TAKING ON TOBACCO INDUSTRY POLLUTION
THE PUBLIC HEALTH LAW CENTER
LEGAL TECHNICAL ASSISTANCE

- Legal Research
- Policy Development, Implementation, Defense
- Publications
- Trainings
- Direct Representation
- Lobby
TRADITIONAL VS. COMMERCIAL TOBACCO

Nicotiana rustica, Solanaceae, Mapacho, flower. Botanical Garden KIT, Karlsruhe, Germany. Wikimedia Commons.
SPEAKERS
AGENDA

- Background
- Environmental Impact of Tobacco Production
- Possible Local, State, & Tribal Policy Options
- Q&A
THE HIDDEN COSTS OF TOBACCO: ASSESSING THE ENVIRONMENTAL IMPACTS OF TOBACCO PRODUCTION
“In accordance with Title VI of the Civil Rights Act of 1964, each Federal agency shall ensure that all programs or activities receiving Federal financial assistance that affect human health or the environment do not directly, or through contractual or other arrangements, use criteria, methods, or practices that discriminate on the basis of race, color, or national origin.”
THE TOBACCO LIFE CYCLE

Credit: Zafeiridou et al.
THE ENVIRONMENTAL IMPACTS OF TOBACCO GROWING, CURING, AND MANUFACTURING

- Deforestation (biodiversity loss/habitat destruction)
- Pesticide Overuse and Contamination
- Child Labor
- Decreased Food and Water Security
- Climate Change
- Mismanaged Industrial Waste
TOBACCO GROWING AND CURING

UK’s Imperial Brands in Joint Venture with Chinese Tobacco Monopoly

By: Yang Ge

A farmer carries a basket of tobacco leaves in July in Qili, Yunnan province. China National Tobacco Corp. and Imperial Brands PLC have announced a joint venture to tap global markets. Photo: Visual China

(Beijing) — British tobacco company Imperial Brands PLC said it will form a joint venture with Chinese tobacco monopoly China National Tobacco Corp. (CNTC) that aims to develop products for both the China and global markets.

Credit: Credit: ajgarrison3 via Flickr. CC BY 2.0
TOBACCO GROWING AND CURING

Credit: David Liuzzo, CC BY-SA 4.0
TOBACCO GROWING AND CURING
DEFORESTATION

Credit: An Analysis of the Causes of Deforestation in Malawi: A Case of Mwazisi
TOBACCO GROWING AND CURING
DEFORESTATION

Credit: Jepsonfamilyfarm.blogspot.com
### TOBACCO GROWING AND CURING DEFORESTATION

- Climate change

<table>
<thead>
<tr>
<th>stages</th>
<th>unit</th>
<th>waste and emissions per tonne of output tobacco</th>
<th>total output tobacco at each stage (Mt)</th>
<th>waste and emissions (millions)</th>
<th>waste and emissions per tonne of produced and consumed tobacco</th>
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<tbody>
<tr>
<td>cultivation</td>
<td>t CO₂ equiv</td>
<td>0.64</td>
<td>32.4</td>
<td>20.9</td>
<td>3.5</td>
</tr>
<tr>
<td>curing</td>
<td>t CO₂ equiv</td>
<td>6.89</td>
<td>6.48</td>
<td>44.6</td>
<td>7.5</td>
</tr>
</tbody>
</table>

Credit: Zafeiridou et al.
Climate change is the greatest public health challenge of the 21st century…. Action to reduce climate change can dramatically improve health.”
TOBACCO GROWING AND CURING
DEFORESTATION

• Ecosystem fragility
Why getting farmers to switch from tobacco crops is a struggle

Crop diversification in the world’s top tobacco producers can lower smoking rates in low-income countries, but infrastructure limitations and industry subsidies make it a hard pitch to sell to farmers, according to the World Health Organization (WHO).
TOBACCO GROWING AND CURING
PESTICIDE USE

Credit: Exposed and Ignored: A Report by Farmworker Justice; Migrant Clinician Network
TOBACCO GROWING AND CURING

CHILD LABOR

Zimbabwe: Tobacco Work Harming Children

Government, Companies Failing to Protect Workers, Small-Scale Farmers

How we can fight child labour in the tobacco industry

PUBLIC HEALTH LAW CENTER
at Mitchell Hamline School of Law
TOBACCO GROWING AND CURING
CHILD LABOR
“On many mornings, as tobacco plants tower around her, Saray Cambray Alvarez pulls a black plastic garbage bag over her 13-year-old body to protect her skin from leaves dripping with nicotine-tinged dew.

