

2010

Indoor Clean Air Act Compliance Study

Prepared by the Oregon Tobacco Prevention and
Education Program



PUBLIC HEALTH DIVISION
Tobacco Prevention and Education Program

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November 2010

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Executive summary

Oregon's amended Indoor Clean Air Act, also referred to as Oregon's Smokefree Workplace Law, prohibits smoking in almost all indoor workplaces and public places with the exception of cigar bars and smoke shops that are certified by the Oregon Tobacco Prevention and Education Program (TPEP) as meeting statutory exemption requirements (ORS 433.835 – 433.875). In the summer of 2010, TPEP conducted assessments of certified cigar bars and smoke shops to determine compliance with the law. A previous study assessed statewide compliance among businesses newly required to be smokefree.

Key findings from certified cigar bar and smoke shop assessments

- Compliance with the Indoor Clean Air Act was high among certified cigar bars and smoke shops.
- Improper signage was the most common compliance issue.

Since the amended ICAA took effect on Jan. 1, 2009, a number of new hookah lounges have opened for business in Oregon. Hookah lounges are establishments where customers gather to smoke sweetened, flavored tobacco (shisha) out of hookahs (water pipes). Meanwhile, the prevalence of hookah smoking increased between 2008 and 2009 among eighth- and 11th-graders (Figure 1 and Figure 2). While increases in cigarette and smokeless tobacco use also were noted among eighth-graders, these increases were not statistically significant.

To better understand hookah lounges, TPEP conducted an observational study and focus groups of youth and parents in the summer of 2010.

Key findings from hookah lounge assessments

- Hookah lounges in Oregon provide a social environment for youth and young adults to smoke flavored tobacco. The majority of hookah lounge customers appear to be between the ages of 18 and 25.
- Marketing materials collected online and in person at hookah lounges are targeted to younger audiences and glamorize hookah use.
- Focus group findings highlight the accessibility of hookah lounges to youth younger than 18 and widespread social acceptance of hookah use among high school students.

