, § 24.

27.0639 Prominence and legibility of required information.

All information required to appear on a consumer package shall appear thereon in the English language and shall be prominent, definite, and plain, and shall be conspicuous as to size and style of letters and numbers and as to color of letters and numbers in contrast to color of background. Any required information that is either in hand lettering or hand script shall be entirely clear and equal to printing in legibility.

History: Rule 6-76, eff 19 Oct 76, § 25.

27.0640 Location.

The declaration or declarations of quantity of the contents of a package shall appear in the bottom 30% of the principal display panel or panels except as otherwise provided in 27.0654 for cylindrical containers.

History: Rule 6-76, eff 19 Oct 76, § 26.

27.0641 Type or lettering style-Blown, formed, molded labels.

The declaration or declarations of quantity shall be in such a style of type or lettering as to be boldly, clearly, and conspicuously presented with respect to other type, lettering, or graphic material on the package, except that a declaration of net quantity blown, formed, or molded on a glass or plastic surface is permissible when all label information is blown, formed, or molded on the surface.

History: Rule 6-76, eff 19 Oct 76, § 27.

27.0642 Color contrast.

The declaration or declarations of quantity shall be in a color that contrasts conspicuously with its

background, except that a declaration of net quantity blown, formed, or molded on a glass or plastic surface shall not be required to be presented in a contrasting color if no required label information is on the surface in a contrasting color.

History: Rule 6-76, eff 19 Oct 76, § 28.

27.0643 Free area around declaration.

The area surrounding the quantity declaration shall be free of printed information:

- (1) above and below, by a space equal to at least the height of the lettering in the declaration, and
- (2) to the left and right, by a space equal to twice the width of the letter “N” of the style and size of type used in the declaration.

History: Rule 6-76, eff 19 Oct 76. § 29.

27.0644 Layout of quantity declaration-Orientation to base of package.

The quantity declaration shall be presented in such a manner as to be generally parallel to the declaration of identity and to the base on which the package rests as it is designed to be displayed.

History: Rule 6-76, eff 19 Oct 76. § 30.

27.0645 Principal display panel.

(a) The square-inch area of the principal display panel shall be:

- (1) in the case of a rectangular container, 1 entire side of which properly can be considered to be the principal display panel, the product of the height times the width of that side;
- (2) in the case of a cylindrical or nearly cylindrical container 40% of the product of the height of the container times the circumference; or
- (3) in the case of any other shaped container, 40% of the total surface of the container unless such container presents an obvious principal display panel (for example. the top of a triangular or circular package of cheese, or the top of a can of shoe polish), the area shall consist of the entire such surface.

(b) Determination of the principal display panel shall exclude tops, bottoms flanges at tops and bottoms of cans, and shoulders and necks of bottles or jars.

History: Rule 6-76, eff 19 Oct 76, § 31.

27.0646 Number and letter height.

(a) The height of any letter or number in the required quantity declaration shall be not less than that shown in Table 1 with respect to the square-inch area of the panel, and the height of each number of a common fraction shall meet 1/2 the minimum height standards.

TABLE 1. MINIMUM HEIGHT OF NUMBERS AND LETTERS

Square-inch Area of Principal Display Panel. Minimum Height of Numbers and Letters(inches) Minimum Height Label Information Blown, Formed, or Molded on Surface of Containers (inches)

5 and less	1/16	1/8
Greater than 5 and not greater than 25	1/8	3/16
Greater than 25 and not greater than 100	3/16	1/4
Greater than 100 and not greater than 400		5/16
Greater than 400		9/16

(b) No number or letter shall be more than 3 times as high as it is wide.

History: Rule 6-76, eff 19 Oct 76, § 32.

27.0647 Prominence and placement on nonconsumer packages.

All information required to appear on a nonconsumer package shall be definitely and clearly stated thereon in the English language.

Any required information that is either in hand lettering or hand script shall be entirely clear and equal to printing in legibility.

History: Rule 6-76, eff 19 Oct 76, § 33.

27.0648 Display card packages.

For an individual package affixed to a display card, or for a commodity and display card together composing a package, the type size of the quantity declaration is governed by the dimensions of the display card.

History: Rule 6-76, eff 19 Oct 76. § 34.

27.0649 Egg cartons.

When cartons containing 1 2 eggs have been designed so as to permit division in half by the retail purchaser, the required quantity declaration shall be so positioned as to have its context destroyed when the carton is divided.

History: Rule 6-76, eff 19 Oct 76, § 35.

27.0650 Aerosols and similar pressurized containers.

The declaration of quantity on an aerosol package, and on a similar pressurized package, shall disclose the net quantity of the commodity (including propellant), in terms of weight, that will be expelled when the instructions for use as shown on the container are followed.

History: Rule 6-76, eff 19 Oct 76, § 36.

27.0651 Multiunit packages.

Any package containing more than 1 individual “commodity .in package form” (see 27.0617(1)) of the same commodity shall bear on the outside of the package a declaration of:

- (1) the number of individual units;
- (2) the quantity of each individual unit; and
- (3) the total quantity of the contents of the multiunit package; provided, that any such declaration of total quantity shall not be required to include the parenthetical quantity statement of a dual quantity representation.

History: Rule 6-76, eff 19 Oct 76, § 37.

27.0652 Combination packages of dissimilar commodities.

Any package containing individual units of dissimilar commodities (such as an antiquing kit, for example) shall bear on the label of the package a quantity declaration for each unit.

History: Rule 6-76, eff 19 Oct 76, § 35.

27.0653 Variety packages.

Any package containing individual units of reasonably similar commodities (such as, for example, seasonal gift packages and variety packages of cereal) shall bear on the label of the package a declaration of the total quantity of commodity in the package.

History: Rule 6-76, eff 19 Oct 76, § 39.

27.0654 Cylindrical containers.

In the case of cylindrical or nearly cylindrical containers information required to appear on the principal display panel shall appear within that 40% of the circumference which is most likely to be displayed, presented, shown, or examined under customary conditions of display for retail sale.

History: Rule 6-76, eff 19 Oct 76, § 40.

