

What isn't covered by the final rule?¹

- The rule does not prohibit self-service displays of e-cigarettes, cigars and other newly-deemed products in retail stores. This means that these products do not have to be placed behind the counter. [Give local examples of what you have seen in your community.]
- Manufacturers are subject to FDA action for false or misleading and unauthorized health claims, but the rule does not prohibit the advertising or marketing of e-cigarettes or other newly-deemed products.
 - The rule does not prohibit brand sponsorship of sporting or cultural events for e-cigarettes and cigars. The rule also does not require notice of advertisement in any non-traditional medium for newly-deemed products.
 - The rule permits the distribution of non-tobacco merchandise featuring the logos of e-cigarette or cigar brands. This means that e-cigarette and cigar brands can be seen on t-shirts, hats, and other products.
- The rule does not include restrictions on flavors for any of the newly-deemed products. This means that e-cigarettes, cigars, and other non-cigarette products can continue to be sold with any fruit, candy, or menthol flavor.
- The rule does not impose a minimum pack size requirement for newly-deemed products. This means that single cigars, for example, can be sold inexpensively, which may appeal to youth.

What does this mean for products currently on the shelves?

- Products that were commercially marketed in the United States before February 15, 2007 are considered “grandfathered” into the regulation, and need not undergo review. E-cigarettes, cigars, and other newly-deemed products that went on sale after February 15, 2007 can still be sold, but their manufacturers must submit them to the FDA for approval in order for the products to be sold after the two-year implementation period laid out in the FDA rule.²

What about the new study from New England that says e-cigarettes will help you quit smoking?

- It is important to note that e-cigarettes are already regulated in England and in Europe – comparing e-cigarettes in Europe to those in the U.S. is an apples-to-oranges comparison. In the U.S., the Food and Drug Administration has not approved *any* e-cigarette as safe and effective in helping smokers quit. A 2013 study by the Centers for Disease Control and Prevention found that 77% of e-cigarette users still smoke regular cigarettes.³

¹ http://tobwis.org/files/download_file/eb020d4d547be7d

² <http://www.fda.gov/downloads/TobaccoProducts/Labeling/RulesRegulationsGuidance/UCM499743.pdf>

³ <https://www.tobaccofreekids.org/research/factsheets/pdf/0380.pdf>

Will this kill small businesses?

- The public health concerns presented by products of small manufacturers are no less significant than the public health concerns presented by products of large manufacturers. Recognizing that small-scale tobacco product manufacturers do not necessarily have the same business capabilities of larger manufacturers, the FDA will establish the Office of Small Business Assistance within the Center for Tobacco Products to assist small tobacco product manufacturers and retailers in complying with the law.⁴

⁴ <http://www.fda.gov/TobaccoProducts/GuidanceComplianceRegulatoryInformation/SmallBusiness/default.htm>