

ROB BONTA
Attorney General

State of California
DEPARTMENT OF JUSTICE



1515 CLAY STREET, 20TH FLOOR
P.O. BOX 70550
OAKLAND, CA 94612-0550

Public: (510) 879-1300
Telephone: (510) 879-3310
Facsimile: (510) 622-2170
E-Mail: TaylorAnn.Whittemore@doj.ca.gov

November 3, 2023

Huy Nguyen
Registered Agent
Essential Flavors
7562 Orangewood Ave.
Stanton, CA 90680

Cc Huy Nguyen
CEO
NKD 100 Inc.
7562 Orangewood
Stanton, CA 90680

Cc Thuy Nguyen
CEO
Schwartz E Liquid DBA USA Vape Lab
5802 Engineer Dr.
Huntington Beach, CA 92649

RE: California Flavor Ban, Health & Safety Code § 104559.5
Notice of Determination 23-11-A1

Dear Mr. Nguyen:

Since December 21, 2022, California has restricted retailer possession, distribution, and sale of tobacco product flavor enhancers. *See* Cal. Health & Saf. § 104559.5. A “tobacco product flavor enhancer” is “a product designed, manufactured, produced, marketed, or sold to produce a characterizing flavor when added to a tobacco product.” *Id.* at subd. (a)(15). A “characterizing flavor” is “a distinguishable taste or aroma, or both, other than the taste or aroma of tobacco, imparted by a tobacco product or any byproduct produced by the tobacco product. Characterizing flavors include, but are not limited to . . . fruit, . . . dessert . . . menthol, [or] mint . . .” *Id.* at subd. (a)(1).

This letter is to advise you that the Tobacco Unit of the California Department of Justice has reviewed referred packaging and promotional materials for the below products (collectively, the “Reviewed Products”) and determined that they are tobacco product flavor enhancers under the California flavor ban law. *Id.*

Notice of Determination 23-11-A1

November 3, 2023

Page 2

Determination Number	Reviewed Product(s)	UPC(s)	Determination
23-11-A1-1	NKD Aloe Apple Grape	Various	FLAVOR ENHANCER
23-11-A1-2	NKD Apple	Various	FLAVOR ENHANCER
23-11-A1-3	NKD Apple Strawberry Nectarine	Various	FLAVOR ENHANCER
23-11-A1-4	NKD Berries	Various	FLAVOR ENHANCER
23-11-A1-5	NKD Blue Razz Pomegranate	Various	FLAVOR ENHANCER
23-11-A1-6	NKD Blueberry Lemon	Various	FLAVOR ENHANCER
23-11-A1-7	NKD Citrus	Various	FLAVOR ENHANCER
23-11-A1-8	NKD Grape	Various	FLAVOR ENHANCER
23-11-A1-9	NKD Hawaiiin POG	Various	FLAVOR ENHANCER
23-11-A1-10	NKD Kiwi Passion Guava	Various	FLAVOR ENHANCER
23-11-A1-11	NKD Lava Flow	Various	FLAVOR ENHANCER
23-11-A1-12	NKD Lemon Raspberry	Various	FLAVOR ENHANCER
23-11-A1-13	NKD Mango Peach Watermelon	Various	FLAVOR ENHANCER
23-11-A1-14	NKD Peach Mango	Various	FLAVOR ENHANCER
23-11-A1-15	NKD Red Orange Mango	Various	FLAVOR ENHANCER
23-11-A1-16	NKD Sour Apple Watermelon	Various	FLAVOR ENHANCER
23-11-A1-17	NKD Strawberry	Various	FLAVOR ENHANCER
23-11-A1-18	NKD Strawberry Mango	Various	FLAVOR ENHANCER
23-11-A1-19	NKD Watermelon	Various	FLAVOR ENHANCER
23-11-A1-20	NKD White Guava	Various	FLAVOR ENHANCER
23-11-A1-21	NKD Strawberry Lemonade	Various	FLAVOR ENHANCER
23-11-A1-22	NKD Lemon Cream	Various	FLAVOR ENHANCER
23-11-A1-23	NKD Strawberry Cream	Various	FLAVOR ENHANCER
23-11-A1-24	NKD Watermelon Orange Cream	Various	FLAVOR ENHANCER
23-11-A1-25	NKD Ice Aloe Apple Grape	Various	FLAVOR ENHANCER
23-11-A1-26	NKD Ice Apple	Various	FLAVOR ENHANCER
23-11-A1-27	NKD Ice Apple Strawberry Nectarine	Various	FLAVOR ENHANCER
23-11-A1-28	NKD Ice Berries	Various	FLAVOR ENHANCER
23-11-A1-29	NKD Ice Blue Razz Pomegranate	Various	FLAVOR ENHANCER
23-11-A1-30	NKD Ice Blueberry Lemon	Various	FLAVOR ENHANCER
23-11-A1-31	NKD Ice Brain Freeze	Various	FLAVOR ENHANCER
23-11-A1-32	NKD Ice Citrus	Various	FLAVOR ENHANCER

