

Article - Business Regulation

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§16–602. IN EFFECT

**** CONTINGENCY – IN EFFECT – CHAPTER 497 OF 2007 ****

(a) Except as provided in § 16–602.1 of this subtitle, cigarettes may not be manufactured in this State or sold or offered for sale to any person in this State unless:

(1) the cigarettes have been tested in accordance with the test method and meet the performance standard specified in this section; and

(2) the manufacturer has filed a written certification with the Comptroller in accordance with § 16–603 of this subtitle.

(b) The performance standard for cigarettes sold or offered for sale in the State includes all of the requirements in subsection (e)(1) of this section.

(c) (1) Testing of cigarettes shall be conducted in accordance with the American Society of Testing and Materials (ASTM) standard E2187–04 “Standard Test Method for Measuring the Ignition Strength of Cigarettes”.

(2) The Comptroller, in consultation with the Commission, may adopt a subsequent ASTM standard test method for measuring the ignition strength of cigarettes on a finding that the subsequent method does not result in a change in the percentage of full-length burns exhibited by any tested cigarette when compared to the percentage of full-length burns the same cigarette would exhibit when tested in accordance with ASTM standard E2187–04 and the performance standard of this section.

(d) Testing of cigarettes shall be conducted on 10 layers of filter paper.

(e) (1) No more than 25% of the cigarettes tested in a test trial shall exhibit full-length burns.

(2) Forty replicate tests shall comprise a complete test trial for each cigarette tested.

(f) The performance standard required by this section shall only be applied to a complete test trial.

(g) (1) Each laboratory that conducts tests in accordance with this section shall:

(i) have current accreditation pursuant to Standard ISO/IEC 17025 of the International Organization for Standardization, subsequent laboratory standardization, or another comparable accreditation as determined by the Comptroller; and

(ii) implement a quality control and quality assurance program that includes a procedure to determine the repeatability of the testing results.

(2) The repeatability value shall be no greater than 0.19.

(h) (1) Each cigarette listed in a certification that uses lowered permeability bands in the cigarette paper to achieve compliance with the performance standard of this section shall have at least two nominally identical bands on the paper surrounding the tobacco column.

(2) At least one complete band shall be located at least 15 millimeters from the lighting end of the cigarette.

(3) For a cigarette on which the bands are positioned by design, at least two bands shall be located at least 15 millimeters from the lighting end and 10 millimeters from the filter end of the tobacco column.

(4) For an unfiltered cigarette, the two complete bands shall be located at least 15 millimeters from the lighting end and 10 millimeters from the labeled end of the tobacco column.

(i) (1) If the Comptroller determines that a cigarette cannot be tested in accordance with the test method required by this section, the manufacturer of the cigarette shall propose to the Comptroller a test method and performance standard for that cigarette.

(2) The Comptroller, in consultation with the Commission, may approve a test method and performance standard that the Comptroller determines is equivalent to the requirements of this section, and the manufacturer may use that test method and performance standard for certification of a cigarette in accordance with § 16–603 of this subtitle.

(3) (i) The Comptroller, in consultation with the Commission, shall approve a test method and performance standard used in another state if the Comptroller determines that:

1. the other state has enacted a reduced cigarette ignition propensity standard that includes a test method and performance standard that are the same as the requirements of this section; and

2. the officials responsible for implementing the requirements in the other state have approved of the alternative test method and performance standard for a particular cigarette under a legal provision comparable to this section.

(ii) A manufacturer may use a test method and performance standard approved under subparagraph (i) of this paragraph for certification in accordance with § 16-603 of this subtitle of the cigarette used in the approved test method.

(j) This section does not require additional testing for cigarettes that are tested in a manner consistent with the requirements of this section for any other purpose.

(k) (1) Each manufacturer shall retain copies of the reports of all tests conducted on all cigarettes offered for sale for 3 years.

(2) (i) On request, the manufacturer shall provide the data retained under paragraph (1) of this subsection to the Comptroller, the Commission, or the Attorney General within 60 days after receiving the request, for the purpose of ensuring compliance with this section.

(ii) A manufacturer who does not provide the data within 60 days of a request is subject to a civil penalty not to exceed \$10,000 for each day after the 60th day that the violation continues.

(l) This subtitle shall be implemented in accordance with the implementation and substance of the New York fire safety standards for cigarettes.

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