...Saray and other workers...punch holes through the bags for their arms. They are trying to avoid what is known as ‘green tobacco sickness,’ or nicotine poisoning, which can cause vomiting, dizziness and irregular heart rates, among other symptoms.”
Withdrawal of Fresh Water May Reduce Aquatic Diversity

May 1, 2017 | FLUENCE NEWS TEAM

The Neuse River flows through North Carolina's Blue Ridge Mountains. Researchers found that even slight reductions in the flow of surface water could adversely affect populations of fish and aquatic insects.

Withdrawing fresh water from rivers and streams may adversely affect the health of fish and aquatic insects, according to a research team studying correlations between the two in North Carolina.

Credit: WHO/ NC DEQ
TOBACCO MANUFACTURING
INDUSTRIAL WASTE AND CO2 EMISSIONS

<table>
<thead>
<tr>
<th>Energy</th>
<th>Min MJ</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cigarette cartons</td>
<td>Mt 0.10</td>
</tr>
<tr>
<td>Manufacturing plant</td>
<td>Min m³ 3.15</td>
</tr>
<tr>
<td>Cigarette packs with</td>
<td>Mt 2.04</td>
</tr>
<tr>
<td>Other non-tobacco cigarette ingredients</td>
<td>Mt 0.62</td>
</tr>
<tr>
<td>Cigarette Filters</td>
<td>Mt 1.02</td>
</tr>
<tr>
<td>Water</td>
<td>Mt 14.73</td>
</tr>
</tbody>
</table>

- **Waste water**
  - Mt 8.95

- **Solid waste**
  - Mt 1.22

- **Emissions to air**
  - Mt CO₂ eq 15.71

Source: Zafeiridou et al.
THE LIST GOES ON...

- Emissions from diesel trucks and cargo ships
- Second and thirdhand smoke
- Manufacture, use, and disposal of lighters, matches, filters, single-use devices, pods, and batteries

Credit: Wikimedia Commons, Stig, and Eonsmoke
Microplastics found in gut of every sea turtle in new study

By Matthew Robinson, CNN

Plastic was found in the gut of every single turtle examined in a new study spanning the Atlantic, Pacific and the Mediterranean.
TOBACCO PRODUCT WASTE

Cigarette butts damage the environment.

California Non-Smokers: 96% of adult, non-smokers AGREE that cigarette butts damage the environment.

California Current Smokers: 85% of adult, cigarette smokers AGREE that cigarette butts damage the environment.
INTERNATIONAL COMMITMENT

FCTC

Article 17
Provision of support for economically viable alternative activities

Parties shall, in cooperation with each other and with competent international and regional intergovernmental organizations, promote, as appropriate, economically viable alternatives for tobacco workers, growers and, as the case may be, individual sellers.

PART V: PROTECTION OF THE ENVIRONMENT

Article 18
Protection of the environment and the health of persons

In carrying out their obligations under this Convention, the Parties agree to have due regard to the protection of the environment and the health of persons in relation to the environment in respect of tobacco cultivation and manufacture within their respective territories.
CONCLUSIONS

• Tobacco growing, curing, and manufacturing exacerbates climate change, stresses water resources, causes food insecurity, and reduces biodiversity.

• The tobacco industry relies on abusive labor practices that adversely impact health.

• Achieving health equity in the context of tobacco control = eliminating tobacco production’s environmental harms.
REFERENCES


ACKNOWLEDGMENT

• Thank you to Thomas Hexum, Public Health Law Center Research Assistant, for his extensive research, writing, and analysis that went into this presentation (and recent publication available on our website). Thanks, Thomas!
TOBACCO WASTE: WATER POLLUTION, HAZARDOUS WASTE, AND POLICY SOLUTIONS
ENVIROMENTAL JUSTICE
FOUNDING PRINCIPLES