23-11-A1-33	NKD Ice Grape	Various	FLAVOR ENHANCER
23-11-A1-34	NKD Ice Hawaiian POG	Various	FLAVOR ENHANCER
23-11-A1-35	NKD Ice Kiwi Passion Guava	Various	FLAVOR ENHANCER
23-11-A1-36	NKD Ice Lava Flow	Various	FLAVOR ENHANCER
23-11-A1-37	NKD Ice Lemon Raspberry	Various	FLAVOR ENHANCER
23-11-A1-38	NKD Ice Mango Peach Watermelon	Various	FLAVOR ENHANCER
23-11-A1-39	NKD Ice Peach Mango	Various	FLAVOR ENHANCER
23-11-A1-40	NKD Ice Sour Apple Watermelon	Various	FLAVOR ENHANCER
23-11-A1-41	NKD Ice Strawberry	Various	FLAVOR ENHANCER
23-11-A1-42	NKD Ice Strawberry Mango	Various	FLAVOR ENHANCER
23-11-A1-43	NKD Ice Watermelon	Various	FLAVOR ENHANCER
23-11-A1-44	NKD Ice White Guava	Various	FLAVOR ENHANCER
23-11-A1-45	NKD Apple Sour Belt	Various	FLAVOR ENHANCER
23-11-A1-46	NKD Fruit Cereal	Various	FLAVOR ENHANCER
23-11-A1-47	NKD Strawberry Sour Belts	Various	FLAVOR ENHANCER
23-11-A1-48	NKD Pink Burst	Various	FLAVOR ENHANCER
23-11-A1-49	NKD Arctic Air	Various	FLAVOR ENHANCER
23-11-A1-50	NKD Wintergreen	Various	FLAVOR ENHANCER
23-11-A1-51	NKD Custard Tobacco	Various	FLAVOR ENHANCER
23-11-A1-52	NKD Key Lime Cookie	Various	FLAVOR ENHANCER

We specifically conclude:

- (1) Labeling and packaging for the Reviewed Products suggests that products are flavored and contain photos and/or words associated with fruit, dessert, mint and/or menthol. *See* TAB A.
- (2) Many flavor enhancers share flavors with co-branded tobacco products. *E.g.* TAB B.
- (3) The Reviewed Products are being marketed and sold alongside tobacco products, including co-branded tobacco products. *E.g.* TAB C.
- (4) The Reviewed Products are designed for use with co-branded tobacco products. *See* TAB D.

The California flavor ban law restricts the retail distribution and sale of tobacco product flavor enhancers to California consumers. Under the California flavor ban law, retailers and their agents

are subject to fines for the possession and sale of such tobacco product flavor enhancers. *See* Cal. Health & Saf. § 104559.5(f). Other state statutes and local ordinances may impose additional penalties on retailers or other vendors as well. *Id.* at § 104559.5(g); *see also* Cal. Bus. & Prof. § 17200.

To encourage uniform application of the California flavor ban law, this Notice of Determination will be posted on the California Department of Justice's public website on or after December 4, 2023.

You are encouraged to provide a copy to your California distributor and retailer customers as well.

