

January 10, 2019

Director Mitch Zeller  
Center for Tobacco Products  
U.S. Food & Drug Administration  
10903 New Hampshire Avenue  
Silver Spring, MD 20993

**RE: Clarity Needed on Implementation of Age 21 Restriction on Tobacco Sales**

Dear Director Zeller:

Our national associations sent a letter two weeks ago asking for clarity from the U.S. Food & Drug Administration's Center for Tobacco Products on the implementation of the new age limit of 21 for tobacco sales.

To date, a three-sentence note on the FDA website is the only communication on Tobacco 21 our retail members have seen from the agency. That note does not even appear on the home pages of the FDA or the Center for Tobacco Products. As such, retailers of tobacco products across the United States face significant confusion about the transition to age 21, requirements for compliance, and enforcement efforts. While some states have clarified that they will not enforce the new age restrictions until receiving implementing regulations from FDA, others have indicated they will pursue enforcement now. This is particularly confusing for retailers who operate in multiple states.

To effectively make the transition to 21, retailers must retrain employees, update signage, reprogram point-of-sale systems, and educate customers. Retailers are making these efforts, but they each take resources and time to complete. For instance, We Card, a national non-profit organization providing educational and training services for retailers, will not have updated age 21 calendars for its customers until April at the earliest. Retailers who have point-of-sale systems with age verification capabilities are taking steps to reconfigure those to comply with the new age, but that requires the attention of IT professionals and technicians who are not always immediately available. Retailers are retraining employees on the new law and how to comply with it, but they have received no direction from the agency. While retailers are making this transition, without the full implementing regulations it is likely retailers will need to retrain employees once those regulations are finalized.

Additionally, without a public awareness campaign about the new law, our retail associates are in many cases the first to inform 18, 19 and 20-year-old users of tobacco products that they can no longer purchase them. In many instances, we have heard reports of angry confrontations with our associates.

Given all of this, we are asking the agency to clarify that there will not be enforcement of the new age until the agency finalizes the implementing regulations. We understand that providing guidance on a new policy of this magnitude takes much consideration and time. As we've noted above, our retailers are experiencing those same hurdles, which is why we are seeking a statement of clarification from FDA.

Thank you for your consideration of this request. We need and appreciate the agency's guidance as we undertake this transition.

Respectfully,

Food Marketing Institute  
National Association of Convenience Stores  
National Association of Truckstop Operators  
National Grocers Association  
Petroleum Marketers Association of America  
Premium Cigar Association  
Society of Independent Gasoline Marketers of America

cc: Alex Azar, Secretary, U.S. Department of Health and Human Services  
Stephen Hahn, Commissioner, U.S. Food & Drug Administration  
Ann Simoneau, Director, Compliance and Enforcement Office, Center for Tobacco Products  
Beverly Chernaik, Director, Office of Regulations, Center for Tobacco Products  
Kathleen Crosby, Director, Office of Health Communication and Education, Center for Tobacco Products