<table>
<thead>
<tr>
<th>Principle</th>
<th>Description</th>
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</thead>
<tbody>
<tr>
<td>6) Environmental Justice</td>
<td>Demands the cessation of the production of all toxins, hazardous wastes, and radioactive materials, and that all past and current producers be held strictly accountable to the people for detoxification and the containment at the point of production.</td>
</tr>
<tr>
<td>14) Environmental Justice</td>
<td>Opposes the destructive operations of multi-national corporations.</td>
</tr>
<tr>
<td>11) Environmental Justice</td>
<td>Must recognize a special legal and natural relationship of Native Peoples to the U.S. government through treaties, agreements, compacts, and covenants affirming sovereignty and self-determination.</td>
</tr>
<tr>
<td>12) Environmental Justice</td>
<td>Affirms the need for urban and rural ecological policies to clean up and rebuild our cities and rural areas in balance with nature, honoring the cultural integrity of all our communities, and provided for access for all to the full range of resources.</td>
</tr>
<tr>
<td>13) Environmental Justice</td>
<td>Calls for the strict enforcement of principles of informed consent, and a halt to the testing of experimental reproductive and medical procedures and vaccinations on people of color.</td>
</tr>
<tr>
<td>15) Environmental Justice</td>
<td>Opposes military occupation, repression and exploitation of lands, peoples and cultures.</td>
</tr>
</tbody>
</table>

WE, THE PEOPLE OF COLOR, gathered together at this multinational People of Color Environmental Leadership Summit, to begin to build a national and international movement of all peoples of color to fight the destruction and taking of Earth; to ourselves; to for over of our environmental acts and the international law, and the
ENVIRONMENTAL JUSTICE
FOUNDING PRINCIPLES


6) Environmental Justice demands the cessation of the production of all toxins, hazardous wastes, and radioactive materials, and that all past and current producers be held strictly accountable to the people for detoxification and the containment at the point of production.

14) Environmental Justice opposes the destructive operations of multi-national corporations.

17) Environmental Justice requires that we, as individuals, make personal and consumer choices to consume as little of Mother Earth's resources and to produce as little waste as possible; and make the conscious decision to challenge and reprioritize our lifestyles to ensure the health of the natural world for present and future generations.
STATE AND LOCAL COMMITMENTS
WHAT ARE JURISDICTIONS COMMITTED TO?

• California’s Trash Amendments under Clean Water Act
• Minnesota’s 25X25 policy
• Mississippi Watershed local authorities’ 2020 commitment
STATE AND LOCAL COMMITMENTS
CALIFORNIA TRASH AMENDMENTS

Photo credit: CA CDPH-CTCP
Tom Howard, Executive Director
State Water Resources Control Board
P.O. Box 100
Sacramento, California 95812-100

Subject: USEPA Clean Water Act Approval Action on State Trash Water Quality Standards

Dear Mr. Howard:

Pursuant to section 303(c) of the Clean Water Act ("CWA") and 40 C.F.R. Part 131, I am pleased to approve California's groundbreaking water quality standards aimed specifically at curbing water pollution by trash throughout the state.

Section 303(c) of the CWA requires the U.S. Environmental Protection Agency to approve or disapprove new or revised state water quality standards. The standards subject to today’s action were adopted by State Water Resources Control Board Resolution 2015-0019 on April 7, 2015 as part of Amendments to the Water Quality Control Plan for Ocean Waters of California to Control Trash (Appendix D of the Staff Report) and Part I Trash Provisions of the Water Quality Control Plan for Inland Surface Waters and Enclosed Bays and Estuaries of California (Appendix E of the Staff Report) (collectively the “Trash Amendments” or “Amendments”), and approved by the California Office of
STATE AND LOCAL COMMITMENTS
CALIFORNIA TRASH AMENDMENTS

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[Signature]

[Date]
STATE AND LOCAL COMMITMENTS
CALIFORNIA TRASH AMENDMENTS
STATE AND LOCAL COMMITMENTS
CALIFORNIA TRASH AMENDMENTS

Photo credit: CA CDPH-CTCP
Minnesota’s pollution reduction goal

Governor Mark Dayton wants Minnesota to accelerate the pace of progress towards clean water.