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If you believe these determinations or conclusions are in error, or if you believe any Reviewed Product(s) is properly classified as UNFLAVORED, we encourage you to submit a response with any supporting materials to the mailing or email address below on or before December 4, 2023, identifying the Notice of Determination number in your response. The Tobacco Unit will review any such submission and may, in its discretion, update, modify, or rescind this determination in response. In such case, an updated Notice of Determination will be issued.

Flavor Determination [Determination Number(s)]

**Office of the Attorney General
California Department of Justice
1300 "I" Street, PO Box 944255
Sacramento, California 94244-2550
Tobacco@doj.ca.gov**

<https://oag.ca.gov/tobacco/contact>

Sincerely,

Taylor Ann Whittemore

TAYLOR ANN WHITTEMORE
Deputy Attorney General

For ROB BONTA
Attorney General

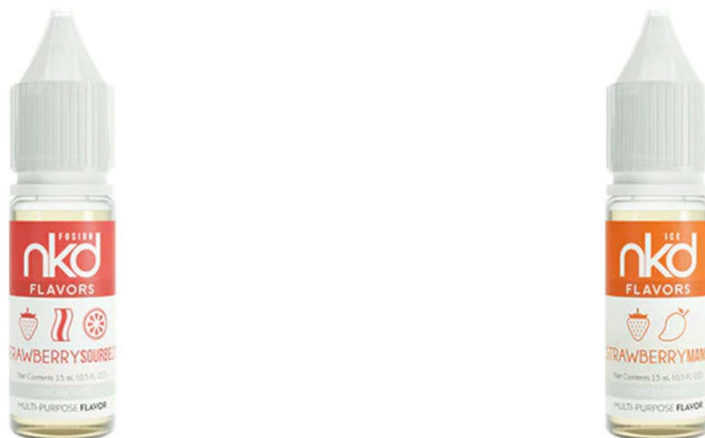
TAB A – PACKAGING IMAGES

REVIEWED PRODUCT(S)



WEST COAST VAPE SUPPLY, "NKD FLAVORS DIY VAPE JUICE," ACCESSED AT [HTTPS://WESTCOASTVAPESUPPLY.COM/PRODUCTS/NKD-FLAVORS-DIY-VAPE-JUICE](https://westcoastvapesupply.com/products/nkd-flavors-diy-vape-juice)

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TAB B – OTHER IMAGES

REVIEWED PRODUCT(S)	COMPARISON PRODUCT(S)
<p>NKD ESSENTIAL FLAVORS NKD Essential Flavors 15mL 10 pack - Lava Flow ☆☆☆☆☆ Write a review</p> <p>SKU: 609670493640</p> <p>Log in for pricing</p> <p>CURRENT STOCK: 9</p> <p>Facebook Email Print Twitter Pinterest</p> <hr/> <p>NKD ESSENTIAL FLAVORS NKD Essential Flavors 15mL 10 pack - Hawaiian Pog ☆☆☆☆☆ Write a review</p> <p>SKU: 609670493626</p> <p>Log in for pricing</p> <p>CURRENT STOCK: 7</p> <p>Facebook Email Print Twitter Pinterest</p>	<p>WARNING: This product contains nicotine. Nicotine is an addictive chemical.</p>  <p>The screenshot shows the Naked100 website interface. At the top, there is a navigation bar with 'Regions', 'Nicotine', 'Flavor Category', and 'MAX'. Below this, there are three columns of product images. The first column is labeled 'HAWAIIAN POG' and shows a 'naked' e-cigarette pack. The second column is labeled 'LAVA FLOW' and shows another 'naked' e-cigarette pack. The third column is labeled 'REALLY BERRY' and shows a third 'naked' e-cigarette pack. Below these, there are more product images for 'ORIGINAL', 'BERRY', 'CRISP MENTHOL', and 'MELON'. Each product image has a 'naked' logo and a '100' on the pack.</p>
<p>VGI DISTRIBUTION, "NKD ESSENTIAL FLAVORS 15ML 10 PACK – LAVA FLOW," ACCESSED AT HTTPS://VAPEGUY.SINC.COM/NKD-ESSENTIAL-FLAVORS-15ML-10-PACK-LAVA-FLOW/; VGI DISTRIBUTION, "NKD ESSENTIAL FLAVORS 15ML 10 PACK – HAWAIIAN POG, ACCESSED AT HTTPS://VAPEGUY.SINC.COM/NKD-ESSENTIAL-FLAVORS-15ML-10-PACK-LAVA-FLOW/</p>	<p>NAKED 100, "NAKED 100," ACCESSED AT HTTPS://NAKED100.COM/FLAVORS/</p>

