Subpart 5 Electronic Nicotine Delivery System (ENDS)
Chapter 01 Product Registration, Returns, and Payments

100 Definitions

101 "Electronic Nicotine Delivery System (ENDS) product":

1. means any noncombustible product that employs a heating element, power source, electronic circuit, or other electronic, chemical, or mechanical means, regardless of shape or size, to produce vapor from nicotine in a solution;
2. includes a consumable nicotine liquid solution suitable for use in an ENDS product, whether sold with the product or separately; and
3. does not include any product regulated as a drug or device under Chapter V of the Federal Food, Drug, and Cosmetic Act (21 USC Section 351 et seq.).

102 "Timely filed premarket tobacco product application" means an application pursuant to 21 USC Section 387j for an ENDS product containing nicotine derived from tobacco marketed in the United States as of August 8, 2016, that was submitted to the United States Food and Drug Administration on or before September 9, 2020, and accepted for filing.

103 "Directory" means the Mississippi ENDS Directory, which is a listing of certified ENDS products eligible to be sold or made available for sale in Mississippi.

104 (Reserved)

200 General

201 Every manufacturer of ENDS products that are sold for retail or for sale to a consumer in Mississippi, whether directly or indirectly through an importer, wholesaler, distributor, retailer, or other similar intermediary, is required to complete a product certification for each ENDS product. If approved by the Department, each ENDS product will be added to the Directory, which is available on the Department's website.

202 E-cigarettes, e-hookahs, vape pens, electronic pipes, devices, e-liquids, e-liquid pods, disposables, and similar items not listed on the Directory are prohibited from being sold or being made available for sale in Mississippi and are subject to seizure, forfeiture, and destruction. However, zero percent nicotine solution and zero percent (0%) nicotine disposables are not required to be certified and are not listed on the Directory.

203 Batteries or chargers, when sold separately, are not required to be listed in the Directory.

204 (Reserved)

300 Product Certification

301 For ENDS products to be included in the Directory, the manufacturer must submit with its product certification the following:

1. An electronic copy of each ENDS product packaging and/or label including the UPC or SKU, brand name, category, description, product name, flavor, product ID type, product ID and the importer of the product;
2. A payment of five hundred dollars ($500.00) for each ENDS product not to exceed fifteen thousand dollars ($15,000.00) per manufacturer annually; and
3. A copy of one (1) of the following:
    a. The marketing granted order issued by the FDA;
    b. The acceptance letter issued by the FDA for a timely filed premarket tobacco product application as defined in Paragraph 102 of this Chapter; or
    c. A document issued by the FDA or by a court confirming that the premarket tobacco product application has received a denial order that has been and remains stayed by the FDA or court order, rescinded by the FDA, or vacated by a court.

302 ENDS products approved for publication in the Directory must be recertified annually prior to September 1st of each year. Failure to recertify may result in the products being removed from the registry.

303 (Reserved)

400 Modifications to a Product Certification

401 A manufacturer shall notify the Department within thirty (30) calendar days of any material change to the certification form that affects the ability of the ENDS product to be introduced or delivered into interstate commerce for commercial distribution in the United States.

402 If 21 USC Section 387j is amended, or subsequent regulations or other official federal guidance or formal policy statement is issued that would change compliance requirements or standards for an ENDS product to become federally compliant, each manufacturer of an ENDS product that is sold for retail sale in Mississippi shall submit documentation substantiating compliance with such new federal requirements or standards within thirty (30) days of the date compliance with such requirement or standard is mandated.

403 Failure to substantiate compliance with new federal requirements or standards shall be grounds for removal of the manufacturer and its ENDS products from the Directory.

404 (Reserved)

500 Product Removal

501 Before removing a manufacturer or its ENDS products from the Directory, the Department shall provide the manufacturer with a notice of its intent for removal and an opportunity to come into compliance. Such notice of intent shall state the reason(s) for the intended removal of the manufacturer or its ENDS products.

502 The manufacturer has fifteen (15) business days from receipt of the notice of intent to resolve the issue stated in such notice or to establish that the manufacturer or its ENDS products should remain in the Directory.

503 If the manufacturer does not come into compliance after thirty (30) business days of receiving the notice of intent, the Department shall remove the manufacturer or its ENDS products from the Directory.

504 If an ENDS product is removed from the Directory and is also in the retailer's inventory at the date of Directory removal, the retailer has thirty (30) days from the date of Directory removal to either sell or remove the products from inventory. These types of products are considered prohibited and subject to seizure, forfeiture, and destruction if not removed from inventory within thirty (30) days from the date of Directory removal.

505 Prior to selling or distributing ENDS products, manufacturers, retailers, distributors, and wholesalers shall check the Directory periodically to ensure ENDS products have not been removed from the Directory.

506 (Reserved)

600 Compliance Checks

601 Every retailer, distributor, and wholesaler that sells or distributes ENDS products in Mississippi shall be subject to at least two (2) unannounced compliance checks per year by the Department. The Department shall perform an unannounced follow-up compliance check within thirty (30) days of a violation.

602 (Reserved)

700 Penalties

701 A manufacturer that causes ENDS products not listed in the Directory to be sold for retail sale in Mississippi is subject to a civil penalty of two thousand five hundred dollars ($2,500.00) per day for each ENDS product that is offered for sale until such product is removed from the market or properly listed in the Directory.

702 Any manufacturer that falsely represents any information on the certification form shall be guilty of a misdemeanor for each false representation.

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35.VIII.5.01 effective March 2, 2026