27.0655 Containers-Measured containers-Liners.

(a) Commodities designed and sold at retail to be used as containers for other materials or objects, such as bags, cups, boxes, and pans, shall be labeled with the declaration of net quantity as follows:

(1) For bag-type commodities, in terms of count followed by linear dimensions of the bag (whether packaged in a perforated roll or otherwise):

(A) When the unit bag is characterized by 2 dimensions because of the absence of a gusset, the width and length will be expressed in inches, except that a dimension of 2 feet or more will be expressed in feet with any remainder in terms of inches or common or decimal fractions of the foot (for example: “25 bags 17in x 20 in” or “100 bags, 20 in x 2 ft 6 in” or “50 bags, 20 in x 21/2 ft”);

(B) When the unit bag is gusseted, the dimensions will be expressed as width, depth, and length, in terms of inches, except that any dimension of 2 feet or more will be expressed in feet with any remainder in terms of inches or the common or decimal fractions of the foot (for example: “25 bags, 17 in x 4 in x 20 in” or “100 bags, 20 in x 12 in x 2-1/2 ft”):

(2) For other square, oblong, rectangular, or similarly shaped containers, in terms of count followed by length, width, and depth, except depth need not be listed when less than 2 inches (for example: “2 cake pans, 8 in x 8 in” or “roasting pan, 12 in x 8in x 3 in”);

(3) For circular or other generally round-shaped containers, except cups, and the like, in terms of count followed by diameter and depth, except depth need not be listed when less than 2 inches (for example: “4 pie pans, 8 in diameter x 4 in”);

(b) When the functional use of the container is related by label references in standard terms of measure to the capability of holding a specific quantity of substance or class of substances, such

references shall be a part of the net quantity statement and shall specify capacity as follows:

- (1) Liquid measure for containers which are intended to be used for liquids, semisolids, viscous materials, or mixtures of solids and liquids. The expressed capacity will be stated in terms of the largest whole unit (gallon, quart, pint, ounce), with any remainder in terms of the common or decimal fraction of that unit (for example: Freezer Boxes “4 boxes, 1-qt capacity, 5 in x 4 in x 3 in”);
- (2) Dry measure for containers which are intended to be used for solids. The expressed capacity will be stated in terms of the largest whole unit (bushel, peck), with any remainder in terms of the common or decimal fraction of that unit; (for example: Leaf Bags - “8 bags, 6-bushel capacity, 3 ft x 5 ft”);
- (c) Where containers are used as liners for other more permanent containers, the declaration of net quantity shall be in the same terms-as are normally used to express the capacity of the more permanent container (for example: Garbage Can Liners - “10 liners, 2 ft 6in x 3 ft 9 in, fits up to 30-gallons cans”); provided, that notwithstanding the requirements set out in this section, the net quantity statement for containers such as cups will be listed in terms of count and liquid capacity per unit (for example: “24 cups, 6 fl oz capacity”). For purposes of this section, the use of the terms “capacity”, “diameter”, and “fluid” is optional.

History: Rule 6-76. eff 19 Oct 76. § 41.

27.0656 Wearing apparel-Textile products-Threads and yarns.

- (a) Wearing apparel (including nontextile apparel and accessories such as leather goods and footwear) sold as single-unit items, or if normally sold in pairs (such as hosiery, gloves, and shoes) sold as single-unit pairs, shall be exempt from the requirements for a net quantity statement by count, as required by 27.0625.
- (b) Bed sheets, blankets, pillowcases, comforters, quilts, bedspreads, mattress covers and pads, afghans, throws, dresser and other furniture, scarfs, tablecloths and napkins, flags, curtains, drapes, dish towels, dish cloths, towels, face cloths, utility cloths, bath mats, carpets and rugs,

pot holders, fixture and appliance covers, nonrectangular diapers, slip covers, etc., shall be exempt from the requirements of 27.0629; provided, that:

- (1) the quantity statement for fitted sheets and mattress covers shall state, in inches, the length and width of the mattress for which the item is designed, such as “twin”, “double”, “king”, etc. (for example: “Twin fitted sheet for 39 x 75 in mattress”);
- (2) the quantity statement for flat sheets shall state the size designation of the mattress for which the sheet is designed, such as “twin”, “double”, “king”, etc.; the quantity statement also shall state, in inches, the length and width of the mattress for which the sheet is designed, followed in parentheses by a statement, in inches, of the length and width of the sheet before hemming (for example: “Double Flat Sheet for 54 x 75 in mattress (81 x 104 in before hemming)”);
- (3) the quantity statement for pillowcases shall state the size designation of the pillow for which the pillowcase is designed such as “youth”, “standard”, and “queen”, etc.; the quantity statement also shall state, in inches, the length and width of the pillow for which the pillowcase is designed, followed in parentheses by a statement, in inches, of the length and width of the pillowcase before hemming (for example: “Standard Pillowcase for 20 x 26 in pillow (42 x 36 in before hemming)”);
- (4) the quantity statement for blankets, comforters, quilts, bedspreads, mattress pads, afghans, and throws shall state, in inches, the length and width of the finished item; the quantity statement also may state the length of any ornamentation and the size designation of the mattress for which the item is designed, such as “twin”, “double”, “king”, etc.;
- (5) the quantity statement for tablecloths and napkins shall state, in inches, the length and width of the finished item; the quantity statement also may state parenthetically, in inches, the length and width of the item before hemming and properly identified as such;

- (6) the quantity statement for curtains, drapes, flags, furniture, scarfs, etc., shall state, in inches, the length and width of the Finished item; the quantity statement also may state parenthetically, in inches, the length of any ornamentation;
 - (7) the quantity statement for carpets and rugs shall state, in feet, with any remainder in common or decimal fractions of the foot or in inches, the length and width of the item; the quantity statement also may state parenthetically, in inches, the length of any ornamentation;
 - (8) the quantity statement for woven dish towels, dish cloths, towels, face cloths, utility cloths, bath mats, etc. shall state, in inches, the length and width of the item; the quantity statement for such items, when knitted, need not state the dimensions;
 - (9) the quantity statement for textile products such as pot holders, fixture and appliances covers, nonrectangular diapers, slip covers, etc. shall be stated in terms of count and may in-elude size designations and dimensions;
 - (10) the quantity statement for other than rectangular textile products identified in paragraphs (b) (1) through (8) of this section shall state the geometric shape of the product and the dimensions which are customarily used in describing such geometric shape (for example: “Oval Tablecloth 54 x 42 in representing the maximum length and width in this case);
 - (11) the quantity statement for packages of remnants of textile products of assorted sizes, when sold by count, shall be accompanied by the term “irregular dimensions” and the minimum size of such remnants.
- (c) Variation from declared dimensions are normally considered unreasonable when there is:
- (1) for an item with no declared dimension less than 24 inches, a minus variation greater than 3% of a declared dimension and a plus variation greater than 6% of a declared dimension;
 - (2) for an item with a declared dimension less than 24 inches, a minus variation greater than 6% of a declared dimension and a plus variation greater than 12% of a declared dimension.
- (d) Variety packages of textiles which are required by reason of 27.0651 to provide a combination declaration stating the quantity of each individual unit, shall be exempt from the requirements in this article for:
- (1) location (See 27.0640);
 - (2) free area (see 27.0643); and
 - (3) minimum height of numbers and letters (see 27.0646).
- (e) Sewing and handicraft threads shall be exempt from the requirements of 27.0628(b); provided, that:
- (1) the net quantity statement for sewing and handicraft threads shall be expressed in terms of yards; and
 - (2) the net quantity statement for yarns shall be expressed in terms of weight;
 - (3) thread products may, in lieu of name and address, bear a trademark, symbol, brand, or other mark that positively identifies the manufacturer, packer, or distributor, provided that such marks, employed to identify the vendor shall be filed with the director;
 - (4) each unit of industrial thread shall be marked to show its net measure in terms of yards or its net weight in terms of avoirdupois pounds or ounces except that ready-wound bobbins which are not sold separately shall not be required to be individually marked, but the package containing such bobbins shall be marked to show the number of bobbins contained therein and the net yards of thread on each bobbin.