TAB C – OTHER IMAGES

REVIEWED PRODUCT(S)

WARNING: THIS PRODUCT CONTAINS NICOTINE. NICOTINE IS AN ADDICTIVE CHEMICAL.

SAME DAY PICK-UP WHEN YOU ORDER NOW

LA VAPOR, "NKD MULTI-PURPOSE FLAVORS," ACCESSED AT [HTTPS://WWW.LAVAPORSTORE.COM/PRODUCTS/NKD-MULTI-PURPOSE-FLAVORS](https://www.lavaporstore.com/products/nkd-multi-purpose-flavors)

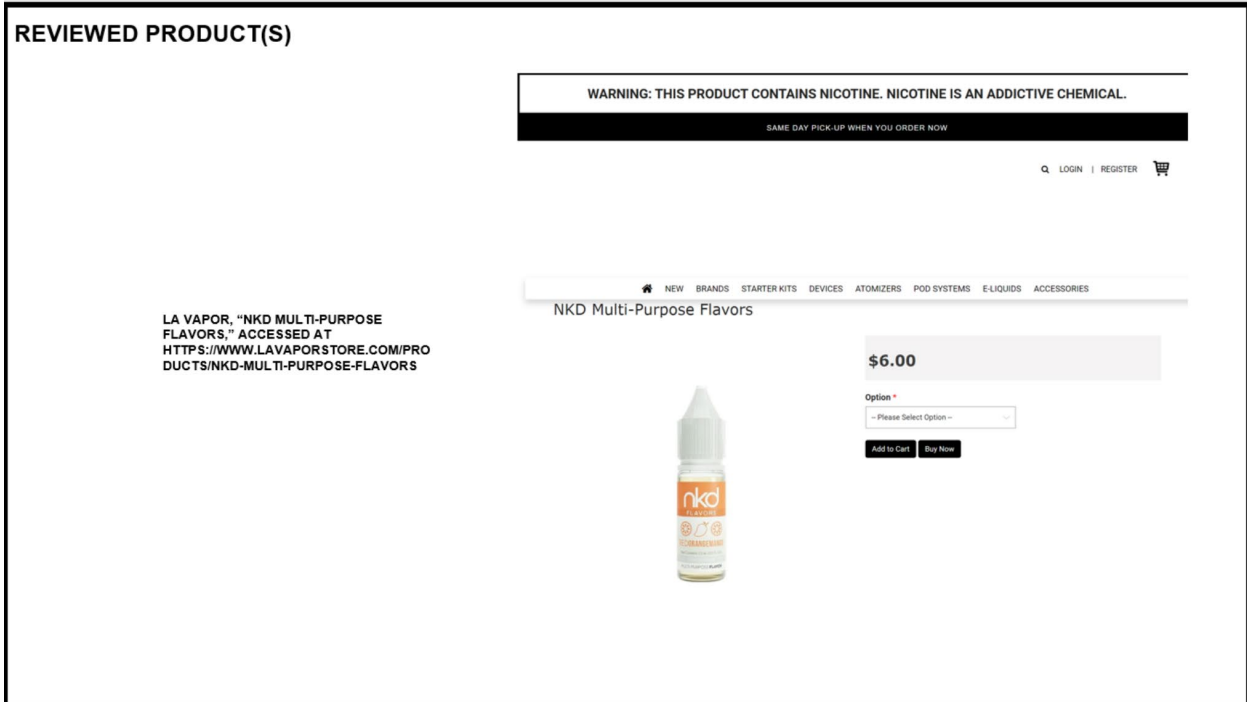
NEW BRANDS STARTER KITS DEVICES ATOMIZERS POD SYSTEMS E-LIQUIDS ACCESSORIES

NKD Multi-Purpose Flavors

\$6.00

Option *
-- Please Select Option --

Add to Cart Buy Now



REVIEWED PRODUCT(S)

Swap® Search for products, brands or advice

CLEARANCE Deals Juice Disposable Vapes Vapes Tanks Replacements Etc Alternatives Brands Vape Blog





Buy ANY 10 Naked 100 Vape Juice & Get 1 Free (Add 11 in Your Cart!)

