**Appendix B**

§ 1254.4. Standards for cigarette fire safety (35 P.S. §§1254.1-1254.11)

**(a) Testing.--**Except as provided under subsection (g), no cigarettes may be sold or offered for sale in this Commonwealth or offered for sale or sold to persons located in this Commonwealth unless the cigarettes:

(1) have been tested in accordance with the test method and meet the performance standard specified in this section, a written certification has been filed by the manufacturer with the department in accordance with section 5[1](https://govt.westlaw.com/pac/Document/NCD206B406B1611DEA01A94181E29CC1C?viewType=FullText&originationContext=documenttoc&transitionType=CategoryPageItem&contextData=(sc.Default)#co_footnote_IB062454022ED11E2ACA2EAFDF401AD0B) and the cigarettes have been marked in accordance with section 6;[2](https://govt.westlaw.com/pac/Document/NCD206B406B1611DEA01A94181E29CC1C?viewType=FullText&originationContext=documenttoc&transitionType=CategoryPageItem&contextData=(sc.Default)#co_footnote_IB0626C5022ED11E2ACA2EAFDF401AD0B) or

(2) are included in existing inventories that satisfy the conditions in section 9(a)(1) and (2).[3](https://govt.westlaw.com/pac/Document/NCD206B406B1611DEA01A94181E29CC1C?viewType=FullText&originationContext=documenttoc&transitionType=CategoryPageItem&contextData=(sc.Default)#co_footnote_IB0626C5122ED11E2ACA2EAFDF401AD0B)

**(b) Testing standards.--**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.” Testing shall be conducted on ten layers of filter paper. No more than 25% of the cigarettes tested in a test trial in accordance with this subsection shall exhibit full-length burns. Forty replicate tests shall comprise a complete test trial for each cigarette tested. The performance standard required by this subsection shall only be applied to a complete test trial. Laboratories conducting testing in accordance with this subsection shall implement a quality control and quality assurance program that includes a procedure to determine the repeatability of the testing results. The repeatability value shall be no greater than 0.19. The program shall ensure that the testing repeatability remains within the required repeatability values for all test trials used to certify cigarettes in accordance with this act. Written certifications shall be based upon testing conducted by a laboratory that has been accredited under standard ISO/IEC 17025 of the International Organization for Standardization or has been accredited under another comparable accreditation standard required by the commissioner. Additional testing shall not be required under this subsection if cigarettes are tested in a manner consistent with this act for any other purposes. Testing performed or sponsored by the commissioner to determine a cigarette's compliance with the required performance standard shall be conducted in accordance with this subsection.

**(c) Use of bands.--**Each cigarette listed in a certification submitted under section 5 that uses lowered permeability bands in the cigarette paper to achieve compliance with the performance standard set forth in this section shall have at least two nominally identical bands on the paper surrounding the tobacco column. At least one complete band shall be located at least 15 millimeters from the lighting end of the cigarette. For cigarettes on which the bands are positioned by design, there shall be at least two bands fully located at least 15 millimeters from the lighting end and 10 millimeters from the filter end of the tobacco column or 10 millimeters from the labeled end of the tobacco column for a nonfiltered cigarette.

**(d) Alternate testing.--**The manufacturer or manufacturers of a cigarette that the commissioner determines cannot be tested in accordance with the test method prescribed under subsection (a) shall propose a test method and performance standard for such cigarette to the commissioner. Upon approval of the proposed test method and a determination by the commissioner that the performance standard proposed by the manufacturer or manufacturers is equivalent to the performance standard prescribed under subsection (a), the manufacturer or manufacturers may employ such test method and performance standard to certify the cigarette under section 5. If the commissioner determines that another state has enacted reduced cigarette ignition propensity standards that include a test method and performance standard that are the same as those contained in this act and the commissioner finds that the officials responsible for implementing those requirements have approved the proposed alternative test method and performance standard for a particular cigarette proposed by a manufacturer as meeting the fire safety standards of that state's law or regulation under a provision comparable to this section, then the commissioner shall authorize that manufacturer to employ the alternative test method and performance standard to certify that cigarette for sale in this Commonwealth, unless the commissioner demonstrates a reasonable basis why the alternative test should not be accepted under this act. All other applicable requirements of this section shall apply to the manufacturer or manufacturers.

**(e) Compliance.--**In order to ensure compliance with the performance standard specified in subsection (a), data from testing conducted by manufacturers on all cigarettes offered for sale to comply with this act shall be kept on file by the manufacturers for a period of three years, and copies shall be sent to the department upon the department's written request, to the commissioner upon the commissioner's written request and to the Office of Attorney General upon the Attorney General's written request. Any manufacturer that fails to make copies of the reports available within 60 days of receipt of a written request shall be subject to a civil penalty not to exceed $10,000 for each day after the 60th day that the manufacturer does not make the copies available.

**(f) Subsequent testing methods.--**The commissioner may adopt a subsequent ASTM Standard Test Method upon a finding that such 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 under subsection (b).

**(g) Consumer testing.--**The requirements of subsection (a) shall not prohibit the sale of cigarettes solely for the purpose of consumer testing. For the purposes of this subsection, “consumer testing” shall mean an assessment of cigarettes that is conducted by a manufacturer or under the control or direction of a manufacturer, for the purpose of evaluation of consumer acceptance of cigarettes, utilizing only the quantity of cigarettes that is reasonably necessary for the assessment.

**(h) Review of standards.--**Three years from the effective date of this section, and every three years thereafter, the commissioner shall undertake a review of the effectiveness of this section based upon incidents of cigarette-caused fires, advances in cigarette fire safety, including improvements in cigarette technology, and the data submitted to demonstrate compliance with the performance standard. Based upon the triennial review, the commissioner shall report his findings to the General Assembly and, if appropriate, submit recommendations to improve the effectiveness of this section.

**(i) Implementation.--**This act shall be implemented in accordance with the implementation and substance of the New York Fire Safety Standards for Cigarettes.

## Credits

2008, July 4, P.L. 518, No. 42, § 4, effective Jan. 1, 2009. Amended 2009, June 29, P.L. 49, No. 9, § 1, effective June 30, 2009.

## Footnotes

[1](https://govt.westlaw.com/pac/Document/NCD206B406B1611DEA01A94181E29CC1C?viewType=FullText&originationContext=documenttoc&transitionType=CategoryPageItem&contextData=(sc.Default)#co_footnoteReference_IB062454022ED11E2ACA2EAFDF401AD0B_ID0ESBAC)

35 P.S. § 1254.5.

[2](https://govt.westlaw.com/pac/Document/NCD206B406B1611DEA01A94181E29CC1C?viewType=FullText&originationContext=documenttoc&transitionType=CategoryPageItem&contextData=(sc.Default)#co_footnoteReference_IB0626C5022ED11E2ACA2EAFDF401AD0B_ID0EVBAC)

35 P.S. § 1254.6.

[3](https://govt.westlaw.com/pac/Document/NCD206B406B1611DEA01A94181E29CC1C?viewType=FullText&originationContext=documenttoc&transitionType=CategoryPageItem&contextData=(sc.Default)#co_footnoteReference_IB0626C5122ED11E2ACA2EAFDF401AD0B_ID0EICAC)

35 P.S. § 1254.9.

35 P.S. § 1254.4, PA ST 35 P.S. § 1254.4

Current through 2016 Regular Session Acts 1 to 169 and 171 to 175

Additionally, the winning bidder is responsible to follow, the most current and up to date industry regulations, laws specified in Title 35 P.S. Health and Safety, Chapter 12B. Cigarette Fire Safety and Firefighter Protection Act and remain in compliance with such.