INTERNATIONAL DEVICES & DIAGNOSTICS MONITOR

Vol. 3, No. 19
May 8, 2017

IN THIS ISSUE

EU Publishes MDR and IVD Regs in Official Journal

The final texts of the new European medical device and in vitro diagnostic (IVD) regulations were published Friday in the Official Journal of the European Union.

The European Council voted on the regulations March 7, and the European Parliament followed March 20. Manufacturers have three years to comply with the MDR and five years to comply with the IVDR once the new regulations go into effect (*IDDM*, April 10)

The two documents, totaling 566 and 477 pages respectively, completely revamp the EU's existing regulatory framework.

Read the MDR here: www.fdanews.com/02-23-17-MDRegulations.pdf.

Read the IVDR here: www.fdanews.com/02-23-17-InVitroDiagnostics.pdf.

Hearing Elicits Details of Device-Related Bills for MDUFA Reauthorization

A House Health subcommittee hearing last Tuesday focused on four device-related measures members are considering attaching to MDUFA reauthorization and user fee legislation.

Perhaps most significant for device makers is H.R. 1736, which aims to modernize FDA's device inspections process to increase consistency and transparency. The bill proposes standardized and enhanced processes, including between FDA and facilities—prior to, during, and after inspections.

Testifying on behalf of AdvaMed, Patricia Shrader, vice president of global regulatory affairs for Medtronic, said the legislation is particularly welcomed by industry in addressing communications with FDA inspectors.

Currently, if a company needs to make a correction as the result of an inspection, it has 15 days to submit a remediation plan to FDA, but "there is no such timeline for FDA to respond to the proposed plan of correction," Shrader said.

(See **Bill**, *Page 4)*

Congress Clears FDA Funding Bill for Fiscal 2017

The president signed into law on May 5 a spending bill for fiscal 2017 that keeps the federal government running through September and gives a modest funding increase to the FDA and $428 million for CDRH.

The House approved the bill with a bipartisan 309-118 vote on May 3 and the Senate followed May 4 with a 79-18 tally.

Total FDA funding for the remainder of fiscal 2017 tops $4.65 billion, up 2.4 percent from the previous fiscal year.

Congress will also permit the agency to collect $1.23 billion in user fees for fiscal 2017, including $126.08 million for devices under the current MDUFA program**.** A Senate committee will get to work on the user fee reauthorization bill this week. — Gayle S. Putrich

FDA Advances Plans For a Digital Health Unit

The FDA is moving ahead with the creation of a Digital Health Unit to address software validation for devices and other issues relating to health information technology.

The unit is first tasked with establishing clinical validation procedures that can be applied to software, since software is increasingly functioning as a medical device, said Bakul Patel, CDRH's associate center director for digital health, at an Ohio medical conference last week.

Wearable technology is growing in popularity and devices are increasingly digitized and connected, so regulations and consumer protections have to keep pace, taking into consideration all the advantages and disadvantages of digital devices, he said.

CDRH is seeking to enable patient-centered public health as digitization moves into every aspect of health care, foster trust in innovative technologies as an enabler of a new health care paradigm and partner with stakeholders to be "digital-future ready," said Patel.

The Federal Trade Commission, in conjunction with FDA, last year created a web-based tool for developers of health-related mobile apps, designed to help developers understand which federal laws and regulations might apply to their apps.

View the FTC tool here: www.ftc.gov/tips-advice/business-center/guidance/mobile-health-apps-interactive-tool. — Gayle S. Putrich

AHCA Includes Permanent Medical Device Tax Repeal

The House approved a health care bill Thursday that includes a one-line provision to repeal the medical device excise tax as of Dec. 31, 2017.

U.S. manufacturers of medical devices kicked off 2016 with a taste of tax relief courtesy of the two-year suspension of the 2.3 percent tax on gross sales of medical device passed as part of a larger tax-break and budget deal in late 2015.

But should the narrowly passed House bill fail to garner Senate approval, the device tax could end up in limbo, requiring stand-alone legislation for a suspension to remain in effect. And the Senate cannot vote on a bill until it has a formal cost estimate from the Congressional Budget Office.

Lobbying industry watchdog OpenSecrects.org estimates more than $158 million has been spent by medical device manufacturers since 2012, trying to keep the tax at bay. The Congressional Research Service (CRS) projected the tax would bring in $29 billion in net revenues over 10 years after it went into effect in January 2013 as part of the Affordable Care Act.

