Report of Public Hearing

***Davis County Board of Health Regulations***

Dr. Gary Alexander, Hearing Officer

Pursuant to Utah Code Annotated 26A-1-121(1), the Davis County Board of Health held a public hearing on October 6, 2014, to receive public comments concerning adoption of proposed changes to the existing ***Electronic Smoking Device Regulation***.

The existing ***Electronic Smoking Device Regulation*** establishes practices for the safe preparation, handling and sale of substances used in electronic smoking devices within Davis County. The proposed changes will:

* Remove the requirements for E-Liquid packaging containers to be leak-proof and tamper-evident while maintaining the child-proof cap component.
* Remove the E-Liquid labeling requirement for displaying nicotine content in mg/mL or percent by volume.
* Change the specific E-Liquid labeling safety warning to a more general safety statement.
* Add “walls” to the cleanable E-Liquid manufacturing facility surface requirements.

Copies of the proposed changes to the Regulation were made available to the public at the Department’s website and the Environmental Health Services Division office located at 22 South State, Clearfield, Utah. Notice of the hearing was published in the Davis County Clipper and the Ogden Standard Examiner, papers of general circulation, on September 25 and October 2, 2014. Notice was also given on the Department’s website and the State of Utah’s public notice website.

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Hearing Summary:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

The public hearing was held at 5:30 p.m. on October 6, 2014, in Classroom #2021 of the Davis County Health Department, Clearfield, Utah. Written comments were received by the Department at the Environmental Health Services Division until 5:00 p.m. October 13, 2014.

No public comments were received at the hearing. Three Davis County E-Liquid manufacturing facility representatives attended but did not provide public comments. Several college students attended the hearing for educational purposes.

The Department received written comments concerning all of the proposed changes from the Director of Utah Vapers. His specific comments to the proposed changes and staff responses include:

**Comment 1.** Removing the requirements for E-Liquid packaging containers to be leak-proof and tamper-evident—“We strongly disagree with this proposal. This is considered by the liquid manufacturing industry to be best practice. The FDA is expected to make this a requirement as part of the Deeming regulations and believe that Davis County is ahead of the curve on it. If you look at common medications and even consumer consumable products, nearly all have some sort of tamper-evident (not resistant) seal.”

***Response:*** *Staff has seen a dramatic shift in the amount of E-Liquid that is purchased from outside the county, state, and country. Therefore, it is becoming increasingly difficult to enforce this requirement with the variability of containers. Staff believes that leaving the key component of “child proof caps” provides sufficient safety and allows businesses outside the county to meet the requirements. Staff recommends moving forward with the proposed change.*

**Comment 2.** Removing the E-Liquid labeling requirement for displaying nicotine content in mg/mL or percent by volume—“We would like more information as to what latitude is being proposed.”

***Response:*** *The regulation will continue to require nicotine content to be labeled but the requirement for specifically listing content in mg/mL or percent by volume will be removed. Staff believes that customers have a good understanding of the nicotine content and that this change will prevent any confusion about the different units. Staff recommends moving forward with the proposed change.*

**Comment 3.** Changing the detailed E-Liquid labeling safety warning to a more general safety statement—“The Utah Vapers disagrees with this modification and believe this to be an industry best practice and we believe will be part of the FDA regulations anyway.”

***Response:*** *Staff has observed product containers that have better safety warnings and/or warnings that are currently in use that provide sufficient safety wording but does not meet the exact wording requirements in the current regulation. Staff recommends moving forward with the proposed change.*

**Comment 4.** Adding “walls” to the cleanable E-Liquid manufacturing facility surface requirements—“Fully support this decision, was under the impression this was already in place.”

***Response:*** *Staff recommends moving forward with the proposed change.*

**Comment 5.** Utah Vapers provided two other comments to what they believed were proposed changes to the regulation. These issues were not proposed as part of the changes and were either misinformed or misinterpreted but did not relate to the proceedings.

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Certification of Hearing:

I, Dr. Gary Alexander, presided over the public hearing for the Davis County Board of Health adoption of the proposed changes to the ***Electronic Smoking Device Regulation*** and have approved this Hearing Report Summary.

Signed:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Date:\_\_\_\_\_\_\_\_\_\_\_\_\_\_