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Government Relations

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Director
International Activities

Washington Office
1150 18th Street, N.W.
Suite 300
Washington, D.C. 20036-3816
P. (202) 296 - 9770
F. (202) 296 - 9776
www.thoracic.org

NICHOLAS S. HILL, MD
President

MONICA KRAFT, MD
President-Elect

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Vice President

THOMAS W. FERKOL, MD
Secretary-Treasurer

National Headquarters
25 Broadway, 18th Floor
New York, NY 10004
P. (212) 315 - 8600
F. (212) 315 - 6498

October 31, 2011

Docket Management Facility
Department of Transportation
Federal Aviation Administration
1200 New Jersey Avenue, S.E., Room W12-140
Washington, D.C. 20590-0001

RE: RIN 2105-AE06 -Smoking of Electronic Cigarettes on Aircraft

Secretary La Hood:

On behalf of the 15,000 members of the American Thoracic Society we would like to submit comments in support of the FAA's proposed rule to ban the use of e-cigarettes on commercial flights. We believe the proposed rule is in the best interest of public health and airline safety.

The members of the American Thoracic Society are dedicated to the prevention, detection, treatment and cure of respiratory illness, critical illnesses and sleep disordered breathing. The use of tobacco products is a major cause of respiratory illness in the U.S. and globally. As such, the members of the American Thoracic Society have a keen interest in public policy regarding the use of tobacco products.

Tobacco use continues to be the leading cause of preventable death in the U.S. annually causing over 443,000 preventable deaths. The data documenting the adverse health effects for tobacco use – particularly cigarette use – are comprehensive and compelling. The use of e-cigarette is a relatively recent development and data regarding its health risks are less robust. As noted in the proposed rule, while e-cigarette manufacturers claim e-cigarettes are reduced risk product, there is little evidence to support their claim. Further, the limited research on e-cigarette products notes significant variation between manufacturer's attestations and the actual dose of nicotine delivered by e-cigarette products. Again, while data is extremely limited, the potential for nicotine poisoning from e-cigarettes, either through

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product malfunction or intentional consumer alterations of the e-cigarette cannot be dismissed.

Information regarding the vapor exhaled by e-cigarette users, and its potential health risks, is also limited. However, the ATS is not aware of any studies that suggest that exhaled e-cigarette vapors are risk free. As such, the use of vapor emitting devices in the confined space of an airline cabin should be viewed with extreme caution.

The proposed rule defines smoking as “the smoking of tobacco products or use of electronic cigarettes that are designed to deliver nicotine or other substances to a user in that form of a vapor. “As physicians and health care providers who regulatory treat patients who need access to nebulizers , supplemental oxygen, metered dose inhalers, ventilators and other respiratory assistive devices during air travel, we are pleased that FAA is sensitive to crafting a definition of “smoking” that does not inadvertently prohibit the use of such devices during air travel. We believe the FDA approved devices such as nebulizers, metered-dose inhalers, and medical oxygen are significantly different from FDA regulated tobacco products. As clearly spelled out in the Family Smoking and Tobacco Control Act of 2009, granting FDA regulatory authority over tobacco products does not confer FDA approval of tobacco products. Further, uses of FDA approved respiratory assistive devices generally require physician prescription.

While we are comfortable with the proposed definition and believe a straight forward reading of the definition would not inadvertently include medically necessary respiratory assistive devices, the FAA may want to consider amending the smoking definition to explicitly state FDA approved medical devices such as nebulizers, metered dose inhalers, ventilators, supplement oxygen and other respiratory assistive devices that met other FAA requirements are not covered by the definition of smoking.

We agree with FAA’s determination that e-cigarettes are tobacco products. The D.C. District Court case Sottera v. FDA determined that e-cigarettes are tobacco products. We believe this decision clearly grants FAA the regulatory authority to issue a ban on e-cigarette use similar to the ban issued on traditional tobacco products.

We further agree that FAA’s action is in line with its intended goal to ensure passenger safety by preventing the release of potentially irritating or toxic vapors into the cabin.

We also note that banning e-cigarettes will help avoid airline staff and passenger confusion over smoking on airplanes. While we are not aware of this happening to date, if e-cigarettes are allowed during air travel, we envision fellow passengers having health concerns regarding vapor exposure and safety concerns. These concerns may include: 1) lack of knowledge about the device; 2) whether the passenger used a match or lighter to ignite the product; and 3) does this act represent a security breach. We believe issuing an explicit ban on e-cigarette use will

help avoid these potential sources of anxiety among passengers and staff. Most importantly, it will protect the health of all passengers in flight.

We believe the rationale that supports banning e-cigarettes on commercial flights is equally applicable to chartered flights. We urge FAA to ban e-cigarettes on chartered flights as well. Again, the American Thoracic Society appreciates the opportunity to comment on this important proposed rule. We hope the FAA will move with a final rule that bans the use of e-cigarettes on commercial and chartered flights.

Sincerely,

A handwritten signature in black ink that reads "NS Hill". The letters are cursive and somewhat stylized.

Nicholas S. Hill MD
President
American Thoracic Society