

Federal Trade Commission

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result in expedited treatment of these plans. Pursuant to section 1(b) of the Reorganization Plan, the Commission will retain the discretionary right to review the actions of the delegate. Any smokeless tobacco manufacturer, packager, or importer may within 30 days of the delegate's action file with the Secretary of the Commission a request for full Commission review of the action. If no review is sought by petition of the submitter of a plan or any intervenor or upon the Commission's own initiative within 30 days of the action, or if a review is sought and denied in this 30 day period, the delegate's action shall be deemed to be the action of the Commission.

(d) A manufacturer, packager, or importer of smokeless tobacco products shall be deemed to be in compliance with the Act and these regulations if it has taken reasonable steps to:

(1) Provide, by written contract or other clear instructions, for the rotation of the label statements required by the Act;

(2) Give clear instructions and, if possible, furnish materials (such as film negatives, acetates, or other facsimiles) for the production of smokeless tobacco packages and advertising that contain the required warning statements; and

(3) Prevent and correct mistakes, errors, or omissions that have come to its attention.

In the event of the distribution of labels or the publication of advertisements that do not conform with the Act and these regulations, the burden of establishing that reasonable steps have been taken (including fulfilling the conditions described in paragraphs (d)(1) through (3) of this section) to comply shall rest with the manufacturer, packager, or importer of smokeless tobacco.

[51 FR 40015, Nov. 4, 1986, as amended at 56 FR 11662, Mar. 20, 1991]

§ 307.5 Language requirements.

The warning statement on the label of a smokeless tobacco product required by the Act and these regulations shall be set out in the English language. If the label of a smokeless tobacco product contains a required warning in a language other than

English, the required warning must also appear in English. In the case of an advertisement for a smokeless tobacco product in a newspaper, magazine, periodical, or other publication that is not in English, the warning statement shall appear in the predominant language of the publication in which the advertisement appears. In the case of any other advertisement, the warning statement shall appear in the same language as that principally used in the advertisement.

LABEL DISCLOSURES

§ 307.6 Requirements for disclosure on the label.

(a) In the case of the label of a smokeless tobacco package, the warning statement required by the Act and these regulations must be in a conspicuous and prominent place on the package. A conspicuous and prominent place is a part of a label that is likely to be displayed, presented, shown, or examined. For example, in the case of the following types of packages, the following places shall be deemed to be conspicuous and prominent.

Cylindrical can—Side of the package

Pouch—Front of the package, provided that, in the case of a pouch with two identical face panels, the front of the pouch is the face panel upon which the warning is printed

Rectangular box of snuff, plug of chewing tobacco, or dispenser of individual packages of smokeless tobacco that may be purchased in its entirety—Any side of the package, provided that the side panel used does not bear any written or graphic matter other than the background color of the side panel and reasonable extensions of graphic matter from other panels

However, in the case of any package of smokeless tobacco, absent special circumstances, the required warning statement shall not be deemed to be in a conspicuous and prominent place if it appears on the bottom (that is, the underside) of the package or is printed on the tear line or on any other surface where it will be obliterated when the package is opened. However, in the case of a rectangular package that is wrapped in a continuous sheet of foil or plastic with randomly appearing label information, the required warning shall be deemed to be in a conspicuous

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ADVERTISING DISCLOSURES

§ 307.7 Requirements for disclosure in print advertising.

and prominent place if it appears at least once in its entirety on any part of the package that is not crimped or seamed.

(b) The label statement required by the Act and these regulations must also be in a conspicuous format and in a conspicuous and legible type in contrast with all other printed material on the package. The required warning statement shall be deemed to be in a conspicuous format if it appears in two to four lines that are parallel to each other as well as to the base of the package. However, in the case of a cylindrical package with a diameter of 1 and $\frac{3}{4}$ inches or less the required warning statement need not be parallel with the base of the package to be deemed to be in a conspicuous format. In the case of all packages the required warning statement shall be deemed to be in a conspicuous format if it is separated in every direction from other written or graphic matter on the label by the equivalent of at least twice the point size of the type in which the warning is printed or if it is the only written matter on the surface of the package. The required warning statement shall be deemed to be in a conspicuous and legible type if it appears in all capitals in Univers 57 normal or an equivalent type style. For example, in the case of the following types of packages with the specified capacity, the following type sizes shall be deemed to be conspicuous and legible.

- 1 and $\frac{1}{2}$ ounce snuff can—Seven point type
- 2 to 4 ounce pouch or plug of chewing tobacco—Eight point type, provided that if the warning statement is printed in one line, it will be deemed to be conspicuous and legible in eleven point type
- Can roll consisting of cans wrapped for sale as a single unit—Twelve point type, provided that, if the warning statements on the individual cans are completely visible no warning statement is required on the outer wrapping
- Dispenser of individual packages of smokeless tobacco that may be purchased in its entirety—Twelve point type

The required warning statement shall be deemed to be in contrast with all other printed material on the package if it is printed in a color (including black and white) that is clearly visible against the background on which the warning appears.

(a) In the case of print advertisements for smokeless tobacco, including but not limited to, advertisements in newspapers, magazines, or other periodicals; point-of-sale promotional materials; non-point of sale promotional materials such as leaflets, pamphlets, coupons, direct mail circulars, or paperback book inserts; and posters and placards (other than outdoor billboard advertising), the warning statement required by the Act and these regulations must be in a conspicuous and prominent location, in conspicuous and legible type in contrast with all other printed material in the advertisement and must appear in capital letters in a circle and arrow format. A conspicuous and prominent location is anywhere within the trim area other than the margin in the case of an advertisement in a newspaper, magazine, or other periodical, and in all cases is not immediately next to other written matter or to any circular designs, elements, or similar geometric forms (other than a picture of a smokeless tobacco package such as a cylindrical snuff can). A circle and arrow will not be deemed to be conspicuous and prominent if it is included as an integral part of a specific design or illustration, such as a picture of the package, in the advertisement, unless at least 80 percent of the area of the advertisement is taken up by a picture of the package.

(b) The advertising warning statements required by the Act and these regulations must be in conspicuous and legible type in contrast with all other printed material in the advertisement and must appear in all capital letters in a circle and arrow format. The proportions of the circle and arrow shall be deemed to be conspicuous if they are such that the base of the arrow is equal to $\frac{3}{4}$ of the diameter of the circle; the neck of the arrow is equal to $\frac{1}{8}$ of the diameter of the circle; the widest part of the head of the arrow is equal to the diameter of the circle; the tip of the arrow is centered at a point equal to $\frac{3}{4}$ of the diameter from the lowest point of the circle; and the distance between the tip of the arrow and the base of the