History: Rule 6-76, eff 19 Oct 76, § 42.

27.0657 Seed packages.

Packages of seeds intended for planting shall be labeled in full accord with this article except as follows:

- (a) The quantity statement shall appear in the upper 30% of the principal display panel;

- (b) The quantity statements shall be in terms of the largest whole unit of the metric system for all weights up to 1/4 ounce, and in the avoirdupois system for all other weights up to 8 ounces; packaged seeds 8 ounces or more shall not be subject to this section;
- (c) The quantity statement for seed tapes, preplanters, etc., shall be in terms of count;
- (d) This section shall apply only to labels revised after 19 Oct 76.

History: Rule 6-76, eff 19 Oct 76, § 43.

27.0658 Dual declaration.

Whenever any consumer commodity or package of consumer commodity is exempted from the requirements for dual quantity declaration, the net quantity declaration required to appear on the package shall be in terms of the largest whole unit, except as provided in 27.0651.

History: Rule 6-76, eff 19 Oct 76, § 44.

27.0659 Random packages.

- (a) A random package bearing a label conspicuously declaring the net weight price per pound, and total price shall be exempt from the type size, dual declaration, placement, and free area requirements of this article. In the case of a random package packed at one place for subsequent sale at another, neither the price per unit of weight nor the total selling price need appear on the package, provided the package label includes both such prices at the time it is offered or exposed for sale at retail.
- (b) This exemption shall also apply to uniform weight packages of cheese and cheese products labeled in the same manner and by the same type of equipment as random packages exempted by this section.

History: Rule 6-76, eff 19 Oct 76, § 45.

27.0660 Penny candy.

Individually wrapped pieces of “penny candy” and other confectionery of less than 1/2 ounce net weight per individual piece shall be exempt from the labeling requirements of this regulation when the container in which such confectionery is shipped is in conformance with the labeling requirements of this article. Similarly, when such confectionery items are sold in bags or boxes, such items shall be exempt from the labeling requirements of this regulation, including the required declaration of net quantity of

contents, when the declaration of the bag or box meets the requirements of this article.

History: Rule 6-76, eff 19 Oct 76, § 46.

27.0661 Individual servings.

Individual-serving-size packages of foods containing less than 1/2 ounce or less than 1/2 fluid ounce for use in restaurants, institutions, and passenger carriers, and not intended for sale at retail, shall be exempt from the required declaration of net quantity of contents specified in this article.

History: Rule 6-76, eff 19 Oct 76, § 47.

**27.0662 Tobacco cuts, plugs, and twists-
Individual cigars.**

When individual cuts, plugs, and twists of tobacco, and individual cigars are shipped or delivered in containers that conform to the labeling requirements of this article, such individual cuts, plugs, and twists of tobacco, and cigars, shall be exempt from such labeling requirements.

History: Rule 6-76, eff 19 Oct 76, § 48.

**27.0663 Reusable (returnable) glass
containers.**

Nothing in this article shall be deemed to preclude the continued use of reusable (returnable) glass containers; provided, that such glass containers ordered after 19 Oct 76, shall conform to all requirements of this article.

History: Rule 6-76, eff 19 Oct 76, § 49.

27.0664 Cigarette and small cigar cartons.

Cartons of cigarettes and small cigars, containing 10 individual packages of 20 labeled in accordance with the requirements of this article shall be exempt from the requirements set forth in 27.0640, 27.0646, and 27.0651; provided, that such cartons bear a declaration of the net quantity of commodity in the package.

History: Rule 6-76, eff 19 Oct 76, § 50.

**27.0665 Federal requirements supersede-
Exemptions therefor.**

Packages of meat and meat products, poultry and poultry products, tobacco and tobacco products, insecticides, fungicides, rodenticides, and alcoholic beverages shall be exempt from the requirements set forth in 27.0629, 27.0640, and 27.0646; provided, that quantity labeling requirements for such products are specified in federal law, so as to follow reasonably sound principles of providing consumer information.

History: Rule 6-76, eff 19 Oct 76, § 51.

27.0666 Fluid dairy products-Frozen desserts.

(a) Fluid dairy products, ice cream, and similar frozen desserts:

- (1) when packaged in 1/2-liquid-pint and 1/2-gallon containers, are exempt from the requirements for stating net contents of 8 fluid ounces and 64 fluid ounces, which may be expressed as 1/2 pint and gallon, respectively;
- (2) when packaged in 1-liquid-pint, 1-liquid-quart and 1/2-gallon containers, are exempt from the dual net contents declaration requirements of 27.0629;
- (3) when measured by and packaged in 1/2-liquid-pint, 1-liquid-pint, 1-liquid-quart, 1/2-gallon and 1-gallon measure containers as defined in “Measure Container Code of National Bureau of Standards Handbook 44”, are exempt from the requirement of 27.0640 that the declaration of net contents be located within the bottom 30% of the principal display panel.

(b) Milk and milk products, when measured by and packaged in glass or plastic containers of 1/2-liquid-pint, 1-liquid-pint, 1-liquid-quart, 1/2-gallon, and 1-gallon capacities, are exempt from the placement requirement of 27.0639 that the declaration of net contents be located within the bottom 30% of the principal display panel, provided that other required label information is conspicuously displayed on the cap or outside closure, and the required net quantity of contents declaration is conspicuously blown, formed, or molded on. or permanently applied to, that part of the glass or plastic container that is at or above the shoulder of the container.

History: Rule 6-76, eff 19 Oct 76, § 52.

**27.0667 Fruit juice and imitation beverages-
Drinking water.**

Single-strength and less than single-strength fruit juice beverages, imitations thereof, and drinking water:

- (1) when packaged in glass, plastic or fluid-milk-type paper containers of 8-fluid-ounce and 64-fluid-ounce capacity, are exempt from the requirements of 27.0626(a)(2) to the extent that net contents of 8 fluid ounces and 64 fluid ounces (or 2 quarts) may be expressed as 1/2 pint

(or half pint) and 1/2 gallon (or half gallon), respectively;

- (2) when packaged in glass, plastic or fluid-milk-type-paper containers of 1-pint, 1-quart, and 1/2-gallon capacities, are exempt from the dual net contents declaration requirements of 27.0629(b);
- (3) when packaged in glass or plastic containers of 1/2-pint, 1-pint, 1-quart, 1/2gallon, and 1gallon capacities, are exempt from the placement requirement of 27.0640 that the declaration of net contents be located within the bottom 30% of the principal display panel; provided, that other required label information is conspicuously displayed on the cap or outside closure and the required net quantity of contents declaration is conspicuously blown formed, or molded into, or permanently applied to, that part of the glass or plastic container that is at or above the shoulder of the container.

History: Rule 6-76, eff 19 Oct 76. § 53.

