

cept that no such period shall be extended for more than 90 days, see section 6 of Pub. L. 111-31, set out as a note under section 387 of this title.

§ 387f-1. Enforcement action plan for advertising and promotion restrictions

(a) Action plan

(1) Development

Not later than 6 months after June 22, 2009, the Secretary of Health and Human Services (in this section referred to as the “Secretary”) shall develop and publish an action plan to enforce restrictions adopted pursuant to section 387f of this title, as added by section 101(b) of this division, or pursuant to section 387a-1(a) of this title, on promotion and advertising of menthol and other cigarettes to youth.

(2) Consultation

The action plan required by paragraph (1) shall be developed in consultation with public health organizations and other stakeholders with demonstrated expertise and experience in serving minority communities.

(3) Priority

The action plan required by paragraph (1) shall include provisions designed to ensure enforcement of the restrictions described in paragraph (1) in minority communities.

(b) State and local activities

(1) Information on authority

Not later than 3 months after June 22, 2009, the Secretary shall inform State, local, and tribal governments of the authority provided to such entities under section 1334(c) of title 15, as added by section 203 of this division, or preserved by such entities under section 387p of this title, as added by section 101(b) of this division.

(2) Community assistance

At the request of communities seeking assistance to prevent underage tobacco use, the Secretary shall provide such assistance, including assistance with strategies to address the prevention of underage tobacco use in communities with a disproportionate use of menthol cigarettes by minors.

(Pub. L. 111-31, div. A, title I, § 105, June 22, 2009, 123 Stat. 1841.)

Editorial Notes

CODIFICATION

Section was enacted as part of the Family Smoking Prevention and Tobacco Control Act, and not as part of the Federal Food, Drug, and Cosmetic Act which comprises this chapter.

Statutory Notes and Related Subsidiaries

MODIFICATION OF DEADLINES FOR SECRETARIAL ACTION

With respect to any time periods specified in div. A of Pub. L. 111-31 that begin on June 22, 2009, within which the Secretary of Health and Human Services is required to carry out and complete specified activities, with certain limitations, the calculation of such time periods shall commence on the first day of the first fiscal quarter following the initial 2 consecutive fiscal quarters of fiscal year 2010 for which the Secretary has

collected fees under section 387s of this title, and the Secretary may extend or reduce the duration of one or more such time periods, except that no such period shall be extended for more than 90 days, see section 6 of Pub. L. 111-31, set out as a note under section 387 of this title.

§ 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 to-