

Message 001

Communication from the Commission - TRIS/(2026) 1738

Directive (EU) 2015/1535

Notification: 2026/0327/NL

Notification of a draft text from a Member State

Notification – Notification – Notifizierung – Нотификация – Oznámení – Notifikation – Γνωστοποίηση – Notificación – Teavitamine – Ilmoitus – Obavijest – Bejelentés – Notifica – Pranešimas – Paziņojums – Notifika – Kennisgeving – Zawiadomienie – Notificação – Notificare – Oznámenie – Obvestilo – Anmälan – Fógra a thabhairt

Does not open the delays - N'ouvre pas de délai - Kein Fristbeginn - Не се предвижда период на прекъсване - Nezahajuje prodlení - Fristerne indledes ikke - Καμμία έναρξη προθεσμίας - No abre el plazo - Viivituste perioodi ei avata - Määräaika ei ala tästä - Ne otvara razdoblje kašnjenja - Nem nyitja meg a késésekét - Non fa decorrere la mora - Atidėjimai nepradedami - Atlikšanas laikposms nesākas - Ma jiftaħ il-perijodi ta' dewmien - Geen termijnbegin - Nie otwiera opóźnień - Não inicia o prazo - Nu deschide perioadele de stagnare - Nezačína oneskorenia - Ne uvaja zamud - Inleder ingen frist - Ní osclaíonn sé na moilleanna

MSG: 20261738.EN

1. MSG 001 IND 2026 0327 NL EN 01-07-2026 NL NOTIF

2. Netherlands

3A. Directie Wetgeving en Juridische Zaken (WJZ)

3B. Ministerie van Volksgezondheid, Welzijn en Sport

4. 2026/0327/NL - X00M - GOODS AND MISCELLANEOUS PRODUCTS

5. amendment to the Tobacco and Smoking Products Regulation in respect of requirements for refill packs and nicotine-free refill packs and the establishment of limit values for nicotine in tobacco-free nicotine products

6. Tobacco-free nicotine products and refill packs for e-cigarettes, with and without nicotine

7.

8. The amendment to the Tobacco and Smoking Products Regulation (hereinafter 'the Regulation') is

intended to set limits on the nicotine content of tobacco-free nicotine products . In view of the harmful effects and addictive potential of tobacco-free nicotine products, particularly for young people, this regulation sets limits on the nicotine content of tobacco-free nicotine products. The aim is to protect public health, in particular the health of young people, and to reach the smoke-free generation by 2040.

In addition, this amending regulation imposes additional requirements on refill containers for e-cigarettes with and without nicotine. A decision of the College van Beroep voor het bedrijfsleven (Administrative Court of Appeal for Trade and Industry) (hereinafter: 'CBB') has made an adjustment of the Regulation necessary. The CBB ruled that a cartridge in which refill liquid for e-cigarettes is sold (a refill container) cannot be classified as the packaging (or more precisely the packaging unit) for that product, but should be classified as the product ('the container') itself. It follows from this ruling that the packaging requirements do not apply to refill packs. That is why this regulation sets out requirements regarding the appearance of refill packs. In addition, the present amendment to the Regulation is intended to set limits on the nicotine content of tobacco-free nicotine products. In view of the harmful effects and addictive potential of tobacco-free nicotine products, particularly for young people, this regulation sets limits on the nicotine content of tobacco-free nicotine products. The aim is to protect public health, in particular the health of young people, and to reach the smoke-free generation by 2040.

9. Nicotine addiction is a serious addiction with extremely harmful public health consequences. The recent Coherent Prevention Agreement [Samenhangende Effectieve Preventiestrategie] sets the objective of achieving a smoke-free generation by 2040. A smoke-free generation also means a nicotine-free generation. In recent years, the tobacco industry has expanded its portfolio and launched various new products that do not contain tobacco but do contain nicotine; under Dutch legislation, these products are regulated under the name tobacco-free nicotine products. Given the harmful and addictive effects of nicotine, the aim of regulating these products is to prevent people from using tobacco-free nicotine products. This applies in particular to young people, but also to individuals who have never used nicotine or tobacco products. This Regulation now lays down the maximum nicotine content of tobacco-free nicotine products. (NB, under Dutch law, tobacco-free nicotine products for oral use may not be marketed).