U.S. Trade Representative Report Has Particular Concern for Device Makers

The U.S. Trade Representative flagged China and India on its latest priority watch list of countries with lax intellectual property protections and counterfeit products, noting special concern for medical devices.

But those countries are far from the only bad actors. In all, the USTR included 34 countries on its watch list, with no new additions from 2016.

What's more, USTR says, unreasonable regulatory approval delays and non-transparent reimbursement policies can impede a medical device company's ability to enter these and other markets, thereby discouraging device development and marketing.

"The criteria, rationale, and operation of such measures are often nontransparent or not fully disclosed" to medical device companies seeking to market their products, USTR says.

This year's report, known as the Special 301 Report, also highlights concerns regarding market access barriers for device companies that rely on IP protection, particularly in Algeria, India, and Indonesia.

India, the report says, maintains some of the highest tariffs on medical devices and has extensive, longstanding intellectual property problems. New and growing concerns there include draft policies that could negatively impact commercial biotechnology operations, including drug-delivery devices, leaving the USTR skeptical of India's commitment to policies that support innovation and creativity, according to the report.

Action Plans

Algeria has banned a significant number of imported medical devices in favor of local products, the report says. The North African country also struggles to provide adequate and effective IP protection and enforcement and failed to take significant steps toward improvement in 2016, according to the report.

In Indonesia, foreign companies' approvals to market are conditioned upon the transfer of technology to local entities or partial manufacture in Indonesia, USTR says. And in Brazil, federal and state taxes can add significantly to device costs.

The USTR said it will issue action plans for each country on the priority watch list. The U.S., it says, seeks "to establish, or continue, dialogues with trading partners to address these and other concerns and to encourage a common understanding on questions related to innovation" in the medical device sectors.

The USTR's full report is available here: www.fdanews.com/05-01-17-USTRReport2017.pdf.
— William Schulz

Bill, *from Page 1*

She said companies are left waiting, not knowing if they have fully understood the scope and intent of the finding and if their correction will address the issue to FDA's satisfaction.

There is also the concern that if the correction and timetable are not sufficiently detailed, further enforcement action, such as a warning letter, may be taken by FDA, Shrader said.

The MDUFA program would take in $183.3 million for fiscal 2018, up from the $130.2 million set for fiscal 2017.

The Over-the-Counter Hearing Aid Act of 2017 (H.R. 1652), would direct FDA to promulgate regulations establishing a category for over-the-counter hearing aids. It would limit use of OTC hearing aids to use by adults with mild to moderate hearing loss. Both the President's Council of Advisors on Science and Technology and the National Academies say the science supports the need for this new FDA category.

Witness Frank Lin, associate professor of otolaryngology at Johns Hopkins University, spoke in support of the bill, saying less than 20 percent of the nearly 38 million Americans with a significant hearing loss currently have access to hearing aids.

Consultant Thomas Powers, of Powers Consulting, said the bill should be revised to only allow over-the-counter hearing aid sales for individuals with mild hearing loss.

Under questioning, CDRH Director Jeff Shuren said FDA believes the legislation will better serve patients and also lead to greater innovation in the marketplace, making possible, for example, devices that could simultaneously assess hearing loss and modulate hearing as needed.

Two of the bills address medical imaging devices, the Fostering Innovation in Medical Imaging Act of 2017 (H.R. 2009), seeks to improve regulation and oversight of medical imaging devices intended for use in conjunction with contrast agents. The Medical Device Servicing and Accountability Act (H.R. 2118), would require all medical device servicers to register with the FDA and maintain a complaint handling system—currently, only original equipment manufacturers are required to register and report.

Joe Robinson, senior vice president, Phillips North America, Health Systems Solutions, spoke in support of H.R. 2009, saying that it will remove impediments to technological advancements in medical imaging, encourage innovation and allow physicians to better diagnose and treat patients.

Robinson said Medical Device Servicing and Accountability Act would "protect patients and ensure effective device performance through increased visibility and accountability for medical device servicers."

Read the full text of the hearing aid bill (H.R. 1652) here: www.congress.gov/bill/115th-congress/house-bill/1652.

Read the full text of the diagnostic devices bill (H.R. 2009) here: www.congress.gov/bill/115th-congress/house-bill/2009.

