

F.D.A. Opens Door to More Flavored E-Cigarettes

The agency is proposing allowing other tastes for vapes, like mint, coffees, spices or tea, to appeal to adults. At the same time, illicit candy-flavored types aimed at teenagers have flooded the market.



By **Christina Jewett**

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The Food and Drug Administration said on Monday that it would open the door to e-cigarettes in flavors that it deems appealing to adults, shifting from the agency's unsuccessful ban on fruit and candy-flavored versions that have continued to flood the market.

The agency said in a document released on Monday that it would consider vapes in flavors such as mint, coffees, teas and spices, possibly like clove or cinnamon. The F.D.A. said it would continue to reject those offering sweet or fruity flavors that are more appealing to teenagers.

Vaping policy has been contentious at the F.D.A. since 2019, when Juul and other flavored vape use spiked among high school students and was labeled an epidemic. President Trump banned most flavored vapes at the end of that year. Since then, surveys have showed a considerable decline in high school vaping.

The Trump White House views vaping as an election issue, with many MAGA voters embracing e-cigarettes and President Trump having promised during the campaign season to "save vaping again." It is unclear if the new policy would please prospective voters, said Mitch Zeller, a former F.D.A. tobacco official.

"If I was the e-cigarette industry and I was expecting that this was going to be a new day for the agency's consideration of candy and fruit and dessert flavored e-cigarettes, I would be disappointed with this guidance document," he said.

The new approach did not please public health groups who reviewed the policy on Monday either.

"Allowing any flavors on the market benefits only corporations and harms public health," said Kelsey Romeo-Stuppy, the managing attorney of the public health group Action on Smoking & Health. "That is not a gamble we should be willing to take."

Luis Pinto, a spokesman for Reynolds American, which sells Vuse vapes through a subsidiary, said the company supported “safer nicotine alternatives” to help adult smokers migrate from cigarettes.

The agency’s new direction for vaping dovetails with the moves at the White House to shore up support among voters, including adults who vape, as it heads into the midterm elections. Those voters tend to dislike curbs or regulations that limit their choices on many things, including e-cigarettes.

The F.D.A.’s shift allowing new flavors is occurring during a tumultuous year marked by the departure of hundreds of staff members that was capped just last week by the announced departure of Dr. Vinay Prasad, the high-profile vaccine regulator whose drug and vaccine rejections drew intense scrutiny and criticism.

Under the year’s cloud of problems, Dr. Marty Makary, the F.D.A.’s commissioner, has worked to assuage consumers, lately backing President Trump’s efforts to reduce health costs by easing the path toward approval for more generic or biosimilar drugs.

For months, Dr. Makary had been developing a new e-cigarette policy that might align with the Trump administration’s goals.

He had insisted that he wanted to keep e-cigarettes out of the hands of young people, but was also straddling ways to appease major tobacco conglomerates and smaller U.S. e-cigarette companies. Both have heavily supported President Trump’s PAC and special project funds.

The F.D.A. regulates electronic cigarettes based on a 2009 tobacco control law that is meant to favor products that protect the broader public health. In practice, that has meant that e-cigarette companies applying for authorization have had to prove that their products will help adult cigarette smokers quit — while also avoid hooking young people. Products in the new flavors would face the same calculus.

The bar has been hard to clear. The F.D.A. has authorized only a couple of dozen products in tobacco and menthol flavors, mostly made by major players like Altria, Reynolds American and Juul.

Although smaller companies have challenged the F.D.A.’s millions of product rejections, the agency has prevailed up to the Supreme Court. But while the F.D.A. rejected millions of applications, Chinese suppliers have inundated the U.S. market with products in fruit flavors that work like miniature video games or jewelry or school supplies like highlighters or pens.

Illicit vapes dominate about 70 percent of e-cigarette sales, according to statements that Altria and Reynolds have made to investors. Both companies have begun to sell oral nicotine pouches similar to Zyn products, which users tuck under their upper lip, that they have said are selling at a rapid clip.

Public health experts have insisted that the F.D.A. strive to keep vapes away from young people, who face higher odds of addiction to nicotine and are susceptible to chronic respiratory conditions, which include elevated risks of C.O.P.D., or chronic obstructive pulmonary disease, studies have found.

The decline among teenagers in e-cigarette or vaping use in the last few years is not reason enough for the F.D.A. to change course, said Ranjana Caple, director of federal advocacy for the American Lung Association.

“We’ve seen this playbook before — tobacco companies once promoted ‘light’ and ‘low tar’ cigarettes to get around health concerns, and it wouldn’t be surprising to see them rebrand or tweak products to fit these new categories,” she said.

Adam Leventhal, a University of Southern California public health scientist, said the effects of the new policy would be hard to predict. He noted that the F.D.A. said it would be open to mint flavors in the new guidance, which he and colleagues found to be highly appealing to young people. He also said that coffee flavors could have the same allure.

“How do you operationalize what is a coffee flavor versus mocha Frappuccino flavor?” he said.

Christina Jewett covers the Food and Drug Administration, which means keeping a close eye on drugs, medical devices, food safety and tobacco policy.