

Regulator Will Treat E-Cigarettes Like Tobacco

By THE ASSOCIATED PRESS

The Food and Drug Administration said Monday that it planned to regulate smokeless electronic cigarettes as tobacco products and would not try to regulate them under stricter rules for drug-delivery devices.

The agency said in a letter to interested parties that it intended to propose rule changes to treat e-cigarettes the same as traditional cigarettes and other tobacco products.

The news is considered a victory for makers and distributors of electronic cigarette devices, which continue to gain popularity worldwide.

E-cigarettes are plastic and metal devices that heat a liquid nicotine solution in a disposable cartridge, creating vapor that the user inhales. A tiny light on the tip even glows like a real cigarette.

Users and distributors say e-cigarettes address both the nicotine addiction and the behavioral aspects of smoking — the holding of the cigarette, the puffing, seeing the smoke come out and the hand motion — without the more than 4,000 chemicals found in cigarettes.

First marketed overseas in 2002, e-cigarettes were not readily available in the United States until late 2006. Now, the industry has grown to several million users worldwide from thousands in 2006. And the number of users increases by tens of thousands every week.

No timeline has been set on the proposed rule changes.

The F.D.A. said e-cigarettes could still be regulated as drugs or drug-delivery devices if they were marketed as a stop-smoking aid or for other so-called therapeutic purposes.

Nearly 46 million Americans smoke cigarettes. About 40 percent



try to quit each year, according to the Centers for Disease Control and Prevention. But unlike nicotine patches or gums, e-cigarettes have operated in a legal gray area.

The F.D.A. lost a court case last year after trying to treat e-cigarettes as drug-delivery devices, rather than as tobacco products, because e-cigarettes heat nicotine extracted from tobacco. The agency had until Monday to appeal to the Supreme Court.

In December, a federal appeals court ruled that electronic cigarettes should be regulated as tobacco products by the F.D.A. rather than as drug-delivery devices, which have more stringent requirements like expensive clinical trials to prove the products are safe and effective as an aid to stop smoking.

Some sellers of e-cigarettes sued the F.D.A. in 2009 after the agency told customs officials to refuse entry of shipments into the United States. A federal judge ruled that the F.D.A. was not permitted to stop the shipments, saying the agency had overstepped its authority.

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