Home > Naked 100 Vape Juice

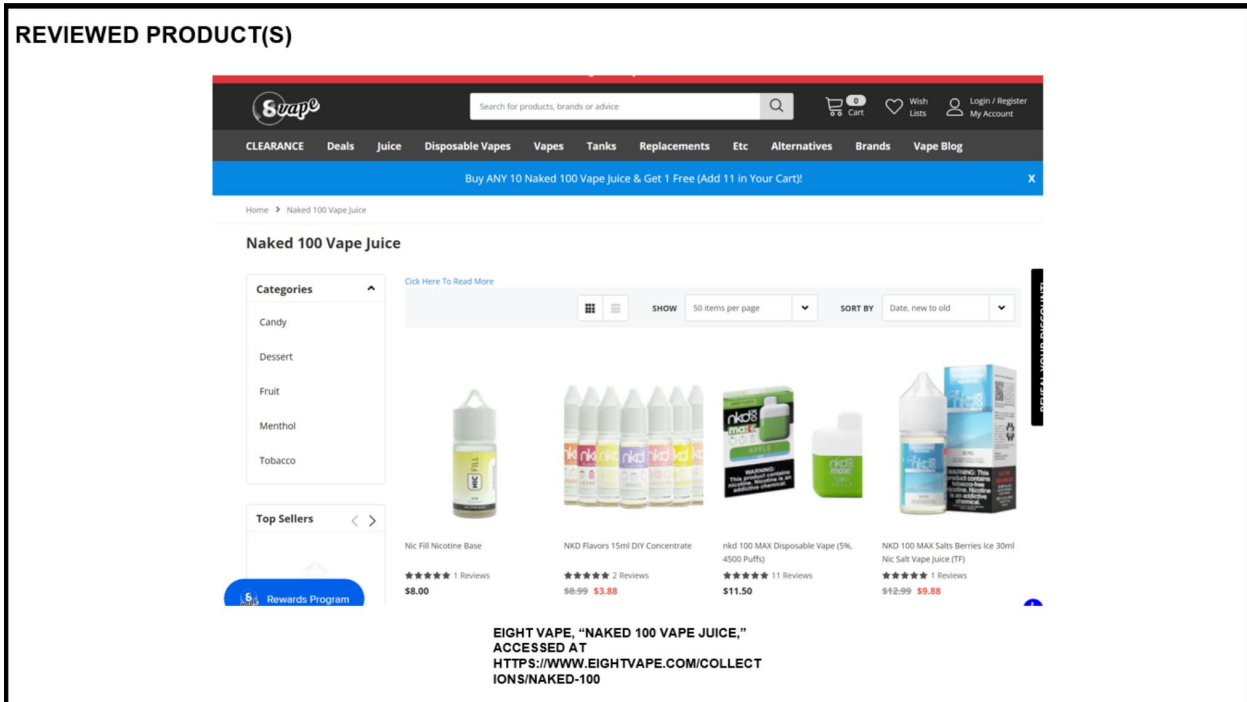
Naked 100 Vape Juice

Click Here To Read More

SHOW 50 items per page SORT BY Date, new to old

 Nic Fill Nicotine Base ★★★★★ 1 Reviews \$8.00	 NKD Flavors 15ml DIY Concentrate ★★★★★ 2 Reviews \$8.99 \$3.88	 nkid 100 MAX Disposable Vape (5%, 4500 Puffs) ★★★★★ 11 Reviews \$11.50	 NKD 100 MAX Salts Berries Ice 30ml Nic Salt Vape Juice (TF) ★★★★★ 1 Reviews \$12.99 \$9.88
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EIGHT VAPE, "NAKED 100 VAPE JUICE," ACCESSED AT [HTTPS://WWW.EIGHTVAPE.COM/COLLECTIONS/NAKED-100](https://www.eightvape.com/collections/naked-100)