In February 2017 Governor Mark Dayton announced a new “25 by ’25” Water Quality Goal, which would spur collaboration and action to improve Minnesota’s water quality 25 percent by 2025. Without additional action, the quality of Minnesota’s waters is expected to improve only 7 to 8 percent by 2034. Governor Dayton hosted a series of Town Halls over the summer and fall of last year. This report summarizes key findings including more than 3,500 suggestions from more than 2,000 meeting attendees, recommends strategies to boost water quality education efforts, empower local action and collaboration, and increase investments in local clean water infrastructure, among other ideas.
“Mayors announced a commitment with state legislators and companies on an effort to reduce plastic waste in the Mississippi River Valley by calling on levels of government and organizations to reduce their plastic waste 20% by 2020.”
MISSISSIPPI RIVER WATERSHED
WAIT, HOW MANY STATES IS THAT?

Photo credit: NASA
STATE AND LOCAL COMMITMENTS TO CUT PLASTIC TRASH/WATER POLLUTION

Photo credit: U.S. Parks Service
STATE AND LOCAL COMMITMENTS
TO CUT PLASTIC TRASH/WATER POLLUTION
STATE AND LOCAL COMMITMENTS TO CUT PLASTIC TRASH/WATER POLLUTION

So... how are they going to do it?
POLICY OPTIONS
TO CUT PLASTIC TRASH/WATER POLLUTION

• Sales restrictions
• Hazardous materials/waste laws
• Public nuisance laws
• Fire safety
POLICY OPTIONS
TO CUT PLASTIC TRASH/WATER POLLUTION

• Sales restrictions
  • Hazardous materials/waste laws
  • Public nuisance laws
  • Fire safety
POLICY OPTIONS
SALES RESTRICTIONS

Photo by Karen Mason

Photo credit: CA CDPH-CTCP
POLICY OPTIONS
SALES RESTRICTIONS

Photo credit: CA CDPH-CTCP
# POLICY OPTIONS

## SALES RESTRICTIONS

## (DON'T) SEE MORE BUTTS: PREEMPTION AND LOCAL REGULATION OF CIGARETTE LITTER

*Michael Freiberg*

### I. INTRODUCTION

In 2009, the city of San Francisco implemented a first-in-the-nation

### II. POLICY OPTIONS

### III. PREEMPTION

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<td>B. State and Local Regulations Impacting Tobacco Products</td>
<td>216</td>
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<td>C. The Effects of Product Standard Preemption on State and Local Regulations</td>
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<tr>
<td>D. Implied Preemption of State and Local Regulations</td>
<td>224</td>
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<tr>
<td>E. Preemption in the Cigarette Butt Litter Context</td>
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### IV. RECOMMENDATIONS

POLICY OPTIONS
SALES RESTRICTIONS

TCA Preservation Clause:

“... nothing in this subchapter ... shall be construed to limit the authority of a ... State or political subdivision of a State, ... to enact ... and enforce any law ... with respect to tobacco products that is in addition to, or more stringent than, requirements established under this subchapter, including a law ... relating to or prohibiting the sale ... of tobacco products by individuals of any age ... information reporting to the State, or measures relating to fire safety standards for tobacco products.”

TCA Savings Clause:

TCA Preemption “does not apply to requirements relating to the sale ... information reporting to the State ... of, tobacco products by individuals of any age, or relating to fire safety standards for tobacco products.”

21 U.S. Code § 387p
POLICY OPTIONS
SALES RESTRICTIONS

Photo credit: CA CDPH-CTCP, me
POLICY OPTIONS
SALES RESTRICTIONS
POLICY OPTIONS
SALES RESTRICTIONS
POLICY OPTIONS
TO PREVENT HAZARDOUS WASTE DANGERS

• Sales restrictions
• **Hazardous materials/waste laws**
  • Public nuisance laws
  • Fire safety
POLICY OPTIONS
HAZARDOUS WASTE

Resource Conservation and Recovery Act

• Statute in 1976
• EPA Regulations in 1980:
  – Nicotine on the original list of acute hazardous wastes
1980 EIS and supporting documents/appendices:

• Lists nicotine as a poison and pesticide/agricultural chemical and wastes in nicotine's RCRA class as “extremely hazardous wastes”

• EPA found that “... exposure [to improperly-handled wastes] may result in death and injury to organisms, the dispersal of hazardous materials, and the degradation of aquatic, terrestrial, and atmospheric environments.”

