CIGARS SHOULD NOT BE EXEMPTED FROM OVERSIGHT BY THE FOOD AND DRUG ADMINISTRATION

Cigars are not currently regulated by the Food and Drug Administration (FDA). Under the Family Smoking Prevention and Tobacco Control Act (TCA), Congress immediately applied FDA’s new regulatory authority to cigarettes, cigarette tobacco, roll-your-own tobacco, and smokeless tobacco and gave FDA the authority to assert jurisdiction over all other tobacco products.

Congress did not exclude any tobacco product from potential oversight under the TCA so that FDA could evaluate the science and public health considerations of every tobacco product. Cigars clearly fall within the definition of “tobacco products” laid out in the TCA (i.e., “any product made or derived from tobacco that is intended for human consumption…”), and cigars are specifically mentioned in the statute (see Sec. 907 and Sec. 919).

The TCA gives FDA considerable flexibility to determine how to apply its authority to cigars and other tobacco products that were not immediately under FDA’s jurisdiction. FDA is not required to regulate all tobacco products like cigarettes and is not required to regulate all cigars in the same way.

In April 2014, FDA issued a proposed rule to regulate tobacco products it does not currently regulate, including cigars and electronic cigarettes. The proposal requested public input on the question of whether FDA should regulate all cigars or exempt a category of “premium” cigars.

Cigar Smoking Is a Public Health Hazard

Consumption of cigars has risen. Despite a 16 percent decline between 2014 and 2015, sales of cigars (i.e., large cigars, cigarillos, and small cigars) have nearly doubled between 2000 and 2015, from 6.1 billion cigars to 11.8 billion cigars. Cigar sales began to increase in 1993, reversing a decline in consumption that had persisted for most of the twentieth century; and sales have been generally increasing at a time when cigarette smoking has been slowly declining. Between 2000 and 2015, for example, cigar consumption increased by 92 percent while cigarette consumption declined by nearly 40 percent. Much of the growth in cigar sales can be attributable to smaller types of cigars.

Young people are using cigars. While cigar smoking conjures images of middle-age and older men, today’s cigar smoker is more likely to be a youth or young adult.

- Each day, more than 2,500 kids under 18 years old try cigar smoking for the first time.
- High school boys now smoke cigars at a slightly higher rate than cigarettes (11.5% for cigars and 10.7% for cigarettes).
- Among all high school students, 8.6 percent (1.27 million) were current (past-month) cigar smokers in 2015.
- African-American high school students smoke cigars at more than twice the rate of cigarettes (12.8% for cigars and 5.7% for cigarettes).
- In 2014, 13.1 percent of high school cigar smokers and 13.2 percent of middle school cigar smokers have smoked cigars on at least 20 of the preceding 30 days, which is considered frequent use. This amounts to an estimated 170,000 middle and high school students who were frequent cigar smokers.
- In 2014, 77.3 percent of high school and middle school students who reported using cigars on 1-5 days in the past 30 days reported using at least one additional tobacco product in the previous 30 days.
- Cigar smoking by high school boys equals or surpasses cigarette smoking in more than 20 states.
**Flavored cigars attract youth.** One reason youth cigar smoking rates are high among certain demographic groups is that cigars are being marketed in a range of flavors attractive to kids, such as candy, fruit, and chocolate.\(^{11}\) Candy-flavored cigars use the same flavor chemicals used in popular candy and drink products, such as LifeSavers, Jolly Ranchers, and Kool-Aid.\(^{12}\) Data from the 2013-2014 Population Assessment of Tobacco and Health (PATH) study show that 65.4 percent of 12-17 year olds who had ever smoked cigars smoked a flavored cigar the first time they tried the product, and 71.7 percent of current cigar smokers had used a flavored product in the last month.\(^{13}\) Additionally, 73.8 percent of current youth cigar smokers said they smoked cigars “because they come in flavors I like.”\(^{14}\)

Additional national data from the 2014 National Youth Tobacco Survey (NYTS) found high rates of flavored cigar use among youth. According to the NYTS, nearly two-thirds (63.5%) of high school and middle school cigar smokers had used a flavored cigar in the prior 30 days, for a total of 910,000 youth nationwide.\(^{15}\)

**Cigar smoking harms health.** Cigar smoke is composed of the same toxic and carcinogenic constituents found in cigarette smoke. While the health risks of cigar smoking are not the same as for cigarette smoking, cigar smoking causes cancer of the oral cavity, larynx, esophagus and lung. Daily cigar smokers, particularly those who inhale, have an increased risk of heart disease and chronic obstructive pulmonary disease (COPD). Cigar smokers are also at increased risk for an aortic aneurysm.\(^{16}\)

Some cigar smokers inhale – albeit less than cigarette smokers – while others may not, but any cigar use increases health risks compared to those who do not use tobacco at all.\(^{17}\) A recent study that examined National Health and Nutrition Examination Survey (NHANES) data from 1999-2012 found that cigar smokers have higher concentrations of several toxic and carcinogenic substances than nontobacco users. Researchers also found concentrations of NNAL, a known lung carcinogen, in daily cigar smokers comparable with those found in daily cigarette smokers.\(^{18}\)

All cigar smokers, regardless of whether they inhale, expose their lips, tongue and throat to smoke and its toxic and cancer-causing chemicals.\(^{19}\) Cigar smokers who do inhale absorb smoke into their lungs and bloodstream, and deposit tobacco smoke particles in their lungs as well as their stomachs and digestive tract.\(^{20}\) Moreover, many youth and adult users smoke “small” and “little” cigars with full inhalation, just like cigarettes.\(^{21}\)

**FDA Should Regulate All Types of Cigars**

FDA’s April 2014 proposal to assert jurisdiction over tobacco products that it does not currently regulate sought public comment on two options: 1) FDA would assert jurisdiction over all tobacco products, including all cigars, or 2) FDA would assert jurisdiction over all tobacco products except cigars designated as “premium” cigars. FDA is currently reviewing the comments it received.

All tobacco products, including all types of cigars, should be regulated by the FDA. Consumption of cigars has increased; high school boys are smoking cigars at the same rate as cigarettes; manufacturers are targeting kids with cheap, sweet-flavored cigars; and as FDA’s own proposed rule states, “all cigars are harmful and potentially addictive.”

If FDA were to exempt any cigars from its oversight, the agency would have no authority to implement even basic public health protections for these products. FDA requires food manufacturers under its authority to disclose ingredients, adhere to good manufacturing processes, and follow rules for making health claims and using additives. Yet FDA would not be able to issue similar regulations for “premium” cigars – a product that causes a variety of cancers and other serious medical problems – unless it asserts jurisdiction over them. Further, failure to include “premium” cigars in this rule may create the misperception that these types of cigars pose a lower risk to health than other cigars and every other tobacco product that FDA regulates.

When FDA releases its final rule asserting jurisdiction over currently unregulated tobacco products, it should include oversight over all cigars. Even if FDA were to conclude that some requirements applicable to other tobacco products should not be imposed on certain cigars, FDA could fashion an appropriate set of applicable requirements without completely exempting them from regulation.
Cigars Should Not Be Exempted From Regulation by the Food and Drug Administration

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1 U.S. Alcohol and Tobacco Tax and Trade Bureau (TTB), Tobacco Statistics.
3 TTB, Tobacco Statistics.
6 CDC, MMWR 65(14), April 15, 2016.
7 CDC, MMWR 65(14), April 15, 2016.
9 CDC, MMWR 64(38):1061-1065, October 2, 2015.