

ceeding held with respect to such regulation or order, as being relevant to such regulation or order.

(b) Standard of review

Upon the filing of the petition under subsection (a) for judicial review of a regulation or order, the court shall have jurisdiction to review the regulation or order in accordance with chapter 7 of title 5 and to grant appropriate relief, including interim relief, as provided for in such chapter. A regulation or denial described in subsection (a) shall be reviewed in accordance with section 706(2)(A) of title 5.

(c) Finality of judgment

The judgment of the court affirming or setting aside, in whole or in part, any regulation or order shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification, as provided in section 1254 of title 28.

(d) Other remedies

The remedies provided for in this section shall be in addition to, and not in lieu of, any other remedies provided by law.

(e) Regulations and orders must recite basis in record

To facilitate judicial review, a regulation or order issued under section 387f, 387g, 387h, 387i, 387j, or 387p of this title shall contain a statement of the reasons for the issuance of such regulation or order in the record of the proceedings held in connection with its issuance.

(June 25, 1938, ch. 675, §912, as added Pub. L. 111-31, div. A, title I, §101(b)(3), June 22, 2009, 123 Stat. 1819.)

§ 387m. Equal treatment of retail outlets

The Secretary shall issue regulations to require that retail establishments for which the predominant business is the sale of tobacco products comply with any advertising restrictions applicable to retail establishments accessible to individuals under the age of 18.

(June 25, 1938, ch. 675, §913, as added Pub. L. 111-31, div. A, title I, §101(b)(3), June 22, 2009, 123 Stat. 1820.)

§ 387n. Jurisdiction of and coordination with the Federal Trade Commission

(a) Jurisdiction

(1) In general

Except where expressly provided in this subchapter, nothing in this subchapter shall be construed as limiting or diminishing the authority of the Federal Trade Commission to enforce the laws under its jurisdiction with respect to the advertising, sale, or distribution of tobacco products.

(2) Enforcement

Any advertising that violates this subchapter or a provision of the regulations referred to in section 387a-1 of this title, is an unfair or deceptive act or practice under section 45(a) of title 15 and shall be considered a violation of a rule promulgated under section 57a of title 15.

(b) Coordination

With respect to the requirements of section 4 of the Federal Cigarette Labeling and Advertising Act [15 U.S.C. 1333] and section 3 of the Comprehensive Smokeless Tobacco Health Education Act of 1986 [15 U.S.C. 4402]—

(1) the Chairman of the Federal Trade Commission shall coordinate with the Secretary concerning the enforcement of such Act as such enforcement relates to unfair or deceptive acts or practices in the advertising of cigarettes or smokeless tobacco; and

(2) the Secretary shall consult with the Chairman of such Commission in revising the label statements and requirements under such sections.

(June 25, 1938, ch. 675, §914, as added Pub. L. 111-31, div. A, title I, §101(b)(3), June 22, 2009, 123 Stat. 1820.)

REFERENCES IN TEXT

The Federal Cigarette Labeling and Advertising Act, referred to in subsec. (b), is Pub. L. 89-92, July 27, 1965, 79 Stat. 282, which is classified generally to chapter 36 (§1331 et seq.) of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 1331 of Title 15 and Tables.

The Comprehensive Smokeless Tobacco Health Education Act of 1986, referred to in subsec. (b), is Pub. L. 99-252, Feb. 27, 1986, 100 Stat. 30, which is classified principally to chapter 70 (§4401 et seq.) of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 4401 of Title 15 and Tables.

§ 387o. Regulation requirement

(a) Testing, reporting, and disclosure

Not later than 36 months after June 22, 2009, the Secretary shall promulgate regulations under this chapter that meet the requirements of subsection (b).

(b) Contents of rules

The regulations promulgated under subsection (a)—

(1) shall require testing and reporting of tobacco product constituents, ingredients, and additives, including smoke constituents, by brand and subbrand that the Secretary determines should be tested to protect the public health, provided that, for purposes of the testing requirements of this paragraph, tobacco products manufactured and sold by a single tobacco product manufacturer that are identical in all respects except the labels, packaging design, logo, trade dress, trademark, brand name, or any combination thereof, shall be considered as a single brand; and

(2) may require that tobacco product manufacturers, packagers, or importers make disclosures relating to the results of the testing of tar and nicotine through labels or advertising or other appropriate means, and make disclosures regarding the results of the testing of other constituents, including smoke constituents, ingredients, or additives, that the Secretary determines should be disclosed to the public to protect the public health and will not mislead consumers about the risk of tobacco-related disease.