• Gave over 300 examples of waste-linked disasters as justification.
1980 EIS and supporting documents/appendices:

• “Many of the social costs related to the exposure of workers and the general public to hazardous wastes and their residuals under current practices would be reduced or eliminated. This exposure is known and/or suspected to have caused numerous instances of adverse health effects, including death. . . . Much of the individual grief and suffering associated with such incidents, as well as the resultant economic losses, would be reduced or eliminated. . . .”
POLICY OPTIONS
HAZARDOUS WASTE

1980 EIS and supporting documents/appendices:

• “. . . . The regulations, while not applying to household wastes, could focus more public attention on the problems associated with the improper treatment/disposal of hazardous wastes. This could result in increased care in the disposal of hazardous household wastes and further reduction in public health impacts from such disposal.”
Daniel K. DeWitt  
Warner, Norcross & Judd LLP  
900 Fifth Third Center  
111 Lyon Street, N.W.  
Grand Rapids, MI 49503-2487

Dear Mr. DeWitt:

Thank you for your letter of March 12, 2014, requesting EPA’s determination regarding the hazardous waste status of e-cigarettes under the Resource Conservation and Recovery Act (RCRA). After reviewing your letter, the Agency has concluded that because e-cigarettes include cartridges that are containers of a commercial chemical product, specifically nicotine, e-cigarettes therefore may be regulated as acute hazardous waste P075 when disposed.

Nicotine as the Sole Active Ingredient of E-Liquids
reviewing your letter, the Agency has concluded that because e-cigarettes include cartridges that are containers of a commercial chemical product, specifically nicotine, e-cigarettes therefore may be regulated as acute hazardous waste P075 when disposed.

Nicotine as the Sole Active Ingredient of E-Liquids
“Based on the toxicity information discussed above . . . the evidence is clear that nicotine is still acutely toxic to both humans and animals under the RCRA hazardous waste regulations and must continue to be listed as acute hazardous waste . . . .”


“… without controls on the concentration of nicotine in e-cigarettes and e-liquids or FDA’s approval of these products as being safe and effective for people to use, the Agency lacks adequate information and certainty to conclude that these nicotine-containing products will not pose the risks similar to those for which the [original] listing was established. For all of the above reasons, at this time the Agency cannot support exempting e-cigarettes and nicotine-containing e-liquids from the . . . listing.”

POLICY OPTIONS
HAZARDOUS WASTE

In sum:

• 1980: EPA listed liquid nicotine as a hazardous waste, considered an “acute hazardous waste” because it is a highly toxic pesticide that can kill or seriously injure with a single dose

• 2015: EPA Office of Solid Waste and Emergency Response confirms that e-liquid and e-cigarettes are an acute hazardous waste (before FDA deeming)

• February 2019: Post-FDA-deeming, EPA confirms that e-liquid and e-cigarettes remain acute hazardous waste in a rulemaking, declines to reclassify after being asked by tobacco industry
POLICY OPTIONS
HAZARDOUS WASTE/MATERIALS
POLICY OPTIONS
HAZARDOUS WASTE/MATERIALS

House Committee in passing RCRA:
“One of the major problems to be addressed in the hazardous waste area is the lack of information concerning the components, volumes and sources of hazardous waste. . . . As a result, little is known about the actual volume of hazardous waste being generated, the geographical distribution of the generators or the extent to which hazardous wastes are transported.”

POLICY OPTIONS
HAZARDOUS WASTE/MATERIALS

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This issue can be addressed locally!
Chapter 16.110 - HAZARDOUS MATERIALS

16.110.020 - Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

- Acute hazardous waste means a waste listed in 40 CFR 261.31, 261.32 or 261.33(e), as amended.
- Consumer commodity means a hazardous material that is packaged and distributed in a form intended or suitable for retail sale for use by an individual, as defined in 49 CFR.
- Extremely hazardous substance means a substance listed in the appendices to 40 CFR 355.
- Facility means any land, building, equipment, structure, stationary item or combination thereof, not a transshipment facility, that is located on a single site or on contiguous or adjacent sites owned, leased, operated or otherwise controlled by the same person, other than a residential dwelling, as defined in the building code, as amended, as provided in title 23.
- Handles means disposers of, generators, processes, stores, treats or uses.
- Hazard category means the five physical or health classes defined in 40 CFR 370.2.
- Hazard class means the class of hazardous materials authorized for transportation by 49 CFR subchapter C.
- Hazardous chemical means any hazardous chemical as defined under 29 CFR 1910.1200(e).
- Hazardous material means a material subject to 49 CFR subchapter C, including those.
POLICY OPTIONS
HAZARDOUS WASTE/MATERIALS

