

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA-2010-N-0020]

Use of Tobacco Marketing Descriptors to Convey Modified Risk; Request for Comments

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; request for comments.

SUMMARY: The Food and Drug Administration (FDA) is establishing a public docket to provide an opportunity for interested parties to share information, research, and ideas on tobacco product marketing descriptors that may be considered similar to the prohibited terms “light,” “mild,” and “low.” This information will be used to further FDA’s efforts to reduce misleading and deceptive advertising practices.

DATES: Submit electronic or written comments by February 18, 2010.

ADDRESSES: Submit electronic comments to <http://www.regulations.gov>. Submit written comments to the Division of Dockets Management (HFA-305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Kathleen K. Quinn, Center for Tobacco Products, Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850-3229, 240-276-1717, Kathleen.Quinn@fda.hhs.gov.

SUPPLEMENTARY INFORMATION:

I. Background

Tobacco products are responsible for more than 440,000 deaths each year. The Centers for Disease Control and Prevention report that 70 percent of the 46 million adults who currently smoke in the United States want to quit. Since the introduction to the American market in the 1960s of cigarettes marketed as “light,” “low,” or “mild,” millions of smokers have turned to these products in the false belief that they pose fewer health hazards and may facilitate quitting. While scientific evidence has demonstrated that light cigarettes do not reduce the health risks associated with smoking, sales of light cigarettes have continued to climb, accounting for 92.7 percent of cigarettes sold in the United States in 2006. Curbing the significant adverse consequences of tobacco use is one of the most important public health goals of our time. One step toward the realization of that goal is to prevent misleading labeling claims and to

regulate “modified risk” tobacco products.

On June 22, 2009, the President signed the Family Smoking Prevention and Tobacco Control Act (the Tobacco Control Act) into law. The Tobacco Control Act granted FDA important new authority to regulate the manufacture, marketing, and distribution of tobacco products to protect the public health generally and to reduce tobacco use by minors. Among its many provisions, the Tobacco Control Act added section 911(b) to the Federal Food, Drug, and Cosmetic Act (the act), banning the manufacture of any tobacco product “the label, labeling, or advertising of which uses the descriptors ‘light’, ‘mild’, or ‘low’ or similar descriptors;” as of June 22, 2010.

We are requesting comments that will inform the agency’s development of guidance on the meaning of the term “similar descriptors.” A copy of the Tobacco Control Act is available at <http://www.fda.gov/tobacco>.

II. Request for Comments and Information

Product packaging plays a critical role in fostering brand loyalty and communicating messages to consumers about the risks and benefits of product use. FDA is aware that messages of reduced harm can be conveyed through a variety of visual cues. We are therefore requesting comment on ways in which descriptors that may be considered similar to “light,” “mild” and “low” used on tobacco product packaging could impact consumer perceptions of risk. Such descriptors may include:

- Adjectives like “silver,” “fine,” or “smooth;”
- Colors like white, silver or pastels;
- Printed numbers associated with risk level;
- Letters (e.g., “L”) or other symbols that connote “light;”
- Depiction of filters or other images that imply purification or healthfulness;
- Words used in brand names that have associations with potency, risk, or healthfulness; and
- Use of terms such as “natural” and “no additives.”

The agency will consider information submitted to the docket in developing guidance on the meaning of the term “similar descriptors” as it pertains to the label, labeling, or advertising of modified risk tobacco products.

III. Comments

Interested persons may submit to the Division of Dockets Management (see **ADDRESSES**) electronic or written comments regarding this document. Submit a single copy of electronic

comments or two paper copies of any mailed comments, except that individuals may submit one paper copy. Comments are to be identified by the docket number found in brackets in the heading of this document. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

Dated: January 12, 2010.

David Dorsey,

Acting Deputy Commissioner for Policy, Planning and Budget.

[FR Doc. 2010-784 Filed 1-15-10; 8:45 am]

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DEPARTMENT OF HOMELAND SECURITY

[Docket No. DHS-2009-0162]

RIN 1601-ZA08

Identification of Foreign Countries Whose Nationals Are Eligible To Participate in the H-2A and H-2B Visa Programs

AGENCY: Office of the Secretary, DHS.

ACTION: Notice.

SUMMARY: Under Department of Homeland Security (DHS) regulations, U.S. Citizenship and Immigration Services (USCIS) may only approve petitions for H-2A and H-2B nonimmigrant status for nationals of countries that the Secretary of Homeland Security, with the concurrence of the Secretary of State, has designated by notice published in the **Federal Register**. That notice must be renewed each year. This notice announces that the Secretary of Homeland Security, in consultation with the Secretary of State, is identifying 39 countries whose nationals are eligible to participate in the H-2A and H-2B programs for the coming year.

DATES: *Effective Date:* This notice is effective January 18, 2010, and shall be without effect at the end of one year after January 18, 2010.

FOR FURTHER INFORMATION CONTACT: Alex Hartman, DHS Office of Policy, Department of Homeland Security, Washington, DC 20528 (202) 282-9820.

SUPPLEMENTARY INFORMATION:

Background: Pursuant to 8 CFR 214.2(h)(5)(i)(F)(1)(i) and 8 CFR 214.2(h)(6)(i)(E)(1), USCIS may only approve H-2A and H-2B petitions for nationals of countries that the Secretary of Homeland Security, with the concurrence of the Secretary of State, has designated as participating countries. Such designation must be

published as a notice in the **Federal Register** and expires after one year.

In designating countries to include on the list, DHS, with the concurrence of the Secretary of State, will take into account factors including, but not limited to: (1) The country's cooperation with respect to issuance of travel documents for citizens, subjects, nationals and residents of that country who are subject to a final order of removal; (2) the number of final and unexecuted orders of removal against citizens, subjects, nationals and residents of that country; (3) the number of orders of removal executed against citizens, subjects, nationals and residents of that country; and (4) such other factors as may serve the U.S. interest. See 8 CFR 214.2(h)(5)(i)(F)(1)(i) and 8 CFR 214.2(h)(6)(i)(E)(1).