Read the full text of the device inspection bill (H.R. 1736) here: www.congress.gov/bill/115th-congress/house-bill/1736.

Read the full text of the device service providers bill (H.R. 2118) here: http://docs.house.gov/meetings/IF/IF14/20170502/105908/BILLS-115HR2118ih.pdf. — William Schulz

PEOPLE ON THE MOVE

Seno Medical Instruments has appointed **Ann Waterhouse** as VP, quality assurance and regulatory affairs. Ms. Waterhouse previously served as the director of regulatory affairs at Hill-Rom in Batesville, IN. She brings 18 years of regulatory and quality experience across a broad range of medical devices.

Cidara Therapeutics has promoted **Taylor Sandison, M.D., M.P.H.**, to chief medical officer. Dr. Sandison has been with Cidara since October 2015, first serving as the company's senior medical director. Prior to joining Cidara, he served as senior medical director at Cubist Pharmaceuticals from July 2014 to January 2015 and then, following Merck's acquisition of Cubist, as senior medical director at Merck from February to October 2015.

FDA Issues Warning Letters To Three Device Makers

The FDA, in late April, issued warning letters to three medical device firms citing serious CAPA and other violations at their facilities, including inadequate complaint response, quality testing, and verification of shipping and packaging methods to ensure product integrity and sterility.

Unetixs Vascular drew a warning over vascular diagnostic ultrasound systems manufactured at its North Kingstown, R.I. facility.

In a February inspection, the FDA found CAPA problems, including a failure to receive, review and evaluate complaints, and failure of a device, labeling or packaging to meet specifications. FDA inspectors noted 1,453 complaints going back to 2015 that were not opened or investigated. The firm also failed to establish and maintain procedures for changes to a specification, method, process or procedure, including documentation and verification.

Criticare Technologies, also in North Kingstown, R.I., was warned for CAPA issues, including failure to receive, review, and evaluate complaints, which numbered 1, 385 since January 2016. These included six complaints reviewed at the time of inspection for which FDA said the firm failed to properly document, including information on whether a patient was harmed.

The agency said Criticare failed to inspect or test products from suppliers, including testing and inspection of subassemblies for its products.

Organ Recovery Systems received a warning for its Itasca, Ill. Facility, concerning devices used for flushing and cold storage of kidney, liver, and pancreas organs.

In a February inspection, the FDA inspectors found inadequate design documentation, including validation and identification of design methods; inadequate verification of packaging and shipping methods to ensure product protection and ability to meet functional specifications; and failure to ensure that received products, including bags to hold organ preservation solution, worked and met specifications for sterility. The firm's responses to the findings were inadequate, FDA said.

Read the Unetixs Vascular warning letter here: www.fdanews.com/05-03-17-Unetixs.pdf.

Read the Criticare Technologies warning letter here: www.fdanews.com/05-03-17-CriticareTech.pdf.

Read the Organ Recovery Systems warning letter here: www.fdanews.com/05-03-17-OrganRecoverySystems.pdf. — William Schulz

CDRH Continues To Grow NEST

The FDA is moving ahead with plans for the National Evaluation System for Health Technology (NEST) as one of its top CDRH priorities this year.

The agency has been working with the Medical Device Innovation Consortium (MDIC) under a $3 million FDA grant to create and staff the NEST program, which will integrate data from clinical registries, electronic health records, and medical billing claims to gather more comprehensive evidence of medical device safety and effectiveness.

High-quality evidence at lower cost and in less time could eliminate the need for FDA premarket review of some device modifications because of more timely and informative routine data collection, CDRH Director Jeffrey Shuren said at a conference in Cincinnati last week.

NEST will get its base funding from the private and public sectors and users will pay for access to data and analysis from participating sources. An independent coordinating center will be responsible for driving standardization for core data elements, data quality, development of advanced analytics and creating data use agreements, Shuren said.

MDIC named Rachael L. Fleurence the first executive director of NEST's coordinating center in April.

The agency's goal is to have a "minimum viable product" for NEST by Dec. 31, 2019, Shuren said. — Gayle S. Putrich

Brazil Begins Risk-Based Assessment For Sanitary Manufacture Licensing

Brazil's National Agency for Sanitary Vigilance (ANVS) has introduced a risk-based approach to health inspection for manufacturers and distributors of medical devices based on degree of risk.