INHALATION HAZARD
6
POLICY OPTIONS
HAZARDOUS WASTE/MATERIALS

Let’s take a trip to Garden Grove…
A trip to Garden Grove’s Hazardous Materials disclosure ordinance…
A trip to Garden Grove...

Garden Grove Municipal Code
Title 6 HEALTH AND SANITATION
Chapter 6.32 HAZARDOUS MATERIALS

6.32.080 Exemptions from Disclosure

The following materials, persons, or entities shall be exempt, as specified, from the disclosure requirements under this chapter:

A. Hazardous materials or substances contained in food, drug, cosmetic, or tobacco products.

B. Any person using or handling less than 55 gallons, 500 pounds, or 200 cubic feet per year of a hazardous material, unless the Fire Chief has provided notice that the weight or volume limits of this exemption or a specific hazardous material have been lowered in response to public health concerns or to meet the intent and requirements of the Uniform Fire Code. The exemption contained in this subsection shall not apply to the using or handling of carcinogens, except to the extent that such carcinogens are handled or used solely for personal purposes.

C. Hazardous materials contained solely in consumer products packaged for direct distribution to, and use by, the general public, unless the individual container size is equal to or greater than 55 gallons, 500 pounds, or 200 cubic feet, or unless the product is repackaged or altered in any way; provided, however, the manufacture and distribution of the products are not exempt if such activity is required to be permitted or reported by the Uniform Fire Code.
A trip to Garden Grove...

**Garden Grove Municipal Code**

**Title 6 HEALTH AND SANITATION**

**Chapter 6.32 HAZARDOUS MATERIALS**

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POLICY OPTIONS
TO ADDRESS HAZARDS ON PUBLIC PROPERTY

• Sales restrictions
• Hazardous materials/waste laws
• Public nuisance laws
• Fire safety
POLICY OPTIONS
TO ADDRESS HAZARDS ON PUBLIC PROPERTY

For example:
“The LA city attorney has begun to go after landlords, levying $20,000 fines for every day the illicit dispensaries remain open.”
POLICY OPTIONS
PUBLIC NUISANCE

“The LA city attorney has begun to go after landlords, levying $20,000 fines for every day the illicit dispensaries remain open.”

How does that work?
LA City Municipal Code, Ch. X, Art. 4, § 104.15

(c) A violation of this section is a public nuisance and may be abated by the City or by the City Attorney, on behalf of the people of the State of California, as a nuisance by means of a restraining order, injunction or any other order or judgment in law or equity issued by a court of competent jurisdiction. The City or the City Attorney, on behalf of the people of the State of California, may seek injunctive relief to enjoin violations of, or to compel compliance with, this section or seek any other relief or remedy available at law or equity. Each day that a violation continues is deemed to be a new and separate offense and subject to a maximum civil penalty of $20,000 for each and every offense.

(d) Any Person violating this section shall be guilty of a misdemeanor punishable by a fine of not more than $1,000 or by imprisonment in the County Jail for a period of not more than six months, or by both a fine and imprisonment. Each day that a violation continues is deemed to be a new and separate offense.

(e) The remedies specified in this section are cumulative and in addition to any other remedies available under state or local law for a violation of this article.
POLICY OPTIONS
PUBLIC NUISANCE

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POLICY OPTIONS
TO PREVENT FIRES AND EXPLOSIONS

• Sales restrictions
• Hazardous materials/waste laws
• Public nuisance laws
• **Fire safety**
## LITHIUM BATTERIES & LITHIUM BATTERY-POWERED DEVICES

### Events Involving Smoke, Fire, Extreme Heat or Explosion Involving Lithium Batteries

As of May 22, 2019, 258 air/airport incidents involving lithium batteries carried as cargo or baggage that have been recorded since March 20, 1991.