Figure 1. Tobacco use among 8th grade students in Oregon

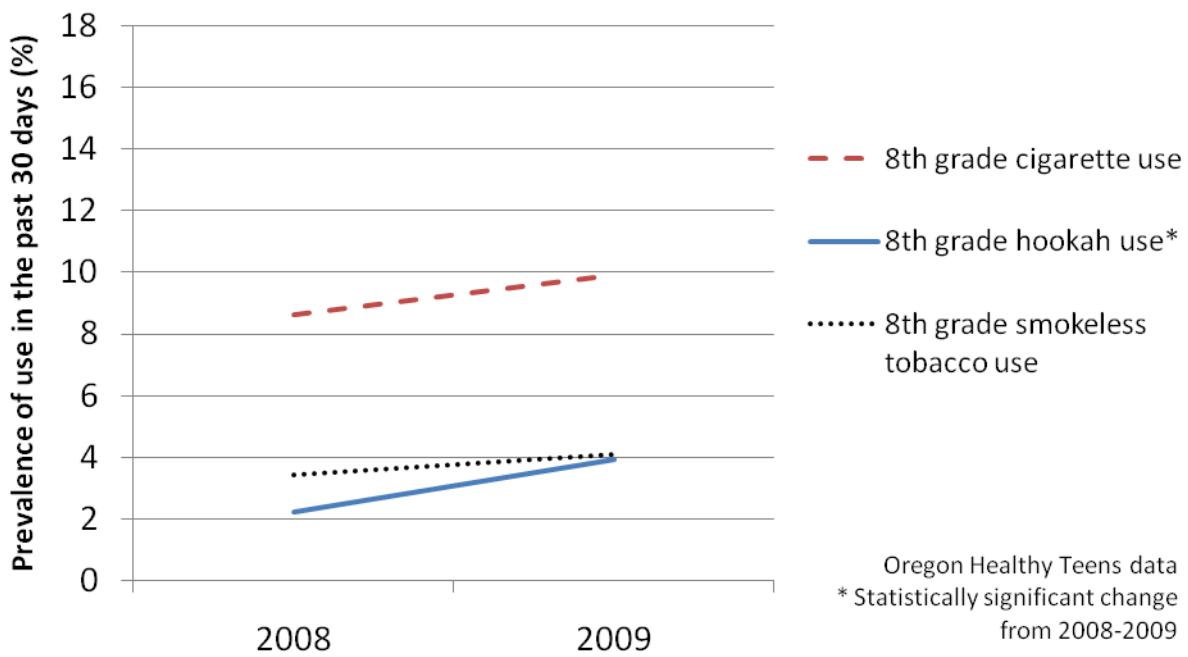
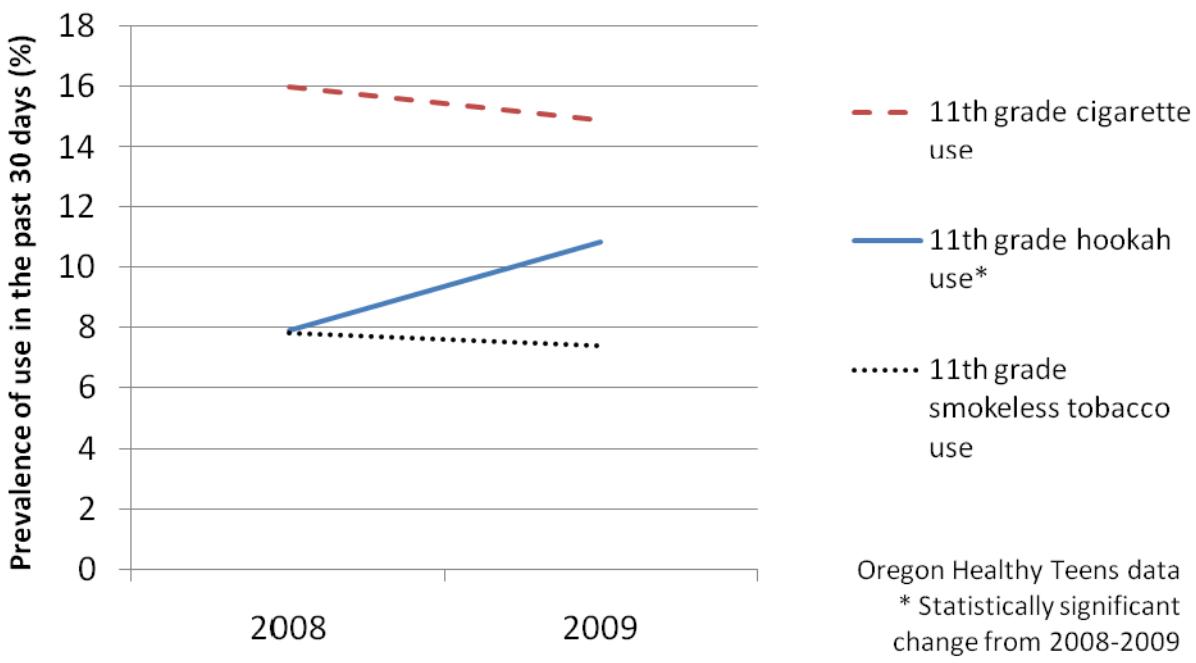


Figure 2. Tobacco use among 11th grade students in Oregon



Background

Oregon's amended Indoor Clean Air Act (ICAA) took effect on Jan. 1, 2009, prohibiting smoking in bars, bowling centers and bingo establishments in addition to almost all other indoor workplaces and public places (ORS 433.835 – 433.875). The ICAA permits smoking inside certain cigar bars and smoke shops certified by the Oregon Tobacco Prevention and Education Program (TPEP) as meeting the exemption criteria set forth in the ICAA (Appendix A).

The first aim of this study is to assess compliance with the ICAA among certified smoke shops, certified cigar bars and potential indoor smoking lounges.¹ TPEP conducted observations at certified cigar bars and certified smoke shops to assess compliance with the exemption criteria. TPEP also conducted observations at potential indoor smoking lounges to assess compliance with the smoking prohibition. In addition, TPEP collected data on air quality, customer demographics and types of products for sale. A previous study assessed statewide compliance with the ICAA among businesses newly required to be smoke free.²

The second aim of this study is to describe hookah lounges in Oregon. After the ICAA took effect, TPEP received increasing numbers of smoke shop certification applications from hookah lounges (Figure 3). Hookah lounges are establishments where customers gather to smoke sweetened, flavored tobacco (commonly called “shisha”) out of hookahs. A hookah is a type of water pipe believed to originate from the Middle East, but which now is marketed widely in North America and elsewhere around the globe. Hookahs typically are tall, narrow glass pipes with one or more flexible hoses through which tobacco is smoked. The tobacco is heated by charcoal in a ceramic bowl located atop the pipe’s stem, and the resulting smoke is cooled by the water before being inhaled. According to the World Health Organization, hookah smokers may inhale as much smoke during a typical hookah session as a cigarette smoker would inhale from 100 cigarettes.³

Oregon surveys show hookah smoking increased significantly from 2008 to 2009 among eighth- and 11th-grade students living in the five counties known to have hookah lounges in 2009 (Appendix B). As shown in Appendix C, in these five counties, hookah smoking more than doubled among eighth-grade girls from 2.4 percent in 2008 to 5.2 percent in 2009. Among 11th-grade girls in the five counties, hookah smoking increased from 9.8 percent in 2008 to 15.4 percent in 2009, which exceeds the rate of cigarette smoking (13.3 percent). Other forms of youth tobacco use did not increase significantly during that time period. Together, these data highlighted a need to better understand hookah lounges in Oregon.

