§ 96.130 State law regarding sale of tobacco products to individuals under age of 18.

(a) For purposes of this section, the term “first applicable fiscal year” means fiscal year 1994, except in the case of any State described in section 1926(a)(2) of the PHS Act, in which case “first applicable fiscal year” means fiscal year 1995. The term “outlet” is any location which sells at retail or otherwise distributes tobacco products to consumers including (but not limited to) locations that sell such products over-the-counter or through vending machines.

(b) The Secretary may make a grant to a State only if the State, for the first applicable fiscal year and subsequent fiscal years, has in effect a law providing that it is unlawful for any manufacturer, retailer, or distributor of tobacco products to sell or distribute any such product to any individual under age 18 through any sales or distribution outlet, including over-the-counter and vending machine sales.

(c) For the first and second applicable fiscal years, the State shall, at a minimum, conduct annually a reasonable number of random, unannounced inspections of outlets to ensure compliance with the law and plan and begin to implement any other actions which the State believes are necessary to enforce the law.

(d) For the third and subsequent fiscal years, the States shall do the following:

1. The State shall conduct annual, random, unannounced inspections of both over-the-counter and vending machine outlets. The random inspections shall cover a range of outlets (not preselected on the basis of prior violations) to measure overall levels of compliance as well as to identify violations.

2. Random, unannounced inspections shall be conducted annually to ensure compliance with the law and shall be conducted in such a way as to provide a probability sample of outlets. The sample must reflect the distribution of the population under age 18 throughout the State and the distribution of the outlets throughout the State accessible to youth.

(e) As provided by §96.122(d), the State shall annually submit to the Secretary a report which shall include the following:

1. A detailed description of the State’s activities to enforce the law required in paragraph (b) of this section during the fiscal year preceding the fiscal year for which that State is seeking the grant;

2. A detailed description regarding the overall success the State has achieved during the previous fiscal year in reducing the availability of tobacco products to individuals under the age of 18, including the results of the unannounced inspections as provided by paragraph (d) of this section for which the results of over-the-counter and vending machine outlet inspections shall be reported separately;

3. A detailed description of how the unannounced inspections were conducted and the methods used to identify outlets;

4. The strategies to be utilized by the State for enforcing such law during the fiscal year for which the grant is sought; and

5. The identity of the agency or agencies designated by the Governor to be responsible for the implementation of the requirements of section 1926 of the PHS Act.

(f) Beginning in the second applicable fiscal year, the annual report required under paragraph (e) of this section shall be made public within the State, along with the State plan as provided in section 1941 of the PHS Act.

(g) Beginning with applications for the fourth applicable fiscal year and all subsequent fiscal years, the Secretary will negotiate with the State, as part of the State’s plan, the interim performance target the State will meet for that fiscal year and in subsequent years will seek evidence of progress toward achieving or surpassing a performance objective in which the inspection failure rate would be no more than 20% within several years.

(h) Beginning with the second applicable fiscal year and all subsequent fiscal years, the Secretary shall make a determination, before making a Block Grant to a State for that fiscal year,
§ 96.131 Treatment services for pregnant women.

(a) The State is required to, in accordance with this section, ensure that each pregnant woman in the State who seeks or is referred for and would benefit from such services is given preference in admissions to treatment facilities receiving funds pursuant to the grant. In carrying out this section, the State shall require all entities that serve women and who receive such funds to provide preference to pregnant women. Programs which serve an injecting drug abuse population and who receive Block Grant funds shall give preference to treatment as follows:

(1) Pregnant injecting drug users;
(2) Pregnant substance abusers;
(3) Injecting drug users; and
(4) All others.

(b) The State will, in carrying out this provision publicize the availability to such women of services from the facilities and the fact that pregnant women receive such preference. This may be done by means of street outreach programs, ongoing public service announcements (radio/television), regular advertisements in local/regional print media, posters placed in targeted areas, and frequent notification of availability of such treatment distributed to the network of community based organizations, health care providers, and social service agencies.

(c) The State shall in carrying out paragraph (a) of this section require that, in the event that a treatment facility has insufficient capacity to provide treatment services to any such pregnant woman who seeks the services from the facility, the facility refer the woman to the State. This may be accomplished by establishing a capacity management program, utilizing a toll-free number, an automated reporting system and/or other mechanisms to ensure that pregnant women in need of such services are referred as appropriate. The State shall maintain a continually updated system to identify