Note: These are recent events that the FAA is aware of; this should not be considered a complete listing of all such incidents. The incident summaries included here are intended to be brief and objective. They do not represent all information the FAA has collected, nor do they include all investigative or enforcement actions taken. This list does not include three major aircraft accidents where lithium battery cargo shipments were implicated but not proven to be the source of the fire: An Asiana Airlines 747 near South Korea on July 28, 2011, a UPS 747 in Dubai, UAE on September 3, 2010 and a UPS DC-8 in Philadelphia, PA on February 7, 2006.

<table>
<thead>
<tr>
<th>Date</th>
<th>Source</th>
<th>Type of Battery</th>
<th>Device (if applicable)</th>
<th>Carrier</th>
<th>Aircraft Type (Passenger or Cargo)</th>
<th>Incident Summary</th>
</tr>
</thead>
<tbody>
<tr>
<td>5/22/2019</td>
<td>Airline</td>
<td>Li-Ion</td>
<td>E-cigarette and spare battery</td>
<td>Delta</td>
<td>Passenger</td>
<td>While loading baggage on DL flight 880 from Baltimore, MD (BWI) to Minneapolis, MN (MSP), ramp personnel noticed a bag on the belt loader emitting smoke. It was placed onto the ground and caught fire. The fire department was called and they extinguished the bag. The bag contained an E-cigarette, spare batteries.</td>
</tr>
<tr>
<td>4/15/2019</td>
<td>Airline</td>
<td>Li-Ion</td>
<td>E-cigarette</td>
<td>United</td>
<td>Passenger</td>
<td>While waiting to board her flight, a passenger’s E-cigarette began to smolder and emit smoke while she was holding it. She dropped the device and it began to make popping sounds. The fire department responded and rendered the device safe. No injuries or damage were reported.</td>
</tr>
</tbody>
</table>
## LITHIUM BATTERIES & LITHIUM BATTERY-POWERED DEVICES

### Events Involving Smoke, Fire, Extreme Heat or Explosion Involving Lithium Batteries

As of May 22, 2019, 258 air/airport incidents involving lithium batteries carried as cargo or baggage that have been recorded since March 20, 1991

Note: These are recent events that the FAA is aware of; this should not be considered a complete listing of all such incidents. The incident summaries included here are intended to be brief and objective. They do not represent all information the FAA has collected, nor do they include all investigative or enforcement actions taken. This list does not include three major aircraft accidents where lithium battery cargo shipments were implicated but not proven to be the source of the fire: An Asiana Airlines 747 near South Korea on July 28, 2011, a UPS 747 in Dubai, UAE on September 3, 2010 and a UPS DC-8 in Philadelphia, PA on February 7, 2006

<table>
<thead>
<tr>
<th>Date</th>
<th>Source</th>
<th>Type of Battery</th>
<th>Device (if applicable)</th>
<th>Carrier</th>
<th>Aircraft Type (Passenger or Cargo)</th>
<th>Incident Summary</th>
</tr>
</thead>
<tbody>
<tr>
<td>5/22/2019</td>
<td>Airline</td>
<td>Li-Ion</td>
<td>E-cigarette and spare battery</td>
<td>Delta</td>
<td>Passenger</td>
<td>While loading baggage on DL flight 880 from Baltimore, MD (BWI) to Minneapolis, MN (MSP), ramp personnel noticed a bag on the belt loader emitting smoke. It was placed onto the ground and caught fire. The fire department was called and they extinguished the fire. The bag contained an E-cigarette, spare batteries.</td>
</tr>
<tr>
<td>4/15/2019</td>
<td>Airline</td>
<td>Li-Ion</td>
<td>E-cigarette</td>
<td>United</td>
<td>Passenger</td>
<td>While waiting to board her flight, a passenger’s E-cigarette began to smolder and emit smoke while she was holding it. She dropped the device and it began to make popping sounds. The fire department responded and rendered the device safe. No injuries or damage were reported.</td>
</tr>
</tbody>
</table>
POLICY OPTIONS
FIRE SAFETY

FEMA: U.S. Fire Administration

Figure 8. E-Cigarette fires and explosions compared to sales.
PODICY OPTIONS

FIRE SAFETY

FDA’s take:

Tips to Help Avoid "Vape" Battery Explosions

You may have heard that e-cigarettes, or “vapes,” can explode and seriously injure people. Although they appear rare, these explosions are dangerous. The exact causes of such incidents are not yet clear, but some evidence suggests that battery-related issues may lead to vape explosions. The safety tips below may help you avoid a vape battery explosion. Please report a vape explosion or any other unexpected health or safety issue with a vape to the FDA.

