

Commentary on

***Regulations Amending the Tobacco
Products Information Regulations***

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INTRODUCTION

This paper is the response of Physicians for a Smoke-Free Canada to the proposed Regulations amending the Tobacco Products Information Regulations which were gazetted on February 19, 2011.

- We strongly support the proposal to remove the obligation to list numerical values for toxic emissions.
- We support the response to the Standing Joint Committee for the Scrutiny of Regulations, while noting that this response is over a decade overdue, and the current proposal is the third time Health Canada has made public its intention to address the concerns of the parliamentary committee (the first was Gazetted on April 7, 2001, the second on May 31, 2008).
- We support the proposed toxic emissions statements, although we believe that these could be improved in future regulatory rounds.
- We agree that non-regulatory options are not appropriate or feasible for this reform.
- We believe that the 18 month transition period is too long.
- We believe that labelling requirements should be uniform across smoked tobacco products.

We recommend:

- **Collaborative research among countries which have taken similar approaches (i.e. Australia) to explore more effective ways of communicating health information related to emissions.**
- **The transition period should be reduced to no more than 6 months.**
- **The TPIR should no longer cover pipe tobacco, bidis, kreteks, tobacco sticks and other forms of smoked tobacco. Instead, these products should be covered by the new Tobacco Product Labelling Requirements (Smoked tobacco).**
- **Health Canada should initiate a comprehensive strategy to reduce confusion or deception among smokers regarding relative harmfulness of varying tobacco products.**¹

1 For more on this, see PSC's comments on the proposed Promotion of Tobacco Products and Accessories Regulations (Prohibited Terms).

DELAYS IN IMPLEMENTATION HARM CANADIANS.

This regulation is long overdue.

The problem that this proposed regulation seeks to address is one created by a previous government regulation. Arguably, when government is the source of a problem, actions to remedy it should be as quick as possible.

By Health Canada's own admission in the RIAs, almost a decade has passed since the research to support this proposal was completed (in 2003). Several years have passed since the research which supported the Article 11 guidelines were shared with Health Canada (Guidelines on the implementation of Article 11 (labelling) were adopted at the Third Conference of the Parties in 2008, advising Parties not to require quantitative of qualitative statements, such as the current toxic emissions labelling.) Almost three years have passed since the proposal to remove numerical values for toxic emissions was first gazetted (May 31, 2008), and more than 6 years has passed since Health Canada issued a consultation document asking for input on reforming the toxic constituent panel.²

2 PSC's submission in 2004:

Toxic Constituent Panel

Questions: *What are the benefits of the proposed changes?*

See our response to the proposal to include "simple but informative messages about toxic emissions/constituents including, for example, the health effects of one of the toxic substances found in tobacco or in tobacco smoke: above

It bears repetition that there should be no numerical information for smoked products and we urge Health Canada to eliminate all numerical information about yields. At best, it is uninformative and confusing; at worst, it is misleading. We urge Health Canada to adopt the recommendation of the 2001 International Expert Panel on Cigarette Descriptors and remove all numerical information about yields of toxic substances from packages. We note that the TOBREG committee of the World Health Organization has recently discussed the importance of moving away from ISO based methods altogether.

The focus on individual components of tobacco smoke or cigarette design has, in our view, led to false and harmful impressions about the value of eliminating or reducing these constituents. For example, the vilification of additives in cigarettes has allowed cigarette manufacturers to promote their products as "additive-free" (Canadian Classics is a brand which is marketed in this manner). Even though there is no evidence that these cigarettes are less harmful, there are at least some smokers who are under that false impression. In the United States, the identification of tobacco specific nitrosamines as "the most harmful" components of cigarettes has led to some manufacturers developing and marketing "tsna-reduced" cigarette brands. Whether or not cigarettes should have lower levels of TSNA is a question separate to the usefulness of their being marketed as – explicitly or implicitly- less harmful. .

At a minimum, the logic behind the choice of compounds for identification and explanation on cigarette packages should be reviewed. Are the eight substances identified because they are the most harmful substances on a gram-per-gram basis, or because they are responsible for most of the harms of cigarette smoke, or because they are the most familiar?

A statement about sugar content in smokeless tobacco needs to be effective, effective and accompanied by a graphic image of dental damage due to prolonged use of this high-sugar, high-nicotine product.

Question: *The proposal would eliminate the need to list all six toxic emissions and their ranges on every package. Do you have any concerns with eliminating the list?*

To the contrary, we would be very concerned if the list were not eliminated. The new proposal (and our revised proposal to seek to impact people's understanding of the harmfulness of smoke) is much more consistent with both the theory and findings of communications research.

Question: *Can you suggest other ways for presenting toxic emissions/constituents information on packaging that would be noticeable and useful to tobacco users?*

Simple, clear information about the substance can be presented on the outside of the package. More detailed information about the toxic effects of the product can be presented on the inside of the same package. When needed, the health warning on the outside could also present some information about the same toxic substance.

In keeping with our suggestion that more comprehensive communication strategies be adopted, thematic reference to toxic substances and the diseases they cause could be repeated in broadcast and print media campaigns.

While the RIAS does not quantify the benefit to Canadians of this proposal, it does report that “the benefits of the proposal are expected to outweigh the costs” (p. 565), where the costs are quantified at less than \$2 million. On this basis, we estimate that at \$10 million or more of benefit has been lost by the delay since the 2004 consultation.

In the context of the multi-year process of consultation, the proposal to allow an 18 month implementation period (p. 563) is unwarranted, contributes unnecessarily to the harm caused by the current government regulations requiring numeric values, and further exposes the government to liability regarding light and mild deception.

FUTURE OPTIONS

We note that Australia has recently proposed revamping its toxic emissions panel, and is considering the use of a background coloured in warning-yellow.

The use of colour should be considered for Canadian packaging, either for the current proposal, or for future regulatory rounds.