27.0668 Soft drinks.

(a) Bottles of soft drinks shall be exempt from the placement requirements for the declaration of:

- (1) identity when such declaration appears on the bottle closure: and
- (2) quantity, when such declaration is blown formed or molded on or above the shoulder of the container and when all other information required by this article appears only on the bottle closure.

(b) Multi-unit packages of soft drinks are exempt from the requirement for a declaration of:

- (1) responsibility, when such declaration appears on the individual units and is not obscured by the multi-unit packaging, or when the outside container bears a statement to the effect that such declaration will be found on the individual units inside; and
- (2) identity, when such declaration appears on the individual units and is not obscured by the multi-unit packaging.

History: Rule 6-76, eff 19 Oct 76, § 54.

27.0669 Butter.

When packaged in 4-ounce, 8-ounce, and 1-pound units with continuous-label-copy wrapping, butter is exempt from the requirements of 27.0618(a) and

27.0644 that the statement of identity and the net quantity declaration be generally parallel to the base of the package. When packaged in 8-ounce and 1-pound units, butter is exempt from the requirement of 27.0640 for location of net quantity declaration and, when packaged in 1-pound units, is exempt from the requirement of 27.0629(a) for dual quantity declaration.

History: Rule 6-76, eff 19 Oct 76, § 55.

27.0670 Eggs.

Cartons containing 12 eggs shall be exempt from the requirement of 27.0640 for location of net quantity declaration. When such cartons are designed to permit division in half, each half shall be exempt from the labeling requirements of this article if the undivided carton conforms to all such requirements.

History: Rule 6-76, eff 19 Oct 76, § 56.

27.0671 Flour.

Packages of wheat flour packaged in units of 2, 5, 10, 25, 50, and 100 pounds shall be exempt from the requirement of 27.0640 for location of the net quantity declaration and, when packaged in units of 2 pounds shall be exempt also from the requirement of 27.0629(a) for a dual quantity declaration.

History: Rule 6-76, eff 19 Oct 76, § 57.

27.0672 Small packages.

On a principal display panel of 5 square inches or less, the declaration of quantity need not appear in the bottom 30% of the principal display panel if that declaration satisfies the other requirements of this article.

History: Rule 6-76, eff 19 Oct 76, § 52.

27.0673 Cosmetics in decorative containers.

The principal display panel of a cosmetic marketed in a “boudoir-type” container including decorative cosmetic containers of the “cartridge”, “pill box”, “compact”, or “pencil”, variety, and those with a capacity of 1/4 ounce or less, may be a tear-away tag or tape affixed to the decorative container and bearing the mandatory label information as required by this article.

History: Rule 6-76, eff 19 Oct 76, § 59

27.0674 Combination packages.

Combination packages are exempt from the requirements of 27.0640, 27.0641, and 27.0646.

History: Rule 6-76, eff 19 Oct 76, § 60

27.0675 Margarine.

Margarine in 1-pound rectangular packages, except for packages containing whipped or soft margarine or packages containing more than 4 sticks, shall be exempt from the requirement of 27.0640 for location of the net quantity declaration, and shall be exempt from the requirement of 27.0629(a) for a dual quantity declaration.

History: 6-76, eff 19 Oct 76, § 61.

27.0676 Corn flour.

Corn flour packaged in conventional 5, 10, 25, 50, and 100-pound bags shall be exempt from the requirement of 27.0640 for location of the net quantity declaration.

History: Rule 6-76, eff 19 Oct 76, § 62.

27.0677 Prescription and insulin-containing drugs.

Prescription and insulin-containing drugs subject to the provisions of §§ 503 (b) (1) or 506 of the Federal Food, Drug, and Cosmetic Act shall be exempt from the provisions of this article.

History: Rule 6-76, eff 19 Oct 76, § 63.

27.0678 Camera film.

Camera film packaged and labeled for retail sale is exempt from the net quantity statement requirements of this article which specify how measurement of commodities should be expressed; provided that:

- (1) the net quantity of contents on packages of movie film and bulk still film is expressed in terms of the number of lineal feet of usable film contained therein; and
- (2) the net quantity of contents on packages of still film is expressed in terms of the number of exposures the contents will provide; the length and width measurements of the individual exposures, expressed in millimeters or inches, are authorized as an optional statement (for example: “36 exposures, 36 x 24 mm” or “12 exposures, 2-1/4 x 2-1/4 in”).

History: Rule 6-76, eff 19 Oct 76, § 64.

27.0679 Paints and kindred products.

- (a) Paints, varnishes, lacquers, thinners, removers, oils, resins, and solvents, when packaged in 1-liquid-pint and 1-liquid-quart units, shall be exempt from the dual quantity declaration requirements of 27.0629(b).

(b) Tint base paint may be labeled on the principal display panel, as required by this article, in terms of a quart or a gallon including the addition of colorant selected by the purchaser; provided, that the system employed ensures that the purchaser always obtains a quart or a gallon; and further provided, that in conjunction with the required quantity statement on the principal display panel, a statement indicating that the tint base paint is not to be sold without the addition of colorant is presented; and further, provided, that the contents of the container, before the addition of colorant, is stated in fluid ounces elsewhere on the label. Wherever the conditions set out in this section cannot be met, containers of tint base paint must be labeled with a statement of the actual net contents prior to the addition of colorant in full accord with all the requirements of this article.

History: Rule 6-76, eff 19 Oct 76, § 65.

27.0680 Antifreeze.

Antifreeze, when packed in 1-liquid-quart units, in metal or plastic containers, shall be exempt from the dual quantity declaration requirements of 27.0629(b).

History: Rule 6-76, eff 19 Oct 76 § 66.

27.0681 Motor oils.

Motor oils. When packed in 1-liquid-quart units, shall be exempt from the dual quantity declaration requirements of 27.0629(b).

Additionally, motor oil in 1-liquid-quart, 1-gallon, 1-1/4 gallon, 2-gallon, and 2-1/2-gallon units, bearing the principal display panel on the body of the container, is exempt from the requirements of 27.0618 to the extent that the SAE viscosity number is required to appear on the principal display panel, provided that the SAE viscosity number appears on the can lid and is expressed in letters and numerals, in type size of at least 1/4 inch.

History: Rule 6-76, eff 19 Oct 76. § 67.

27.0682 Pillows and mattress pads- Stuffed products with permanent labels.

Those products, including pillows, cushions, comforters, mattress pads, and sleeping bags, that bear a permanent label as designated by the Association of Bedding and Furniture Law Officials or by the California Bureau of Home Furnishin2s shall be exempt from the requirements of 27.0618(a), 27.0620, 27.0640, 27.0643, and 27.0646 and the

declarations of identity and responsibility; provided, that declarations of identity, quantity, and responsibility are presented on a permanently attached label and satisfy the other requirements of this article; and further provided, that the information on such permanently attached label is fully observable to the purchaser.

History: Rule 6-76, eff 19 Oct 76, § 62.

27.0683 Put-up commodities to be marked before sale.

Individual packaged commodities put up in variable weights and sizes for sale intact, and intended to be weighed and marked with the correct quantity statement prior to or at the point of retail sale, are exempt from the requirements of 27.0621 while moving in commerce and while held for sale prior to weighing and marking; provided, that the outside container bears a label declaration of the total net weight.

