

Federal Flavor Ban: Enforcement Priorities Guidance Overview

On January 2, 2020, the Federal Drug Administration (FDA) released their issue of the final Enforcement Priorities Guidance. As of February 6, 2020, the FDA began prioritizing enforcement of the premarket review requirements for certain electronic nicotine delivery systems (ENDS), including against retailers selling such products.

Retailers should not sell flavored, cartridge-based ENDS to anyone – regardless of age.

Flavored, cartridge-based ENDS products (other than tobacco or menthol-flavored ENDS products) should NOT be offered for sale, displayed for sale, or available in any area the public may access.

Retailers should NOT sell any flavored, cartridge-based ENDS products (other than a tobacco- or menthol-flavored ENDS product) to anyone, regardless of their age.

What are electronic nicotine delivery systems (ENDS)?

- ENDS consist of products such as vapes, vape pens, personal vaporizers, and e-cigarettes.
- Cartridge-based ENDS include a cartridge or pod that holds liquid that is to be aerosolized through product use.
- A cartridge or pod is any small, enclosed unit (sealed or unsealed) designed to fit within or operate as part of an ENDS.

What do the enforcement priorities include?

- Any flavored, cartridge-based ENDS product (other than a tobacco- or menthol-flavored ENDS product.)
- All other ENDS products for which the manufacturer has failed to take (or is failing to take) adequate measures to prevent minors' access.
- Any ENDS product that is targeted to minors or whose marketing is likely to promote use of ENDS by minors.

What flavors are covered?

- ALL flavors are included under the FDA's enforcement rule that appeal to children, with the exception of menthol and tobacco flavors.
- Examples of flavored, cartridge-based ENDS consist of flavors such as: bubble gum, mint, mango, strawberry.
- This includes cartridge-based ENDS that contain a flavor in addition to menthol and tobacco, such as: mango menthol and iced strawberry menthol.

Questions?

FDA encourages retailers to contact their suppliers or the product manufacturers to discuss possible options for the affected flavored, cartridge-based ENDS products that they may have in their inventory.