
21 U.S. Code § 387g

Tobacco product standards

(a) In general

(1) Special rules

(A) Special rule for cigarettes

Beginning 3 months after June 22, 2009, a cigarette or any of its component parts (including the tobacco, filter, or paper) shall not contain, as a constituent (including a smoke constituent) or additive, an artificial or natural flavor (other than tobacco or menthol) or an herb or spice, including strawberry, grape, orange, clove, cinnamon, pineapple, vanilla, coconut, licorice, cocoa, chocolate, cherry, or coffee, that is a characterizing flavor of the tobacco product or tobacco smoke. Nothing in this subparagraph shall be construed to limit the Secretary's authority to take action under this section or other sections of this chapter applicable to menthol or any artificial or natural flavor, herb, or spice not specified in this subparagraph.

(B) Additional special rule

Beginning 2 years after June 22, 2009, a tobacco product manufacturer shall not use tobacco, including foreign grown tobacco, that contains a pesticide chemical residue that is at a level greater than is specified by any tolerance applicable under Federal law to domestically grown tobacco.

(2) Revision of tobacco product standards

The Secretary may revise the tobacco product standards in paragraph (1) in accordance with subsection (c).

(3) Tobacco product standards

(A) In general

The Secretary may adopt tobacco product standards in addition to those in paragraph (1) if the Secretary finds that a tobacco product standard is appropriate for the protection of the public health.

(B) Determinations

(i) Considerations

In making a finding described in subparagraph (A), the Secretary shall consider scientific evidence concerning—

- (I) the risks and benefits to the population as a whole, including users and nonusers of tobacco products, of the proposed standard;
- (II) the increased or decreased likelihood that existing users of tobacco products will stop using such products; and
- (III) the increased or decreased likelihood that those who do not use tobacco products will start using such products.

(ii) Additional considerations

In the event that the Secretary makes a determination, set forth in a proposed tobacco product standard in a proposed rule, that it is appropriate for the protection of public health to require the reduction or elimination of an additive, constituent (including a smoke constituent), or other component of a tobacco product because the Secretary has found that the additive, constituent, or other component is or may be harmful, any party objecting to the proposed standard on the ground that the proposed standard will not reduce or eliminate the risk of illness or injury may provide for the Secretary's consideration scientific evidence that demonstrates that the proposed standard will not reduce or eliminate the risk of illness or injury.

(4) Content of tobacco product standards

A tobacco product standard established under this section for a tobacco product—

(A) shall include provisions that are appropriate for the protection of the public health, including provisions, where appropriate—

(i) for nicotine yields of the product;

(ii) for the reduction or elimination of other constituents, including smoke constituents, or harmful components of the product; or

(iii) relating to any other requirement under subparagraph (B);

(B) shall, where appropriate for the protection of the public health, include—

(i) provisions respecting the construction, components, ingredients, additives, constituents, including smoke constituents, and properties of the tobacco product;

(ii) provisions for the testing (on a sample basis or, if necessary, on an individual basis) of the tobacco product;

(iii) provisions for the measurement of the tobacco product characteristics of the tobacco product;

(iv) provisions requiring that the results of each or of certain of the tests of the tobacco product required to be made under clause (ii) show that the tobacco product is in conformity with the portions of the standard for which the test or tests were required; and

(v) a provision requiring that the sale and distribution of the tobacco product be restricted but only to the extent that the sale and distribution of a tobacco product may be restricted under a regulation under section 387f(d) of this title;

(C) shall, where appropriate, require the use and prescribe the form and content of labeling for the proper use of the tobacco product; and

(D) shall require tobacco products containing foreign-grown tobacco to meet the same standards applicable to tobacco products containing domestically grown tobacco.

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