History: Rule 6-76. eff 19 Oct 76. § 69.

27.0684 Packaged commodities sold by count.

When a packaged consumer commodity is properly measured in terms of count only, or in terms of count and some other appropriate unit, and the individual units are fully visible to the purchaser, such packages shall be labeled in full accord with this article, except that those containing 6 or less items need not include a statement of count. Local shellfish and local farm produce sold in an aiga basket or by count shall also be exempt from this section.

History: Rule 6-76, eff, 19 Oct 76, § 70.

27.0685 Fishing lines and reels.

Packaged fishing lines and reels are exempt from the dual quantity declaration requirements of 27.0629; provided, that the quantity or capacity, as appropriate is presented in terms of yards in full, accord with all other requirements of this article.

History: Rule 6-76, eff 19 Oct 76, § 71.

27.0686 Variation from declaration.

(a) Variations from the declared net weight, measure, or count shall be permitted when caused by unavoidable deviations in weighing, measuring, or counting the contents of individual packages that occur in good packaging practice, but such variations shall not be permitted to such extent that the average of the quantities in the packages of a particular commodity, or a lot of the commodity that is kept, offered, or exposed for sale, or sold, is below the quantity stated, and

no unreasonable shortage in any package shall be permitted, even though averages in other packages in the same shipment, delivery, or lot compensate for such shortage. Variations above the declared quantity shall not be unreasonably large.

- (b) Variations from the declared weight or measure shall be permitted when caused by ordinary and customary exposure to conditions that normally occur in good distribution practice and that unavoidably result in change of weight or measure, but only after the commodity is introduced into intrastate commerce; provided, that the phrase “introduced into intrastate commerce” as used in this subsection shall be construed to define the time and the place at which the first sale and delivery of a package is made within the territory, the delivery being either:
 - (1) directly to the purchaser or to his agent; or
 - (2) to a common carrier for shipment to the purchaser, and this subsection shall be construed as requiring that so long as a shipment, delivery, or lot of packages of a particular commodity remains in the possession or under the control of the packager or the person who introduces the package into intrastate commerce, exposure variations shall not be permitted.
- (c) The magnitude of variations permitted under this section shall, in the case of any shipment, delivery, or lot, be determined by the facts in the individual case.

History: Rule 6-76, eff 19 Oct 76, § 72.

27.0687 “Cents-off” representation.

- (a) The term “cents-off representation” means any printed matter consisting of the words “cents off” or words of similar import, placed upon any consumer package or placed upon any label affixed or adjacent to such package, stating or representing by implication that it is being offered for sale at a price lower than the ordinary and customary retail sale price.
- (b) Except as set forth in 27.0688, the packager or labeler of a consumer commodity shall not have imprinted thereon a “cents-off” representation unless:
 - (1) the commodity has been sold at an ordinary and customary price in the most recent and

regular course of business where the “cents off” promotion is made

- (2) the commodity so labeled is sold at a reduction from the ordinary and customary price, which reduction is at least equal to the amount of the “cents-off” representation imprinted on the commodity package or label;
- (3) each “cents-off” representation imprinted on the package or label is limited to a phrase which reflects that the price marked by the retailer represents the savings in the amount of the “cents-off” the retailer’s regular price, e.g. “Price Marked is..... Off the Regular Price”; “price Marked is.....Cents off the Regular Price of This Package”; provided, that the package or label may in addition, bear in the usual pricing spot a form reflecting a space for the regular price, the represented “cents-off”, and a space for the price to be paid by the consumer:
- (4) the commodity at retail presents the regular price, designated as the regular price”, clearly and conspicuously on the package or label of the commodity or on a sign, placard, or shelf marker placed in a position contiguous to the retail display of the “cents-off” marked commodity;
- (5) not more than 3 “cents-off” promotions of any single size commodity may be initiated in the same trade area within a 12-month period: at least 30 days must lapse between “cents-off” promotions of any particular size packaged or labeled commodity in a specific trade area; and any single-size commodity so labeled may not be sold in a trade area for a duration in excess of 6 months within any 12-month period;
- (6) sales any single-size commodity so labeled in a trade area do not exceed in volume 50% of the total volume of sales of such size commodity in the same trade area during any 12-month period. The 12-month period may be the calendar, fiscal, or market year, provided that the identical period is applied in this paragraph and (b) (5) or this section. Volume limits may be calculated on the basis of projections for the current year but shall not exceed 50% of the sales for the

preceding year in the event actual sales are less than the projection for the current year.

- (c) No “cents-off” promotion shall be made available in any circumstances where it is known or there is reason to know that it will be used as an instrumentality for deception or for frustration of value comparison; e.g., where the retailer charges a price which does not fully pass on to the consumers the represented price reduction or where the retailer fails to display the regular price in the display area of the “cents-off” marked product.
- (d) The sponsor of a “cents-off” promotion shall prepare and maintain invoices or other records showing compliance with this section. The invoices or other records required by this section shall be open to inspection and shall be retained for a period of 1 year subsequent to the end of the year (calendar, fiscal, or market) in which the “cents-off” promotion occurs.

History: Rule 6-76, eff 19 Oct 76, § 73.

27.0688 Introductory offers.

- (a) “Introductory offer” means any printed matter consisting of the words “introductory offer” or words of similar import, placed upon a package containing any new commodity or upon any label affixed on or adjacent to such new commodity, stating or representing by implication that such new commodity is offered for retail sale at a price lower than the anticipated ordinary and customary retail sale price.
- (b) The packager or labeler of a consumer commodity may not have imprinted thereon an introductory offer unless:
 - (1) the product contained in the package is new, has been changed in a functionally significant and substantial respect, or is being introduced into a trade area for the first time;
 - (2) each offer on a package or label is clearly and conspicuously qualified;
 - (3) no commodity so labeled is sold in a trade area for a duration in excess of 6 months;
 - (4) at the time of making the introductory offer promotion, the offerer intends in good faith to offer the commodity, alone, at the anticipated ordinary and customary price for a reasonably substantial period of time

following the duration of the introductory offer promotion.

- (c) The packager or labeler of a consumer commodity shall not have imprinted thereon an introductory offer in the form of a “cents-off” representation unless in addition to the requirements in subsection (b) of this section:
 - (1) the package or label clearly and conspicuously and in immediate conjunction with the phrase “Introductory Offer” bears the phrase cents-off the after introductory-offer price”;
 - (2) the commodity so labeled is sold at a reduction from the anticipated ordinary customary price, which reduction is at least equal to the amount of the reduction from the after-introductory offer price representation on the commodity package or label.
- (d) No introductory offer with a “cents-off” representation shall be made available in any circumstance where it is known or there is reason to know that it will be used as an instrumentality for deception or for frustration of value comparison, e.g., where the retailer charges a price which does not fully pass on to consumers the represented price reduction.
- (e) The sponsor of an introductory offer shall prepare and maintain invoices or other records showing compliance with this section. The invoices or other records required by this section shall be open to inspection and shall be retained for a period of 1 year subsequent to the period of the introductory offer.