REVIEWED PRODUCT(S)

MY VAPOR STORE, "NKD FLAVOR CONCENTRATE - 15ML," ACCESSED AT [HTTPS://WWW.MYVAPORSTORE.COM/NK D-FLAVOR-CONCENTRATE-15ML-P/NKD-FLL10.HTM](https://www.myvaporstore.com/nkd-flavor-concentrate-15ml-p/nkd-fll10.htm)

WARNING: This product contains nicotine. Nicotine is an addictive chemical.

MVS MY VAPORS STORE The Electronic Cigarette Super Store

Search:

New Arrivals Brands Starter Kits E-Liquids Disposables Accessories Hemp Sale Coupons

SAVE 10% OFF ON YOUR FIRST ORDER WITH MYVAPORSTORE! GET COUPON

Home > Flavor > Nicotine Salt Eliquid > 3mg - 40mg > NKD Flavor Concentrate - 15ml

Free Shipping Orders Over \$80 \$0.00 [FAQ](#) [Contact Us](#) [My Account](#) [Cart: 0 items \\$0.00](#)

On Sale: \$9.99
Earn 10 Reward Points!

Product Code: NKD-FLL10

Choose Your Options...

Click to view another Select a Flavor

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LARGER PHOTO EMAIL A FRIEND

Images are for illustration purposes only. Actual color, finish and packaging may vary.

Selected Flavor: First, Select a Flavor


Nicotine Strength: Then, Select Nicotine Strength

Qty: **ADD TO CART** [Add to Wish List](#)

SAVE 10% OFF

TAB D – OTHER IMAGES


REVIEWED PRODUCT(S)



**DIY
MADE
SIMPLE**

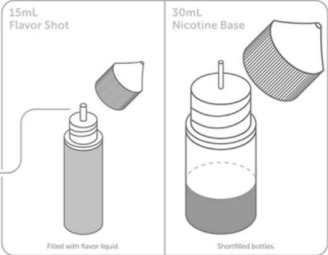
How it is done.
Made simple.

1 New tip design.
This newly designed tip has made the process simple and quick.



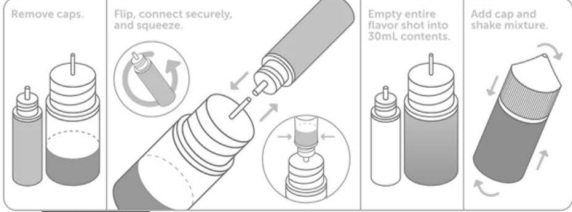
2 Make the mixture.

1. Remove caps.
2. Flip 15mL flavor shot and connect to 30mL base by using the special tips. Then squeeze the flavor shot into the 30mL nicotine base.
3. Empty 15mL flavor shot completely into 30mL nicotine base.
4. Add cap to the 30mL bottle with the mixture, then shake the bottle.



15mL Flavor Shot
Filled with flavor liquid

30mL Nicotine Base
Shortfilled bottles.

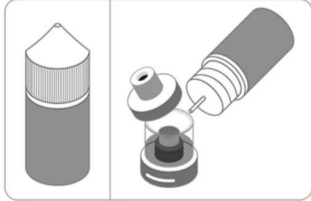


Remove caps. Flip, connect securely, and squeeze. Empty entire flavor shot into 30mL contents. Add cap and shake mixture.

MENU

3 Finished product.

Simple as that.
The product is complete.
Now all you have to do is enjoy the same flavor and satisfaction as any of your favorite e-liquid products.



LA VAPOR, "NKD MULTI-PURPOSE FLAVORS," ACCESSED AT [HTTPS://WWW.LAVAPORSTORE.COM/PRODUCTS/NKD-MULTI-PURPOSE-FLAVORS](https://www.lavaporstore.com/products/nkd-multi-purpose-flavors)