PUBLIC HEALTH LAW CENTER
at Mitchell Hamline School of Law
POLLICY OPTIONS
FIRE SAFETY

Independent research using U.S. Consumer Product Safety Commission’s National Electronic Injury Surveillance System

Finding: “From 2015 to 2017, there were an estimated 2035 e-cigarette explosion and burn injuries presenting to US hospital emergency departments”
POLICY OPTIONS
FIRE SAFETY

But damages go far beyond personal injury.

• Fire caused by a lithium-ion battery at the Shoreway Recycling and Transfer Facility in CA: caused $8.5 million damages; shut the facility for 90 days; and took over a year to repair. Afterword, insurance premium at the facility went from $100,000+ to over $1 million a year, due to ongoing and increasing risk of fire caused by lithium-ion batteries. Another incident at the facility could make it uninsurable.

• An e-cigarette explosion caused a wildfire on public lands in Jefferson County, CO.

• Lithium-ion battery fires are said to be a leading cause of garbage truck fires and are catching recycling and waste facilities on fire monthly across the country.

• Documented house fires caused by e-cigarettes.
POLICY OPTIONS
FIRE SAFETY

TCA Preservation Clause:
“... nothing in this subchapter ... shall be construed to limit the authority of a ... State or political subdivision of a State, ... to enact ... and enforce any law ... with respect to tobacco products that is in addition to, or more stringent than, requirements established under this subchapter, including a law ... relating to or prohibiting the sale ... of tobacco products by individuals of any age. ... information reporting to the State, or measures relating to fire safety standards for tobacco products.”

TCA Savings Clause:
TCA Preemption “does not apply torequirements relating to the sale ... information reporting to the State ... of, tobacco products by individuals of any age, or relating to fire safety standards for tobacco products.”
POLICY OPTIONS
FIRE SAFETY

Firesafe cigarette laws include:

1. certification and reporting;
2. third-party standards;
3. sales restrictions;
4. fines for sales violations, and for false statements.

- Firesafe e-cigarette laws could implement these same elements.
- Until an adequate third-party standard was in place jurisdictions could impose sales restrictions on unproven products, a.k.a. “the precautionary principle.”
Policy Tools for Minimizing Public Health and Environmental Effects of Cigarette Waste

The Tobacco Control Legal Consortium in partnership with the Cigarette Butt Pollution Project (CBPP), a 501(c)(3) organization registered in California, has created this publication to serve as a starting point for governmental authorities and organizations interested in implementing measures to minimize the adverse public health and environmental effects of cigarette waste.1

Before attempting to implement any of these measures, be sure to consult with local legal counsel. For more details about policy considerations, please contact the Consortium and the Cigarette Butt Pollution Project.

Overview

In sheer numbers, cigarette butts constitute the most common type of litter today, with approximately 4.95 trillion cigarette butts thrown away annually.2 An estimated 30 percent of the total waste (by count) on U.S. shorelines, waterways and land is cigarette waste.2 This is a significant public health problem: used cigarette butts have been found to contain many toxins including ammonia, formaldehyde, benzene, butane, acrylonitrile, toluene, and alkaloid nicotine.3

(DON’T) SEE MORE BUTTS: PREEMPTION AND LOCAL REGULATION OF CIGARETTE LITTER

Michael Freiberg

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I. INTRODUCTION

In 2009, the city of San Francisco implemented a first-in-the-nation cigarette litter abatement fee.4 To help address the staggering cleanup costs of cigarette butt litter, the city began charging twenty cents on a pack of cigarettes.5 This figure was not calculated arbitrarily. San Francisco, a city that is justifiably proud of its beaches, conducted an extensive audit showing...
COMMERCIAL TOBACCO, HEALTH, & THE ENVIRONMENT
The Problems
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QUESTIONS