

Health Canada and Rights 4 Vapers Webinar, “The Regulatory Process: How Vaping Regulations are Decided, Drafted and Developed” – December 2, 2021

Subject:

The Regulatory Process: How Vaping Regulations are Decided, Drafted and Developed.

Date:

December 2, 2021

Participants:

Health Canada (HC)

- Sonia Johnson, Director General, Tobacco Control Directorate (TCD), Controlled Substances and Cannabis Branch (CSCB) (Chair)
- Denis Choinière, Director, Tobacco Products Regulatory Office, TCD
- Laura Smith, Director, Office of Policy and Strategic Planning, TCD

Rights 4 Vapers:

- Maria Papaioannoy
 - Rights 4 Vapers
- Christina Xydous
 - La Coalition des droits des vapoteurs du Québec

Introduction:

A webinar was hosted by Health Canada at the request of Rights 4 Vapers to provide information on the regulatory process and consultation process, particularly in the context of the proposed restrictions on flavoured vaping products. Approximately 183 observers watched the webinar live in a non-participant capacity.

The Chair opened the meeting by reminding Rights 4 Vapers representatives and their members that the meeting is subject to disclosure as per Health Canada's [Openness and Transparency policies](#). In the interest of transparency, the Department stated that it would be making a record of the meeting publicly available. The [handling of information and privacy notice](#) was mentioned and acknowledged.

The Chair also referred to Article 5.3 of the [World Health Organization Framework Convention on Tobacco Control](#), Health Canada's international obligation to protect tobacco control policies from the vested interests of the tobacco industry.

The Chair then invited participants to introduce themselves.

Subjects:

Health Canada provided an overview of the regulatory process and the public consultation process, through a PowerPoint presentation.

Additionally, Health Canada answered questions from Rights 4 Vapers members, which had been submitted in advance of the webinar. The questions fell under five themes: vaping and quitting smoking; regulating vaping flavours; vaping compliance and enforcement; risks of vaping; and funds spent on public education campaigns relating to vaping.

The questions as received by Rights 4 Vapers were:

Theme 1: Vaping and quitting smoking

1. There doesn't seem to be much doubt. Vaping is less harmful than smoking. I would think that Health Canada would be begging smokers to vape, but this is clearly not the case. Do you agree with Public Health England's view that vaping is 95% less harmful than smoking?
2. I was one of the 23,000 people who sent a postcard to oppose a flavour ban and I sent a submission against a nicotine cap. Why were my views not taken into account? I feel like I and other vapers have not been heard by the government, making it much more difficult for me to make less harmful choices? I feel that Health Canada doesn't care if I return to smoking.
3. When I first started vaping it took me six months to completely stop smoking. In your proposed regulations you do not take people like me into consideration. Should I have kept smoking? Does Health Canada not believe there is any Harm reduction value in cutting down the amount I smoke and replacing it with vaping?

Theme 2: Regulating vaping flavours

4. I get it. Flavours are an easy target. But I can go into a liquor store and buy flavoured alcohol and flavoured cannabis is also widely available? Why target vapour products?
5. I am very concerned about slipping back to smoking if there is a ban on flavours, so I was one of the 23,000 people who wrote to oppose a flavour ban. I was shocked that my opinion was discarded so blatantly. I want to know why the interests of some kids who are breaking the law to follow the latest fad should be a reason to put my health in danger. Isn't Health Canada responsible for my health too?

Theme 3: Vaping Compliance and enforcement

6. I understand the need for regulations. It gives me a sense of safety to know that my vaping products must comply with safety requirements and that the content of the vape is regulated. The problem is that flavours keep me vaping. I'm afraid that if flavours are banned, I will have to buy products from the black-market or from overseas manufacturers. I started to vape because it is less harmful than smoking. Now I have to worry about what's in my vape and if it has been manufactured with safety in mind. This doesn't make sense to me. How will Health Canada ensure that unsafe products are not available in Canada.

7. My vape shop has asked that I stop tagging them on social media about my success of quitting smoking by vaping because it puts them at legal risk. Why is this? Is it illegal for me to post about vaping? The average Canadian likely believes that vaping is more dangerous than smoking. Isn't it Health Canada's responsibility to ensure accurate information is out there and ensure that the groups that it funds does the same? How can I counter the anti-vaping groups using kids in their material?

8. I noticed in TVPA that there is a regulation that forbids someone from providing a vaping product to a minor. Since we keep hearing about this teen issue. I was wondering how many people were fined under this regulation in Canada, and how can I report these people that are buying vapes for kids?