Previously, all Brazilian companies seeking sanitary licenses had to first request on-site inspections from local health authorities, undergo inspections and obtain inspection reports before applying for the mandatory federal license.

Under the new, risk-based system, low-risk facilities will be exempt from certain pre-licensing requirements.

While the classification system applies mainly to domestic device manufacturers, the agency cautions that anyone importing or involved in warehousing and distribution of medical devices will need to be aware of the new system for sanitary risk assessment. The new system streamlines Brazil's rules for certifying sanitary manufacturing practices for nearly every type of economic activity—from food processing to making instruments for radiology or other medical imaging.

ANVS says the degree of health risk is the level of potential danger or damage to human health and the environment. Classification is by type of company and device manufacturers can fall under any risk category depending on the product or products they make.

Companies are classified as:

- **High Risk Establishment:** These companies have obligations prior to licensing, such as presentation of documents and records of previous inspections.
- **Low Risk Establishment:** The manufacturer is exempt from pre-licensing requirements, for example, delivery of documents and records of prior inspections.
- **Information Dependent Risk:** ANVS needs more information to determine if the activity is high or low risk.

The complete list of risk classifications is available here (in Portuguese only): www.fdanews.com/05-03-17-riskclassifications.pdf. — William Schulz

483 Roundup: Failing Devices Lead to Failed FDA Inspections

The FDA has cited four device firms for a range of compliance and quality issues, including serious problems arising with failed devices and the steps companies take when devices break, are returned or fail completely.

An inspection over the first week of February at Davol in Warwick, R.I. revealed problems with reporting the malfunction of a device that could cause injury or death. Davol, a subsidiary of Bard, never submitted a medical device report after being made aware of the problem, according to the Form 483.

Investigators said that complaints regarding the possible failure of a device and the failure of the labeling and packaging to meet stated specifications were never investigated by the company.

Problems included a failure to review device history files. The firm failed to review all relevant information about the failed products, for example the device history files and retained samples from the same lot, and failed to replicate the failures with the actual or similar devices, according to the inspector's observations.

Candela Corp.: On a February visit to the Candela Corp. facility in Wayland, Mass., the agency found that in 2016, the device maker did not submit a medical device report within 30 days of notification that a device on the market had malfunctioned and would be likely to cause or contribute to death or serious injury if the malfunction were to reoccur. An MDR was filed, but not within the required time frame.

Inspectors also found improperly labeled and stored returned product going back as far as 2011 and a lack of CAPA documentation on corrective actions possibly going back as far as 2014.

EQM Research: Inspectors found no process validations on equipment used to manufacture medical devices at the EQM Research facility in Cheviot, Ohio, including revalidations after moving equipment to a new location over the past four to five years.

There were also no established procedures for receiving, reviewing and evaluating complaints for MDR reportablity. The president of the company told inspectors he had never received a customer complaint and there were no complaint files, according to the From 483, though inspectors found a customer complaint from a 2003 email that was never recorded as a complaint.

No MDR procedures had been established at the company, and the facility lacked any corrective and preventative action procedures, methodology for quality audits, supplier quality device history records been established or maintained, the FDA inspectors said.

Kub Technologies: Documents and procedures were decidedly lacking at the Kub Technologies facility in Stratford, Conn., according to a Form 483. The X-ray cabinet manufacturer lacked device master records, labeling instructions and user manuals. The investigators found no device history records, no way of instructing employees on steps for quality inspection, testing and acceptance work, and no established procedures for reworking devices that did not meet quality standards.

There were also no established procedures for receiving, reviewing and evaluating complaints for MDR reportablity. In numerous cases, there was no clear indication of an investigation into or follow up on returned devices or customer calls and complaints, inspectors noted.

Four or 15 nonconforming reports, used as records of investigations into devices sent back to the firm as a result of customer complaints, did not clearly indicate an investigation of activities related to the original complaint.

Read the Davol Form 483 here: www.fdanews.com/05-04-17-davolinc483.pdf

Read the Candela Corp. Form 483 here: www.fdanews.com/05-04-17-candelacorp483.pdf

Read the EQM Research Form 483 here: www.fdanews.com/05-04-17-eqmresearchinc483.pdf

Read the Kub Technologies Form 483 here: www.fdanews.com/05-04-17-kubtechnologiesinc483.pdf. — Gayle S. Putrich

APPROVALS

Medtronic Gets Health Canada Clearance For OsteoCool RF Ablation System

Ontario–based Medtronic Canada received Health Canada marketing clearance for its OsteoCool RF ablation system. The cooled radiofrequency ablation device treats patients with bone metastases. The system uses internally water-cooled probes to prevent overheating of surrounding tissue during the procedure.