History: Rule 6-76, eff 19 Oct 76, § 74.

27.0689 Economy size.

- (a) “Economy size” means any printed matter consisting of the words “economy size”, “economy pack”, “budget pack”, “bargain size”, “value size”, or words of similar import placed upon any package containing any consumer commodity or placed upon any label affixed or adjacent to such commodity, stating or representing directly or by implication that a retail sale price advantage is accorded the purchaser thereof by reason of the size of that package or the quantity of its contents.

- (b) The packager or labeler of a consumer commodity may not have imprinted thereon an “economy size” representation unless:
- (1) at the same time the same brand of the commodity is offered in at least 1 other packaged size or labeled form;
 - (2) only 1 packaged or labeled form of that brand of commodity labeled with an “economy size” representation is offered;
 - (3) the commodity labeled with an “economy size” representation is sold at a price per unit of weight, volume, measure, or count which is substantially reduced; i.e., at least 5%, from the actual price of all other packaged or labeled units of the same brand of that commodity offered simultaneously.
- (c) No “economy size” package shall be made available in any circumstances where it is known that it will be used as an instrumentality for deception; e.g., where the retailer charges a price which does not pass on to the consumer the substantial reduction in cost per unit initially granted.
- (d) The sponsor of an “economy size” package shall prepare and maintain invoices or other records showing compliance with subsection (b) of this section. The invoices or other records required by this section shall be open to inspection and shall be retained for 1 year.

History: Rule 6-76, eff 19 Oct 76, § 75.

27.0690 Severability.

If any provision of this article or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications which can be given effect without the invalid provision or application, and to this end all provisions of this article are declared to be severable.

History: Rule 6-76, eff 19 Oct 76, § 76.

27.0691 Former rules superseded.

All rules heretofore adopted on packaging and labeling are hereby superseded in their entirety and of no further force and effect.

History: Rule 6-76, eff 19 Oct 76, § 77.

[End Of Title 27 – Chapter 6]

TITLE 27 – CHAPTER 07 – AGRICULTURE PRODUCE BOARD

Sections:

- 27.0701 Authority.
- 27.0702 Definitions.
- 27.0703 Establishment of the board.
- 27.0704 Terms of office.
- 27.0705 Vacancies.
- 27.0706 Board meetings.
- 27.0707 Disclosure of conflicting interests.
- 27.0708 Board objectives.
- 27.0709 Board powers.
- 27.0710 License eligibility.
- 27.0711 Regulations governing licenses.
- 27.0712 License suspension or revocation.
- 27.0713 Enforcement.

27.0701 Authority.

The rule codified in this chapter is adopted under the authority of Section 6 of Article IV of the Revised Constitution of American Samoa and 4.0302(a) and 4.1002 A.S.C.A.

History: Rule 3-82, eff 12 May 82, § 1.

27.0702 Definitions.

In this chapter, unless the context otherwise requires:

- (1) “Agriculture produce”, means any agricultural commodity;
- (2) “Board” means the Agriculture Produce Board;
- (3) “Chairman” means the chairman of the board;
- (4) “Government” means the American Samoa government; and
- (5) “Governor” means the Governor of American Samoa.

History: Rule 3-82, eff 12 May 82, § 2.

27.0703 Establishment of the board.

- (a) There is established the Agriculture Produce Board.
- (b) The board consists of the following members:
 - (1) The Director of Agriculture, who shall be the chairman;
 - (2) The Deputy Secretary of Samoan Affairs, who shall be the deputy chairman;
 - (3) The Agricultural Economist of the Office of Development Planning, who shall be the secretary;

- (4) The Chief Quarantine Officer; and
- (5) Two private, commercial farmers appointed by the chairman and approved by the Governor.
- (c) The powers of the board shall not be affected by any vacancy in its membership, provided that a quorum is present.

History: Rule 3-82, eff 12 May 82, § 3.

27.0704 Terms of office.

- (a) Members of the board by virtue of office or position serve while holding that office or position.
- (b) Appointed members of the board shall hold office for a period of 4 years, and may be reappointed. Subject to the provisions of 27.0705, every appointed member shall continue to hold office until his successor comes into office.

History: Rule 3-82, eff 12 May 82, § 4.

27.0705 Vacancies.

- (a) An appointed member may at any time resign his office by notice in writing to the chairman.
- (b) The Governor, acting on the advice of the chairman or the board, may remove an appointed member:
 - (1) For disability or neglect of duty;
 - (2) If he is satisfied that the appointed member has left American Samoa permanently; or
 - (3) If the appointed member is absent from 3 consecutive meetings of the board without the permission of the board.
- (c) If a member dies, resigns, or is removed from office, the vacancy shall be filled by an appointment made in the same manner as that of the member vacating office.

History: Rule 3-82, eff 12 May 82, § 5.

27.0706 Board meetings.

- (a) Board meetings shall be held at such times and places as the chairman or the board directs.
- (b) The chairman shall call a meeting whenever required to do so in writing by any 2 members.
- (c) At any meeting 4 members shall form a quorum.

- (d) The chairman shall preside at every meeting at which he is present.
- (e) If the chairman is for any reason absent from a meeting:
 - (1) The deputy chairman shall preside at that meeting if he is present; and
 - (2) If the deputy chairman is not present, the members shall appoint one of their members to preside at that meeting.
- (f) In the absence from a meeting of any member of the board specified in paragraphs (1), (2), (3) or (4) of 27.0703(b), that member may appoint any other senior official of his respective government agency to be his representative at that meeting and a representative so appointed shall while he attends the meeting be deemed for all purposes to be a member of the board, except that he shall not preside at the meeting.
- (g) At every meeting, the chairman or other person presiding shall participate fully in deliberations, and in the case of an equality of votes, he shall cast the deciding vote.
- (h) Every question arising at a meeting shall be decided by a majority of the votes recorded on the question.

History: Rule 3-82, eff 12 May 82, § 6.

27.0707 Disclosure of conflicting interests.

- (a) Any member, who otherwise than as a member, is directly or indirectly interested in any business of the board, shall, as soon as possible after the relevant facts have come to notice, disclose the nature of his interest at a meeting of the board.
- (b) a disclosure under subsection (a) of this section shall be recorded in the minutes of the board and except as other-wise provided by a resolution of the board, the member shall not take part after the disclosure in any deliberations or decisions relating to the business, but shall be counted as present for the purpose or forming a quorum of the board for any such deliberations or decisions.

History: Rule 3-82, eff 12 May 82, § 7.

27.0708 Board objectives.

The board shall have the following general objectives:

- (1) To control and regulate the supply of agriculture produce in American Samoa;

- (2) To promote and foster the stability of domestic agriculture produce in American Samoa;
- (3) To promote and foster a sound marketing structure for agriculture produce in American Samoa; and
- (4) To promote and foster regional cooperation in terms of the trading patterns of agriculture produce in a manner conducive to the orderly and balanced economic development of American Samoa.

