

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA-2010-N-0020]

Use of Tobacco Marketing Descriptors to Convey Modified Risk; Request for Comments

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; request for comments.

SUMMARY: The Food and Drug Administration (FDA) is establishing a public docket to provide an opportunity for interested parties to share information, research, and ideas on tobacco product marketing descriptors that may be considered similar to the prohibited terms “light,” “mild,” and “low.” This information will be used to further FDA’s efforts to reduce misleading and deceptive advertising practices.

DATES: Submit electronic or written comments by February 18, 2010.

ADDRESSES: Submit electronic comments to <http://www.regulations.gov>. Submit written comments to the Division of Dockets Management (HFA-305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Kathleen K. Quinn, Center for Tobacco Products, Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850-3229, 240-276-1717, Kathleen.Quinn@fda.hhs.gov.

SUPPLEMENTARY INFORMATION:

I. Background

Tobacco products are responsible for more than 440,000 deaths each year. The Centers for Disease Control and Prevention report that 70 percent of the 46 million adults who currently smoke in the United States want to quit. Since the introduction to the American market in the 1960s of cigarettes marketed as “light,” “low,” or “mild,” millions of smokers have turned to these products in the false belief that they pose fewer health hazards and may facilitate quitting. While scientific evidence has demonstrated that light cigarettes do not reduce the health risks associated with smoking, sales of light cigarettes have continued to climb, accounting for 92.7 percent of cigarettes sold in the United States in 2006. Curbing the significant adverse consequences of tobacco use is one of the most important public health goals of our time. One step toward the realization of that goal is to prevent misleading labeling claims and to

regulate “modified risk” tobacco products.

On June 22, 2009, the President signed the Family Smoking Prevention and Tobacco Control Act (the Tobacco Control Act) into law. The Tobacco Control Act granted FDA important new authority to regulate the manufacture, marketing, and distribution of tobacco products to protect the public health generally and to reduce tobacco use by minors. Among its many provisions, the Tobacco Control Act added section 911(b) to the Federal Food, Drug, and Cosmetic Act (the act), banning the manufacture of any tobacco product “the label, labeling, or advertising of which uses the descriptors ‘light’, ‘mild’, or ‘low’ or similar descriptors;” as of June 22, 2010.

We are requesting comments that will inform the agency’s development of guidance on the meaning of the term “similar descriptors.” A copy of the Tobacco Control Act is available at <http://www.fda.gov/tobacco>.

II. Request for Comments and Information

Product packaging plays a critical role in fostering brand loyalty and communicating messages to consumers about the risks and benefits of product use. FDA is aware that messages of reduced harm can be conveyed through a variety of visual cues. We are therefore requesting comment on ways in which descriptors that may be considered similar to “light,” “mild” and “low” used on tobacco product packaging could impact consumer perceptions of risk. Such descriptors may include:

- Adjectives like “silver,” “fine,” or “smooth;”
- Colors like white, silver or pastels;
- Printed numbers associated with risk level;
- Letters (e.g., “L”) or other symbols that connote “light;”
- Depiction of filters or other images that imply purification or healthfulness;
- Words used in brand names that have associations with potency, risk, or healthfulness; and
- Use of terms such as “natural” and “no additives.”

The agency will consider information submitted to the docket in developing guidance on the meaning of the term “similar descriptors” as it pertains to the label, labeling, or advertising of modified risk tobacco products.

III. Comments

Interested persons may submit to the Division of Dockets Management (see **ADDRESSES**) electronic or written comments regarding this document. Submit a single copy of electronic

comments or two paper copies of any mailed comments, except that individuals may submit one paper copy. Comments are to be identified by the docket number found in brackets in the heading of this document. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

Dated: January 12, 2010.

David Dorsey,

Acting Deputy Commissioner for Policy, Planning and Budget.

[FR Doc. 2010-784 Filed 1-15-10; 8:45 am]

BILLING CODE 4160-01-S

DEPARTMENT OF HOMELAND SECURITY

[Docket No. DHS-2009-0162]

RIN 1601-ZA08

Identification of Foreign Countries Whose Nationals Are Eligible To Participate in the H-2A and H-2B Visa Programs

AGENCY: Office of the Secretary, DHS.

ACTION: Notice.

SUMMARY: Under Department of Homeland Security (DHS) regulations, U.S. Citizenship and Immigration Services (USCIS) may only approve petitions for H-2A and H-2B nonimmigrant status for nationals of countries that the Secretary of Homeland Security, with the concurrence of the Secretary of State, has designated by notice published in the **Federal Register**. That notice must be renewed each year. This notice announces that the Secretary of Homeland Security, in consultation with the Secretary of State, is identifying 39 countries whose nationals are eligible to participate in the H-2A and H-2B programs for the coming year.

DATES: *Effective Date:* This notice is effective January 18, 2010, and shall be without effect at the end of one year after January 18, 2010.

FOR FURTHER INFORMATION CONTACT: Alex Hartman, DHS Office of Policy, Department of Homeland Security, Washington, DC 20528 (202) 282-9820.

SUPPLEMENTARY INFORMATION:

Background: Pursuant to 8 CFR 214.2(h)(5)(i)(F)(1)(i) and 8 CFR 214.2(h)(6)(i)(E)(1), USCIS may only approve H-2A and H-2B petitions for nationals of countries that the Secretary of Homeland Security, with the concurrence of the Secretary of State, has designated as participating countries. Such designation must be