

**RCW 19.305.020 Testing of cigarettes—Performance standard—**

**Records—Exceptions.** (1) Except as provided in subsection (7) of this section, cigarettes may not be sold or offered for sale in this state or offered for sale or sold to persons located in this state unless the cigarettes 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 state director of fire protection in accordance with RCW 19.305.030, and the cigarettes have been marked in accordance with RCW 19.305.040.

(a) 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."

(b) Testing shall be conducted on ten layers of filter paper.

(c) No more than twenty-five percent of the cigarettes tested in a test trial in accordance with this section may exhibit full-length burns. Forty replicate tests comprise a complete test trial for each cigarette tested.

(d) The performance standard required by (c) of this subsection may only be applied to a complete test trial.

(e) Written certifications shall be based upon testing conducted by a laboratory that has been accredited pursuant to standard ISO/IEC 17025 of the international organization for standardization (ISO), or other comparable accreditation standard required by the state director of fire protection.

(f) Laboratories conducting testing in accordance with this section shall implement a quality control and quality assurance program that includes a procedure that determines the repeatability of the testing results. The repeatability value may be no greater than 0.19.

(g) This section does not require additional testing if cigarettes are tested consistent with this chapter for any other purpose.

(h) Testing performed or sponsored by the state director of fire protection to determine a cigarette's compliance with the performance standard required must be conducted in accordance with this section.

(2) Each cigarette listed in a certification submitted pursuant to RCW 19.305.030 that uses lowered permeability bands in the cigarette paper to achieve compliance with the performance standard set forth in this section must have at least two nominally identical bands on the paper surrounding the tobacco column. At least one complete band must be located at least fifteen millimeters from the lighting end of the cigarette. For cigarettes on which the bands are positioned by design, there must be at least two bands fully located at least fifteen millimeters from the lighting end and ten millimeters from the filter end of the tobacco column, or ten millimeters from the labeled end of the tobacco column for nonfiltered cigarettes.

(3) A manufacturer of a cigarette that the state director of fire protection determines cannot be tested in accordance with the test method prescribed in subsection (1)(a) of this section shall propose a test method and performance standard for the cigarette to the state director of fire protection. Upon approval of the proposed test method and a determination by the state director of fire protection that the performance standard proposed by the manufacturer is equivalent to the performance standard prescribed in subsection (1)(c) of this section, the manufacturer may employ that test method and performance standard

to certify the cigarette pursuant to RCW 19.305.030. If the state director of fire protection 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 chapter, and the state director of fire protection 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 legal provision comparable to this section, then the state director of fire protection shall authorize that manufacturer to employ the alternative test method and performance standard to certify that cigarette for sale in this state, unless the state director of fire protection demonstrates a reasonable basis why the alternative test should not be accepted under this chapter. All other applicable requirements of this section apply to the manufacturer.

(4) Each manufacturer shall maintain copies of the reports of all tests conducted on all cigarettes offered for sale for a period of three years, and shall make copies of these reports available to the state director of fire protection and the attorney general upon written request. Any manufacturer who fails to make copies of these reports available within sixty days of receiving a written request is subject to a civil penalty not to exceed ten thousand dollars for each day after the sixtieth day that the manufacturer does not make the copies available.

(5) The state director of fire protection may adopt a subsequent ASTM standard test method for measuring the ignition strength of cigarettes upon a finding that the 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 in subsection (1)(c) of this section.

(6) Beginning in 2012, the state director of fire protection shall review the effectiveness of this section and report every three years to the legislature the state director of fire protection's findings and, if appropriate, recommendations for legislation to improve the effectiveness of this section. The report and legislative recommendations shall be submitted no later than July 1st of each three-year reporting period.

(7) The requirements of subsection (1) of this section do not prohibit wholesale or retail dealers from selling their existing inventory of cigarettes on or after August 1, 2009, if the wholesale or retailer dealer can establish that state tax stamps were affixed to the cigarettes prior to August 1, 2009, and if the wholesale or retail dealer can establish that the inventory was purchased prior to August 1, 2009, in comparable quantity to the inventory purchased during the same period of the prior year.

(8) The implementation and substance of the New York fire safety standards for cigarettes, New York Executive Law section 156-c, Fire Safety Standards for Cigarettes, shall be persuasive authority in the implementation of this chapter. [2008 c 239 s 2.]