

## **ATTACHMENT 6**

### **GUIDELINES TO CONTROL AND PROTECT DOCUMENTS THAT CONTAIN PRIVILEGED INFORMATION OBTAINED IN ACCORDANCE WITH SEC. 4 (b)(2)(a) OF P.L. 99-252**

Guidelines for Maintaining and Releasing Privileged Information Obtained in Accordance With Sec. 4 (b) (2) (a) of Public Law 99-252 (15 U.S.C. 4403)

## 1. Purpose

These Guidelines establish minimum requirements to maintain, protect and release documents that contain privileged information regarding ingredients in **smokeless tobacco** products. The Guidelines establish individual responsibility for the accountability and protection of privileged information on ingredients added to **tobacco** in the manufacture of **smokeless tobacco** products and the quantity of nicotine in each such product. The Comprehensive **Smokeless Tobacco** Education Act of 1986 (Pub. L. 99-252 (15 U.S.C. 4403) ) requires manufacturers, packagers, and importers of **smokeless tobacco** products to submit such information annually to the Secretary of Health and Human Services.

## 2. Policy

Employees of the Department of Health and Human Services shall take such action as may be necessary to assure implementation of statutory requirements to safeguard privileged information. In accordance with Public Law 99-252 (15 U.S.C. 4403 (b) (2) ), HHS shall treat the lists of ingredients added to **tobacco** in the manufacture of **smokeless tobacco** products as trade secret or confidential information. HHS shall not reveal the information except as authorized by the statute. Privileged information shall be released to Congress only as provided in section 4 (b) of Public Law 99-252 (15 U.S.C. 4403 (b) ) and to employees of the Department authorized to review the information in carrying out their official duties under Public Law 99-252 (15 U.S.C. 4403 (b) (2) ). All other requests for the privileged information shall be denied.

If HHS receives a request for the privileged information under the Freedom of Information Act, the Freedom of Information Officer shall deny the request in accordance with the provisions of 5 U.S.C. 552 (b) (3) and 552 (b) (4), section 4 (b) (2) (A) of Public Law 99-252 (15 U.S.C. 4403 (b) (2) ), which require the protection of confidential or trade secret information.

## 3. Statutory Requirements

Statutory requirements for safeguarding the subject privileged information are as follows:

a. Sections 4 (b) (2) of Public Law 99-252 (15 U.S.C. 4403 (b) (2) ) (Comprehensive **Smokeless Tobacco** Health Education Act of 1986) 5 U.S.C. 552 (b) (4) (Freedom of Information Act).

## 4. Definitions

a. Document Control Officer. This Officer is the Departmental official designated in writing as having responsibility for the Department's control of privileged information pertaining to the **smokeless tobacco** product ingredients. The Document Control Officer shall be the Director, office on Smoking and Health, National Center for Chronic Disease Prevention and Health Promotion, Centers for Disease Control and Prevention (CDC).

b. Privileged Information. As used in this Guideline, privileged information refers to (i) any information provided to HHS in accordance with section 4 (a) (1) of Public Law 99-252 (15 U.S.C. 4403 (a) (1) ), and

(ii) any other materials derived from the information provided.

c. Secure Files Area. A room or rooms that are locked during non duty hours.



- (1) The name and organizational location of the individual authorized to possess the documents at the time of loss;
- (2) The identification and description of each missing file;
- (3) A summary of the efforts made to locate the missing file.

#### 8. Document Protection

Document protection shall include the following:

- a. During Non-Working Hours. All privileged information must be locked in an approved secure files area or in an approved secure files container during non-working hours.
- b. During Working Hours. When not in actual use by an authorized employee, privileged information shall be protected by using the protective measures required for non-working hours.

#### 9. Transfer of Privileged Information

Method of Transmission. The preferred method is person-to-person transmission. When this is not practical, the privileged information is to be sent through the U.S. Registered Mail system, unless a written exception has been obtained on an individual basis from the Document Control Officer.

#### 10. Document Reproduction

Privileged information documents will be reproduced only as required for the performance of official business, and only by those persons so authorized by the Document Control Officer.

#### 11. Document Disposition

The documents provided to the Department in accordance with Section 4 (a) (1) of the Comprehensive **Smokeless Tobacco** Health Education Act of 1986 (15 U.S.C. 4403 (a)(1)) shall be maintained in accordance with the Records Control Schedule of the Centers for Disease Control and Prevention (CDC).

#### 12. Violation

Misuse or loss of privileged information constitutes a violation of statutory provisions and HHS rules for controlling and protecting such information. Employees failing to comply with the provisions of these Guidelines or other established document control procedures are subject to action commensurate with the seriousness of the violation.

#### Attachment A--Commitment to Protect Confidential Information on the Ingredients Added to **Tobacco** in the Manufacture of **Smokeless Tobacco** Products

Whereas access to confidential information in the files of the Public Health Service is required in the performance of official duties, I \_\_\_\_\_ on this \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_, hereby agree that I shall not further release, publish, copy, or disclose such information, and that I shall protect such information in accordance with the provisions of 5 U.S.C. 552 (b) (4), and the Public Health Service guide for the Control of Confidential Information on the Ingredients Added to **Tobacco** in the Manufacture of **Smokeless Tobacco** Products.

I understand the provision of 5 U.S.C. 552 (b) (4), and the PHS guide, and that I am subject to penalties prescribed by law for any violations thereof.

Signed: .....

Date: .....

Witnessed by: .....

Date: .....

Attachment B--Receipt for Confidential Information in the Manufacture of **Smokeless Tobacco** Products

To: Director, Office on Smoking and Health, Centers for Disease Control and Prevention (CDC), Atlanta, Georgia 30341-3724. From: .....

Receipt of the following privileged information is hereby acknowledged: File<SUP>#-- Description of Information--Anticipated Date of Return.

Date: .....

Signature: .....

Attachment C--Authority to Remove Confidential Information on the Ingredients Added to **Tobacco** in the Manufacture of **Smokeless Tobacco** Products

\_\_\_\_\_ (name) of \_\_\_\_\_ (government agency or office) is hereby granted the authority to have the following privileged information in his/her personal possession from \_\_\_\_\_ (hours), \_\_\_\_\_ (date) to \_\_\_\_\_ (hours), \_\_\_\_\_ (date).

Describe Privileged Information:

Document Number: Title.

This information will be used for:

Authorized by: .....

Director, Office on Smoking and Health

Date: .....

[FR Doc. 94-2184 Filed 1-31-94; 8:45 am]

BILLING CODE 4160-18-P

