

facturer shall not be considered to be in violation of the testing and reporting requirements of this section until the testing is reported or until 1 year after the reporting deadline has passed, whichever occurs sooner. If, however, the Secretary has not made a finding before the reporting deadline, the manufacturer shall not be considered to be in violation of such requirements until the Secretary finds that the conditions described in paragraph (2) have not been met, or until 1 year after the reporting deadline, whichever occurs sooner.

(4) Additional extension

In addition to the time that may be provided under paragraph (3), the Secretary may provide further extensions of time, in increments of no more than 1 year, for required testing and reporting to occur if the Secretary determines, based on evidence properly and timely submitted by a small tobacco product manufacturer in accordance with paragraph (2), that a lack of available laboratory capacity prevents the manufacturer from completing the required testing during the period described in paragraph (3).

(f) Rule of construction

Nothing in subsection (d) or (e) shall be construed to authorize the extension of any deadline, or to otherwise affect any timeframe, under any provision of this chapter or the Family Smoking Prevention and Tobacco Control Act other than this section.

(June 25, 1938, ch. 675, §915, as added Pub. L. 111-31, div. A, title I, §101(b)(3), June 22, 2009, 123 Stat. 1820.)

REFERENCES IN TEXT

The Family Smoking Prevention and Tobacco Control Act, referred to in subsec. (f), is div. A of Pub. L. 111-31, June 22, 2009, 123 Stat. 1776. For complete classification of this Act to the Code, see Short Title of 2009 Amendment note set out under section 301 of this title and Tables.

MODIFICATION OF DEADLINES FOR SECRETARIAL ACTION

With respect to any time periods specified in an amendment by 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.

§ 387p. Preservation of State and local authority

(a) In general

(1) Preservation

Except as provided in paragraph (2)(A), nothing in this subchapter, or rules promulgated under this subchapter, shall be construed to limit the authority of a Federal agency (including the Armed Forces), a State or political subdivision of a State, or the government of an Indian tribe to enact, adopt, promulgate,

and enforce any law, rule, regulation, or other measure with respect to tobacco products that is in addition to, or more stringent than, requirements established under this subchapter, including a law, rule, regulation, or other measure relating to or prohibiting the sale, distribution, possession, exposure to, access to, advertising and promotion of, or use of tobacco products by individuals of any age, information reporting to the State, or measures relating to fire safety standards for tobacco products. No provision of this subchapter shall limit or otherwise affect any State, tribal, or local taxation of tobacco products.

(2) Preemption of certain State and local requirements

(A) In general

No State or political subdivision of a State may establish or continue in effect with respect to a tobacco product any requirement which is different from, or in addition to, any requirement under the provisions of this subchapter relating to tobacco product standards, premarket review, adulteration, misbranding, labeling, registration, good manufacturing standards, or modified risk tobacco products.

(B) Exception

Subparagraph (A) does not apply to requirements relating to the sale, distribution, possession, information reporting to the State, exposure to, access to, the advertising and promotion of, or use of, tobacco products by individuals of any age, or relating to fire safety standards for tobacco products. Information disclosed to a State under subparagraph (A) that is exempt from disclosure under section 552(b)(4) of title 5 shall be treated as a trade secret and confidential information by the State.

(b) Rule of construction regarding product liability

No provision of this subchapter relating to a tobacco product shall be construed to modify or otherwise affect any action or the liability of any person under the product liability law of any State.

(June 25, 1938, ch. 675, §916, as added Pub. L. 111-31, div. A, title I, §101(b)(3), June 22, 2009, 123 Stat. 1823.)

§ 387q. Tobacco Products Scientific Advisory Committee

(a) Establishment

Not later than 6 months after June 22, 2009, the Secretary shall establish a 12-member advisory committee, to be known as the Tobacco Products Scientific Advisory Committee (in this section referred to as the “Advisory Committee”).

(b) Membership

(1) In general

(A) Members

The Secretary shall appoint as members of the Tobacco Products Scientific Advisory Committee individuals who are technically