In December 2008, DHS published in the **Federal Register** two notices, "Identification of Foreign Countries Whose Nationals Are Eligible to Participate in the H-2A Visa Program," and "Identification of Foreign Countries Whose Nationals Are Eligible to Participate in the H-2B Visa Program," designating 28 countries whose nationals are eligible to participate in the H-2A and H-2B programs. See 73 FR 77,043 (Dec. 18, 2008); 73 FR 77,729 (Dec. 19, 2008). The initial designations were composed of countries that are important for the operation of the H-2A and H-2B programs and are cooperative in the repatriation of their citizens, subjects, nationals or residents who are subject to a final order of removal from the United States. The notices cease to have effect at the end of one year after January 17 and January 18, 2009 respectively. See 8 CFR 214.2(h)(5)(i)(F)(2) and 8 CFR 214.2(h)(6)(i)(E)(3).

Following consultations with the Department of State, the Secretary of Homeland Security finds, with the concurrence of the Secretary of State, that the 28 countries designated in the December 18 and 19, 2008 notices continue to meet the standards identified in those notices for eligible countries and therefore should remain designated as countries whose nationals are eligible to participate in the H-2A and H-2B programs.

Furthermore, the Secretary of Homeland Security, with the concurrence of the Secretary of State, finds that it is now appropriate to add 11 additional countries to the list of countries whose nationals are eligible to participate in the H-2A and H-2B programs. This determination is made taking into account the four factors identified above. The Secretary of Homeland Security considered other

pertinent factors; including, but not limited to, evidence of past usage of the H-2A and H-2B programs by nationals of the countries to be added, as well as evidence relating to the economic impact on particular U.S. industries or regions resulting from the addition or continued non-inclusion of specific countries. In consideration of all of the above, this notice designates for the first time Croatia, Ecuador, Ethiopia, Ireland, Lithuania, The Netherlands, Nicaragua, Norway, Serbia, Slovakia, and Uruguay as countries whose nationals are eligible to participate in the H-2A and H-2B programs.

Designation of Countries Whose Nationals Are Eligible To Participate in the H-2A and H-2B Visa Programs

Pursuant to the authority provided to the Secretary of Homeland Security under sections 241, 214(a)(1), and 215(a)(1) of the Immigration and Nationality Act (INA) (8 U.S.C. 1231, 1184(a)(1), and 1185(a)(1)), I have designated, with the concurrence of the Secretary of State, that nationals from the following countries are eligible to participate in the H-2A and H-2B visa programs:

Argentina, Australia, Belize, Brazil, Bulgaria, Canada, Chile, Costa Rica, Croatia, Dominican Republic, Ecuador, El Salvador, Ethiopia, Guatemala, Honduras, Indonesia, Ireland, Israel, Jamaica, Japan, Lithuania, Mexico, Moldova, The Netherlands, Nicaragua, New Zealand, Norway, Peru, Philippines, Poland, Romania, Serbia, Slovakia, South Africa, South Korea, Turkey, Ukraine, United Kingdom, Uruguay.

This notice does not affect the status of aliens who currently hold H-2A or H-2B nonimmigrant status.

Nothing in this notice limits the authority of the Secretary of Homeland Security or his or her designee or any other federal agency to invoke against any foreign country or its nationals any other remedy, penalty or enforcement action available by law.

Janet Napolitano,
Secretary.

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DEPARTMENT OF HOMELAND SECURITY

[Docket No. DHS-2009-0160]

Homeland Security Advisory Council

AGENCY: The Office of Policy, DHS.

ACTION: Committee management; Notice of partially closed federal advisory committee meeting.

SUMMARY: The Homeland Security Advisory Council (HSAC) will meet on February 3, 2010, in New York, New York. The meeting will be partially closed to the public.

DATE: The HSAC will meet February 3, 2010, from 9 a.m. to 3 p.m. and the meeting is open to the general public from 10:30 a.m. to 12 p.m. EST. The meeting is closed from 9 a.m. to 10:30 a.m. and then again from 12 p.m. to 3 p.m.

ADDRESSES: The open portion of the meeting will be held at the Grand Hyatt New York, 109 East 42nd Street at Grand Central Terminal, in the Empire Ballroom in New York, New York. Requests to have written material distributed to each member of the committee prior to the meeting must reach the below contact person by January 25, 2010. Comments must be identified by **Federal Register** Notice DHS-2009-0160 and may be submitted by one of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.
- *E-mail:* HSAC@dhs.gov. Fax: 202-282-9207.
- *Mail:* Homeland Security Advisory Council, 1100 Hampton Park Boulevard, Mailstop 0850, Capitol Heights, MD 20745.

Instructions: All submissions received must include the words "Department of Homeland Security" and DHS-2009-0160. Comments received will be posted without alteration at <http://www.regulations.gov>, including provided personal information.

Docket: For docket access to read background documents or comments received, go to <http://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT: Homeland Security Advisory Council, (202) 447-3135, HSAC@dhs.gov.

SUPPLEMENTARY INFORMATION: Notice of this meeting is given pursuant to the Federal Advisory Committee Act, 5 U.S.C. App. 2. The HSAC provides independent advice to the Secretary of the Department of Homeland Security to aid in the creation and implementation of critical and actionable policies and capabilities across the spectrum of homeland security operations. The HSAC periodically reports to the Secretary, as requested, on such matters. The HSAC serves as the Secretary's primary advisory body with the goal of providing strategic, timely and actionable advice.