The present regulation also lays down requirements for the appearance of refill containers for e-cigarettes with and without nicotine, so that the appearance of refill containers also complies with the same requirements that apply to packaging units and the external packaging of electronic vaping products. This will ensure that the product is less attractive and the user is warned of the health effects of the product. This is also desirable if refill containers are sold in a box, as the box is usually discarded immediately after purchase.

9a. In view of the harmful effects and addictive potential of tobacco-free nicotine products, particularly for young people, this regulation sets limits on the nicotine content of tobacco-free nicotine products. The aim is to protect public health, in particular the health of young people, and to reach the smoke-free generation by 2040. This regulation sets the maximum permissible nicotine content of tobacco-free nicotine products. A specific form of nicotine is 6-methylnicotine. For all forms of nicotine, with the exception of 6-methylnicotine, a maximum content of 0.028 milligrams per tobacco-free nicotine product is established. For 6-methylnicotine, the maximum permissible content per tobacco-free nicotine product is 0.0030 milligrams. These values correspond to the advisory values of the National Institute for Public Health and the Environment [Rijksinstituut voor Volksgezondheid en Milieu, RIVM] for the content of these substances in

tobacco-free nicotine products. It is stipulated that tobacco-free nicotine products which do not contain 6-methylnicotine may contain a maximum of 0.028 milligrams of nicotine, and that those which do contain 6-methylnicotine – even if only in part – may contain a maximum of 0.0030 milligrams of nicotine, including 6-methylnicotine.

The exterior of refill containers under this scheme should comply with the same requirements as for the packaging unit and the outside packaging of electronic vaping goods, so that the packaging requirements also apply if the refill container is sold without packaging.

9b. Both the setting of maximum nicotine levels for tobacco-free nicotine products and the imposition of requirements regarding the appearance of refill packs are, even if they were to constitute a barrier to trade, justified on the grounds of an overriding reason of public interest, namely the protection of public health. Article 36 TFEU explicitly states that the protection of health is a possible justification. The case-law of the Court of Justice of the European Union indicates that Member States have a considerable degree of freedom with regard to public health policies and determining the level of protection. Member States are free to determine their own level of protection. The Dutch government is committed to a high level of protection and aims to achieve a smoke-free generation by 2040, ensuring that young people do not come into contact with nicotine products other than tobacco, which can cause nicotine addiction and be a gateway to tobacco products.

The setting of maximum nicotine levels for tobacco-free nicotine products is an appropriate means of achieving the aforementioned objective of protecting public health, in particular that of young people. Setting maximum nicotine levels will protect users of tobacco-free nicotine products from the adverse health effects of the currently high nicotine content of such products, such as addiction, respiratory irritation and an increased heart rate.

The requirements for the external appearance of refill packs are necessary because refill packs are not always sold as part of a packaging unit, or because the packaging is discarded immediately after purchase (see section 3.3). It is therefore necessary that the requirements for the appearance of refill containers correspond to those laid down for packaging units and outer packaging of electronic vapour products. In view of the high degree of public health protection pursued by the government and in order to achieve a smoke-free generation by 2040, it is important to reduce the attractiveness of electronic vaping products, including refill containers.

9c. Setting maximum nicotine levels for tobacco-free nicotine products does not go beyond what is necessary to protect users' health, as this is the only way to protect users from exposure to excessive amounts of nicotine and 6-methylnicotine in those products.

The requirements regarding the appearance of refill packs do not go beyond what is necessary to achieve the objective of ensuring a high level of protection of public health. The requirements for the appearance of refill containers should be no more stringent than those for the packaging of electronic vaping products. This regulation prevents refills from not bearing a health warning when they are placed on the market without a packaging unit.

10. Numbers or titles of the basic texts:

11. No

12.

13. No

14. No

15. No

16.

TBT aspects: No

SPS aspects: No

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