Galatea Surgical Gains FDA Clearance For GalaForm 3D Plastic Surgery Scaffold

Galatea Surgical, a subsidiary of Tepha, has received FDA marketing clearance for its GalaForm 3D Surgical Scaffold for use in plastic and reconstructive surgery. The device is indicated for soft tissue support to repair, elevate and reinforce soft tissue where weakness or voids exist.

CFDA Approves Venus Medtech's TAVR Device

China–based Venus Medtech has received approval from the China Food and Drug Administration for its Venus A-valve transcatheter aortic valve system, a less invasive treatment for high-risk patients. The company will launch a global trial for the third generation TAVR device at the end of 2017.

Faxitron Gains FDA Clearance For Radiofrequency Identification System

Arizona–based Faxitron has received FDA marketing clearance for its LOCalizer, a wireless radiofrequency identification breast lesion localization system manufactured by Health Beacons. The tag can be implanted up to 30 days before surgery and is detected by a mobile, handheld reader that accurately locates the tag within millimeters.

FDA Grants Clearance to Medtronic's Resolute Onyx Drug-Eluting Stent

Medtronic has received FDA approval for its Resolute Onyx drug-eluting stent. The device is introduced through the wrist and allows rapid healing with minimal inflammation and low risk of stent thrombosis.

Teleflex Wins FDA Clearance for AC3 Optimus Intra-Aortic Balloon Pump

Pennsylvania–based Teleflex has won FDA marketing clearance for its AC3 Optimus intra-aortic balloon pump (IABP). The device has received a CE mark and has launched in parts of Europe and India.

GE Healthcare Receives FDA Indication Approval for Imaging Agent

GE Healthcare has received an indication approval from the FDA for its imaging agent Visipaque (iodixanol) injection. The solution is an iso-osmolar agent for use in coronary computed tomography angiography, to assist in the diagnostis of adult and pediatric patients 12 years of age or older with suspected coronary artery disease.

Roche Wins FDA Approval For PD-L1 (SP263) Biomarker Test

Swiss manufacturer Roche has received FDA approval of the VENTANA PD-L1 (SP263) assay as a complementary diagnostic to provide the programmed death ligand (PD-L1) status for patients with locally advanced or metastatic urothelial carcinoma who are being considered for treatment with the FDA-approved anti-PD-L1 immunotherapy Imfinzi. The test is available in the US for use on the BenchMark ULTRA instrument.

FDANEWS

Customer Service
(888) 838-5578 • +1 (703) 538-7600
customerservice@fdanews.com

Editorial: Declan Conroy
+1 (703) 538-7644
dconroy@fdanews.com

Ad Sales: Jim Desborough
+1 (703) 538-7647
jdesborough@fdanews.com

Multi-User Sales: Jeff Grizzel
+1 (703) 538-7669
jgrizzel@fdanews.com

300 N. Washington St., Suite 200 • Falls Church, VA 22046-3431 • Phone: (888) 838-5578 • +1 (703) 538-7600 • www.fdanews.com

Reporters: Cynthia Jessup, Conor Hale, Zack Budryk, Gayle Putrich

President: Cynthia Carter

FDANEWS

Code of Federal Regulations
Nine-Volume Title 21 CFR Set

The federal government has compiled the new 2017 CFR volumes. They are not published in order, but FDAnews will automatically ship your order within days of each volume's release.

Now you can update your library with the latest additions and revisions to the CFR governing food and drugs used in humans and animals, biologics, cosmetics, medical devices, radiological health and controlled substances:

- Parts 1–99 (FDA, General)
- Parts 100–169 (FDA, Food for Human Consumption)
- Parts 170–199 (FDA, Food for Human Consumption)
- Parts 200–299 (FDA, Drugs: General)
- Parts 300–499 (FDA, Drugs for Human Use)
- Parts 500–599 (FDA, Animal Drugs, Feeds and Related Products)
- Parts 600–799 (FDA, Biologics; Cosmetics)
- Parts 800–1299 (FDA, Medical Devices)
- Parts 1300–End (DEA and Office of National Drug Control Policy)

Once you place your order, you can rest assured you'll receive the latest CFR you need — without delay — as soon as it is publicly available!