Theme 4: Risks of vaping

9. Canadians have had access to vaping products since before 2010, how many people have died as a result of vaping-related illnesses from legitimate vapour products (not illegally manufactured products)?

Theme 5: Funds spent on Public Education campaigns relating to vaping

10. During the 2018 Senate hearings, there was discussion/ promise of spending money on communications that explains the relative risks of vaping versus cigarettes. Can you detail how much and where the money has been spent?

Health Canada provided the following answers:

First theme—vaping and quitting smoking:

Health Canada stated that the Government of Canada is committed to protecting the health of all Canadians, including helping them quit tobacco. Health Canada recognizes the potential of harm reduction to help people quit smoking, helping those who can not or will not quit using nicotine to identify less harmful options. Health Canada recognized that, while quitting smoking is the best thing you can do to improve your health, vaping is less harmful than smoking for those people who smoke and who completely switch to vaping.

However, vaping does have risks and the potential long-term effects of vaping remain unknown and continue to be assessed. This is one of the reasons why Health Canada, in collaboration with the Canadian Institutes of Health Research, established the Scientific Advisory Board on Vaping Products. The board is made up of experts in various disciplines who can speak to the scientific literature on the potential health benefits and harms of vaping products and provide recommendations to the Department.

With respect to the consultations that have taken place, Health Canada noted that the Department is taking into consideration all of the feedback received, including campaign letters and postcards.

Second theme—regulating vaping flavours:

Health Canada explained that the proposed regulations on vaping flavours are expected to contribute to making these products less appealing to youth, which would help address the high rate of youth vaping. At the same time, the proposed regulations would maintain access to tobacco, mint and menthol flavours for adults, and the proposed restrictions would not apply to vaping products authorized for a therapeutic use under the *Food and Drugs Act*, for example for cessation support.

Health Canada additionally provided information on resources available to help people who smoke to quit and remain smoke free.

Third theme—vaping compliance and enforcement:

Health Canada underlined that the Department has a strong compliance and enforcement program to ensure that manufacturers, importers and sellers of vaping products comply with the *Tobacco and Vaping Products Act* (TVPA) and the *Canada Consumer Product Safety Act* (CCPSA). Inspectors regularly perform inspections of establishments where vaping products are imported, sold, promoted, manufactured, or labelled.

The Department clarified that it is not illegal for individuals to post about vaping. However, the “tagging” of vape shops by consumers on social media may be considered a testimonial or endorsement prohibited by the TVPA. These need to be analyzed on a case-by-case basis.

With respect to unsafe products, Health Canada explained that the CCPSA prohibits the sale of consumer products that may pose a risk to health or safety. When notified that a consumer product (such as a vaping device or e-liquid) may pose a risk under the CCPSA, Health Canada evaluates the risk. If the Department identifies a potential danger to human health or safety in a

consumer product, will take compliance and enforcement action, as appropriate.

Regarding the sale of vaping products to minors, Health Canada explained that Sections 8 and 9 of the TVPA restrict access to these products by young persons (defined as being under 18 years of age). Health Canada noted that some provinces have legislation that restricts sales of vaping products to persons 19 and older, with Prince Edward Island establishing an age minimum of 21.

Fourth theme—risks of vaping:

Health Canada acknowledged that there have been no deaths reported as a result of vaping-related illnesses in Canada. Health Canada also noted there have been a small number of issues involving vaping products reported in Canada, and that there is still more to learn more about how vaping affects health in general.

Fifth theme—funds spent on public education campaigns related to vaping:

Health Canada explained that in 2017, the Standing Senate Committee on Social Affairs, Science and Technology discussed the relative risk claims in commercial advertising and the need for such claims to be based on sound evidence. To address these concerns, the TVPA limits the means of promotion for vaping products to protect youth and non-users of tobacco products from inducements to vaping, and to prevent the public from being deceived or misled with respect to health hazards. However, the TVPA does allow for flexibility regarding messaging for health benefits or relative risks to align with emerging scientific knowledge.

Health Canada acknowledged that further public education is needed so that Canadians who smoke are aware that, while vaping is not harmless, it is less harmful than smoking cigarettes for those who quit smoking and completely switch to vaping.

In closing, the Chair thanked participants for joining the webinar and welcomed any follow-up questions to be sent via email.

Conclusion:

The meeting was then concluded.

Documents:

- Agenda as provided by Rights 4 Vapers
- A copy of the presentation on the regulatory process is available upon request