History: Rule 3-82, eff 12 May 82, § 8.

27.0709 Board powers.

In pursuance of its objectives, the board shall have the following powers concerning the importation of agriculture produce into American Samoa:

- (1) To formulate policies, and to keep under review and, where necessary, develop changes in such policies;
- (2) To recommend to the Governor the adoption of rules by the Governor to implement policies;
- (3) To issue licenses for importation on conditions in accordance with such rules;
- (4) To give any directions or instructions as are reasonably necessary for licensees or government agencies to carry out the conditions of licenses and provisions of governing rules; and
- (5) To execute such other functions as this chapter or the Governor may direct.

History: Rule 3-82, eff 12 May 82, § 9.

27.0710 License eligibility.

The following eligibility requirements for an agriculture produce license are established:

- (1) Each licensee must be either a sole proprietor, partnership or corporation authorized to do business under the laws of American Samoa;
- (2) Sole proprietors and partners must be 21 years of age or over;
- (3) Each license must provide evidence satisfactory to the board of financial capability to import agriculture produce in compliance with the provisions of 27.0711
- (4) Each licensee must present evidence satisfactory to the board of arrangements with one or more suppliers of agriculture produce; and

- (5) Each licensee must have prior experience in the importation and sale of agriculture produce, or an employee or agent with such prior experience,

History: Rule 3-82, eff 12 May 82, § 10.

27.0711 Regulations governing licenses.

- (a) A licensee shall import agriculture produce in the minimum and maximum amounts, based on weight, number of packaged units, and/or other reasonable criteria established by the board, on a periodic basis determined by the board. If a licensee's shipment will not meet existing board requirements, notification must be given to the board by the Friday prior to the intended shipment week. For purposes of this section, agriculture produce means taro, ta'amu, bananas, and other fruits and vegetables designated by the board.
- (b) All agriculture produce imported must be sold at a place in American Samoa covered by a valid agriculture produce license. The board may periodically determine and order that licensed areas will exclude the public market and immediately adjacent public areas in Fagatogo, based on the availability of agriculture produce produced in American Samoa according to reasonable standards of quality and quantity.
- (c) All agriculture produce imported pursuant to a license approved by the board must be sold at a reasonable margin of profit.
- (d) All agriculture produce must be weighed with an approved or certified two-faced scale at time of sale.
- (e) All imports must be accompanied by a certificate required by the quarantine regulations.
- (f) Each licensee is to actively and personally participate in selling imported agriculture produce. If a licensee cannot comply with this requirement, the licensee must designate to the board the person(s) authorized to sell produce for the licensee.

History: Rule 3-82, eff 12 May 82, § 11; and Rule 1242, eff 27 Jan 83, § 2.

27.0712 License suspension or revocation.

Any license approved by the board may be suspended or revoked after reasonable notice and opportunity for hearing, for the following reasons:

- (1) Noncompliance with any of the regulations contained in 27.0711;

- (2) Failure to import produce for 2 consecutive weeks with no advance notification to the board; or

- (3) Violation of any laws or rules concerning the operation of a business in American Samoa.

History: Rule 3-82, eff 12 May 82, § 12.

27.0713 Enforcement.

- (a) The Chief Quarantine Officer in cooperation with the board shall monitor all incoming shipments of agriculture produce from outside American Samoa to insure compliance with the regulations contained in this chapter. The Chief Quarantine Officer is empowered to deny landing of any unauthorized shipment, and will summarize weekly for the information of the board an interested persons the total poundage imported by each licensee.
- (b) In cooperation with the board, the Manager of Weights and Measures will monitor the sale of imported agriculture produce at the public market in Fagatogo and at establishments with valid import licenses to insure that the agriculture produce sold is properly weighed and to check scales for accuracy and official approval or certification.

History: Rule 3-82, eff 12 May 82, § 13.

[End Of Title 27 – Chapter 7]

TITLE 27 – CHAPTER 08 – FARM SUBSIDY PROGRAM RULES & REGULATIONS

Sections:

- 27.0801 Authority.
- 27.0802 Pig farmer.
- 27.0803 Chicken farmer.
- 27.0804 Beef farmer.
- 27.0805 Dairy farmer.
- 27.0806 Taro farmer.
- 27.0807 Banana farmer.
- 27.0808 Vegetable farmer.
- 21.0809 Other farmers.
- 27.0810 Other rules and regulations generally.

Approved Farm Production Form

27.0801 Authority.

The following rules and regulations have been adopted by the director of agriculture pursuant to authority given under Public Law 16-27, for implementation of the farm subsidy program:

Section 3. Special Eligibility Requirements.

- (a) To continue eligibility for the subsidy provided under this act, a local farm must cooperate with the designated Government agency in the following areas:
 - (1) Provide the agency with information on production statistics in the format prescribed by the director of agriculture; and
 - (2) Follow approved farming practices recommended by the director of agriculture.
- (b) The director of agriculture shall adopt rules under the Administrative Procedure Act, 3 ASC 1931 et seq. to implement this section.

History: Rule 2-83, eff 7 Mar 83, (part).

27.0802 Pig farmer

- (a) “Pig-farmer” is one who operates a piggery of not less than 5 sows for the first 3 years, and 7 sows years thereafter in a confined area of not less than 6-8 square feet per adult pig.
- (b) Requirements.
 - (1) A piggery must be provided with adequate water supply of not more than 20 pigs per water faucet, with a feeding area or space, whether with concrete floor or its equivalent on a ratio of one pig per square foot.

- (2) A piggery must be provided with adequate shelter to keep pigs dry during stormy weather and require, in addition, a septic tank. (c) Fig farmer must provide a record (see Attachment Sample A, set out at the end of this chapter) at the end of each month as a prerequisite to the subsidy’ benefit for the succeeding month.

History: Rule 2-83, eff 7 Mar 83, § 1.

27.0803 Chicken farmer.

- (a) “Chicken farmer” is one who raises 200 birds inside an enclosed area.
- (b) Requirements.
 - (1) Enclosed area must be provided with shelter, feed water trough, and for laying flocks an area for brooding or laying of eggs;
 - (2) A farmer must provide the Department of Agriculture with accurate information on production (see Attachment Sample B, set out at the end of this chapter).

History: Rule 2-83, eff 7 Mar 83, § 2.

27.0804 Beef farmer.

A “beef farmer” raises at least 5 beef breed cows in a pasture or completely fenced area with a continuous source of fresh water and provides facilities to control and work the cattle.

History: Rule 2-83, eff 7 Mar 83, § 3.

27.0805 Dairy farmer.

A “dairy farmer” operates a goat or cow milking of at least two cows, or three goats, provides for fenced pasture with continuous fresh water, milking shed facilities, feed supplement and milk handling equipment acceptable to standard public health requirements.

History: Rule 2-83, eff 7 Mar 83, § 4.

27.0806 Taro farmer.

A “taro farmer” is one who operates not less than 1 acre of taro plantation, and keeps it 75% weeded as well as relatively free of pest and diseases infestation. He must maintain a monthly planting program of not less than 1,500 tops.