FOUR EASY WAYS TO ORDER

1. **PHONE:** Toll free (888) 838-5578
   or +1 (703) 538-7600
2. **WEB:** www.fdanews.com/54195
3. **FAX:** +1 (703) 538-7676
4. **MAIL:** FDAnews
   300 N. Washington St., Suite 200
   Falls Church, VA 22046-3431

☑Yes! Please send me ____ copy(ies) of ***Nine-Volume Title 21 CFR Set*** at the price of $585 each for the format I've selected: ❑ Print ❑PDF

Name _____

Title _____

Company _____

Address _____

City_____ State _____ Zip code _____

Country _____

Telephone _____

Fax _____

Email _____

METHOD OF PAYMENT

❑ Check enclosed (payable to FDAnews)

❑ Bill me/my company. Our P.O.# _____

❑ Charge my credit card:
❑ Visa ❑ MasterCard ❑ American Express

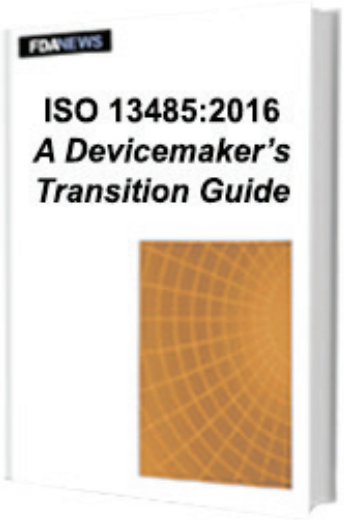
Credit card no. _____

Expiration date _____

Signature _____
(Signature required on credit card and bill-me orders)

Please add $72 shipping and handling per set for orders shipped to the U.S. or $315 per set for orders shipped elsewhere. Virginia residents, please add 6 percent sales tax.

17FLYR-N



ISO 13485:2016
A Devicemaker's Transition Guide

The ISO 13485 have rules changed — and you need to know how.

Our team of experts have spent hours parsing out every clause in the new version of the rules and compared them to ISO 13485:2003.

ISO 13485:2016 — *A Devicemaker's Transition Guide* saves you valuable time. It has a clause-by-clause, line-by-line, 46-page comparison of the old and new versions of 13485 that shows you exactly what and where the new requirements are.

In this management report you will also learn:

- The major differences between ISO 13485:2003 and ISO 13485:2016
- The role of ISO 13485:2016 in the MDSAP and Canada's plan to adopt it
- The status of EN ISO 13485:2016 and issues related to the product directives
- Some potential concerns related to ISO 13485:2016 and FDA's QSR
- How recent revisions to ISO 9001 compare to the new 13485

The report interprets the four key areas in the 2016 version — risk management, design control, supplier management and corrective and preventive action — and explains what kind of changes the new standard will require.

Based on the insight of one of the world's foremost ISO experts, this report is essential for any devicemaker that hopes to survive the coming transitions. Order your copy of **ISO 13485:2016 — *A Devicemaker's Transition Guide*** today.

FOUR EASY WAYS TO ORDER

1. **PHONE:** Toll free (888) 838-5578 or +1 (703) 538-7600
2. **WEB:** www.fdanews.com/53254
3. **FAX:** +1 (703) 538-7676
4. **MAIL:** FDAnews
   300 N. Washington St., Suite 200
   Falls Church, VA 22046-3431

☑**Yes!** Please send me ____ copy(ies) of **ISO 13485:2016 — *A Devicemaker's Transition Guide*** at the price of $397 for each PDF.

Name _____

Title _____

Company _____

Address _____

City_____ State _____ Zip code _____

Country _____

Telephone _____

Fax _____

Email _____

METHOD OF PAYMENT

❑ Check enclosed (payable to FDAnews)

❑ Bill me/my company. Our P.O.# _____

❑ Charge my credit card:
❑ Visa ❑ MasterCard ❑ American Express

Credit card no. _____

Expiration date _____

Signature _____
(Signature required on credit card and bill-me orders)

Virginia customers add 6% sales tax.

17FLYR-N