History: Rule 2-83, eff 7 Mar 83, § 5.

27.0807 Banana farmer.

A “banana farmer” is one who, operates not less than 2 acres of banana plantation, and keeps it 75% weeded and bunchy top free, sprays it with fungicides at two-week intervals, and maintains a monthly planting program of not less than 200 plants per month for the first four month, 100 plants per month thereafter. If a farmer has three acres of existing crops, he is required 50 new plants every month thereafter (for reporting purposes, use Attachment-Sample C, set out at the end of this chapter).

History: Rule 2-83, eff 7 Mar 83, § 6.

27.0808 Vegetable farmer.

A “vegetable farmer” is one who operates not less than 1/2 acre of different varieties of vegetable crops. Within 4 months, he must increase his farm to one acre and maintains not less than one acre of vegetables at all times. Entire cultivated area must be kept weed-free at all times, and pest and disease problems must be controlled (for reporting purposes, use Attachment Sample C, set out at the end of this chapter).

History: Rule 2-83, eff 7 Mar 83, § 7.

27.0809 Other farmers.

A farmer specializing in other crops or livestock will be eligible only if lie operates a commercial venture; eligibility will be determined by the director of agriculture on the case-by-case basis.

History: Rule 2-83, eff 7 Mar 83, § 8

27.0810 Other rules and regulations generally.

- (a) In addition, the farmer will cooperate with agriculture specialists in improving production.
- (b) The director of agriculture shall have the discretion to either suspend or remove a farmer’s name from the eligibility list for failure to comply with any of the rules and regulations herein above specified.
- (c) These rules and regulations may be amended from time to time.
- (d) A monthly report of farm production must be submitted to the Department of Agriculture in such form or forms prepared and approved by the director under these rules and regulations.

History: Rule 2-83, eff 7 Mar 83, §§ 9,10,11,12.

FARM PRODUCTION RECORD
LIVESTOCK

		Report for month of _____	
		Date of Report _____	
Farmers Name (Print) _____		Village _____	
PIGS:	Mortality	On hand this month	On hand last month
Sows-aumatua _____	_____	_____	_____
Boars – po’a e le’i fofoina _____	_____	_____	_____
Gilts – taanoa _____	_____	_____	_____
Barrow – po’a uma na fofo _____	_____	_____	_____
Piglets – tama’i pua’a _____	_____	_____	_____
TOTAL			
I understand that any false information given may lead to cancellation of my subsidy status.			
Signed by _____		Date _____	

Sample A
FARM PRODUCTION RECORD
LIVESTOCK

		Report for month of _____	
		Date of Report _____	
Farmers Name (Print) _____		Village _____	
CHICKENS	Mortality	On hand this month	On hand last month
Hens _____	_____	_____	_____
Roosters _____	_____	_____	_____
Pullets _____	_____	_____	_____
Cockerel _____	_____	_____	_____
Chicks _____	_____	_____	_____
TOTAL			

I understand that any false information given may lead to cancellation of my subsidy status.

Signed by _____ Date ____

Sample B
FARM PRODUCTION RECORDS
CROPS

Report for month of _____	
Date of Report _____	
Name _____	
Village _____	
Taro (In numbers – Total)	Acreage (4000/acres)
_____	_____
Banana (In number)	Acreage (4000/acres)
_____	_____
Vegetables (Total Acreage _____)	
_____	_____
_____	_____
_____	_____
Others (Total Acreage _____)	
_____	_____
_____	_____
_____	_____
Signed (farmer)	

[End Of Title 27 – Chapter 8]

TITLE 27 – CHAPTER 09 – CONSUMER PROTECTION

Sections:

27.0901	Authority and purpose.
27.0902	Definitions.
27.0903	Prohibition.
27.0904	Authorized representation in fee-generating case.
27.0905	Acceptance of fees.
27.0906	Acceptance of a case.
27.0907	Appeals.
27.0908	Amicus curiae.

27.0901 Authority and purpose.

This rule is issued pursuant to authority granted in A.S.C.A., 27.0402(c) for the purpose of insuring the director of the Consumer Protection Bureau will avoid competition with private attorneys in the representation of clients.

History: Rule 5-85, eff 30 Dec 85.

27.0902 Definition.

- (a) “Appeal” means any appellate proceeding in an action as defined by law or usage in American Samoa or the High Court of American Samoa.
- (b) “Appropriate civil actions” shall include cases filed in court on behalf of individual consumers as well as groups or classes of consumers.
- (c) “Director” means the director of the Consumer Protection Bureau or his designated representation.
- (d) “Fee-generating case” means any case or matter which, if undertaken on behalf of a consumer by an attorney in private practice, reasonably may be expected to result in a fee for legal services from an award to a client, from public funds, or from the opposing party.

History: Rule 5-856, eff 30 Dec 85.

27.0903 Prohibition.

The Consumer Protection Bureau shall not provide legal assistance in a fee-generating case unless other adequate representation is unavailable.

History: Rule 5-85, eff 30 Dec 85.

27.0904 Authorized representation in a fee-generating case.

Other adequate representation is deemed to be unavailable when:

- (a) The director has determined the case or matter involves restitution pursuant to A.S.C.A., 22.1501 et seq., 27.0405, 27.0701 et seq. And any other restitution provision pursuant to law involving the director.
- (b) The director has determined that a referral is impossible because:
 - (1) The case has been rejected by two private attorneys; or
 - (2) The case is the type of case that attorneys have regularly rejected following a referral; or
 - (3) Emergency circumstances compel immediate action before referral can be made, but the consumer is advised that if appropriate, and consistent with professional responsibility, referral will be attempted at a later time, or
- (c) Recovery of damages is not the principal object of the case and a request for damages is merely ancillary to an action for equitable or other nonpecuniary relief, or inclusion of a counterclaim requesting damages is necessary for effective defense or because of applicable rules governing joinder of counter-claims.

History: 5-85, eff 30 Dec 85.

27.0905 Acceptance of fees.

The Consumer Protection Bureau may seek and accept a fee awarded or approved by a court or included in a settlement if the requirements of Section 27.0904 are met such fees are to be made payable to “ASG Treasurer-Consumer Protection Bureau”.

History: Rule 5-85, eff 30 Dec 85.

27.0906 Acceptance of a case.

The Consumer Protection Bureau may accept an appropriate civil action in accordance with this rule whether the action involves broad policy issues or not and may, in the discretion of the director, decline representation to any consumer.

History: Rule 5-85, eff 30 Dec 85.

27.0907 Appeals.

The director may file an appeal on behalf of a consumer if the requirements of Section 27.0904 are met, whether the action was initially instituted by the Consumer Protection Bureau.

History: Rule 5-85, eff 30 Dec 85.

27.0908 *Amicus curiae.*

The director may file an amicus curiae at the request of a private attorney in an appropriate civil action in accordance with the rules of the court in which an action is filed.

History: Rule 5-85, eff 30 Dec 85.

END OF TITLE 27 – COMMERCE CODE