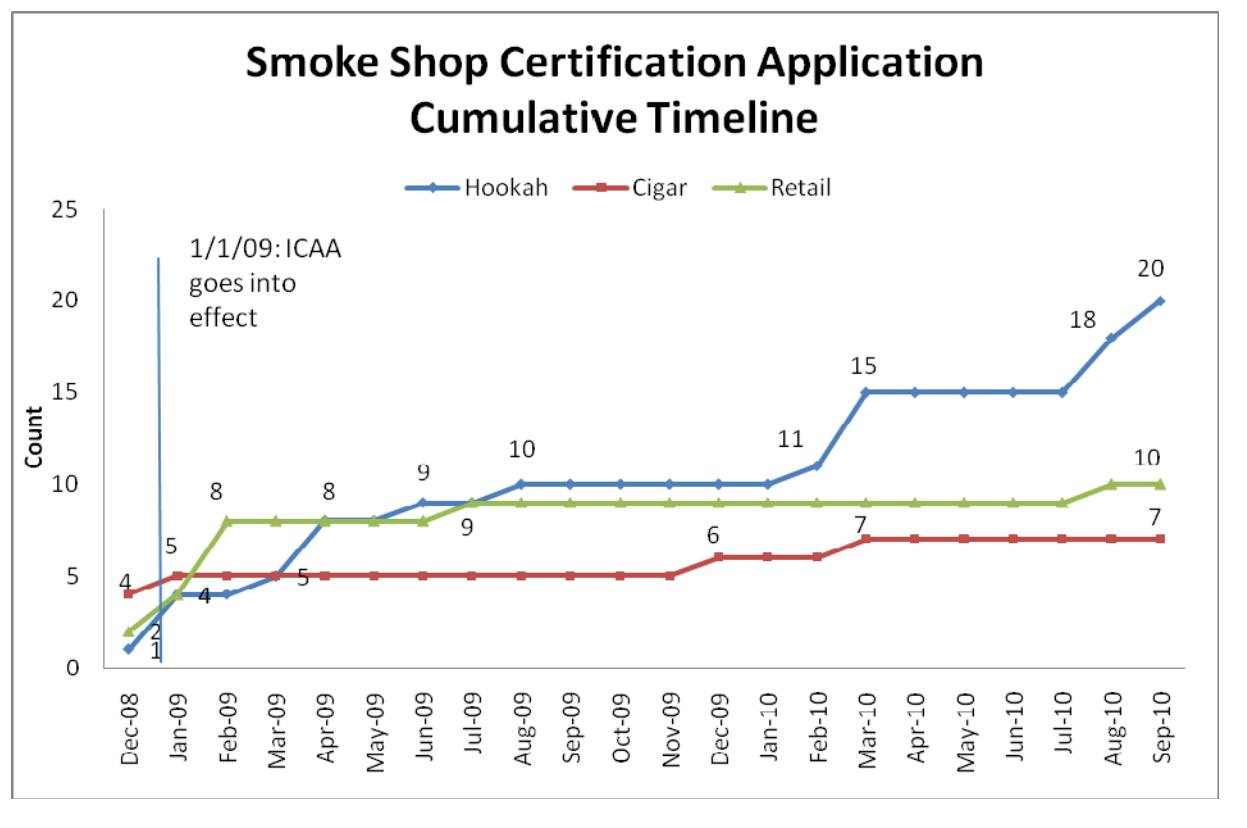
¹ The ICAA does not provide TPEP with the authority to proactively identify businesses that may be violating the ICAA. This study is for assessment purposes only; no enforcement actions resulted from this study, and no businesses are identified by name. ICAA violations can be reported online at www.oregon.gov/DHS/ph/smokefree/index.shtml.

² www.oregon.gov/DHS/ph/tobacco/docs/icaacomplrpt.pdf.

³ www.who.int/tobacco/global_interaction/tobreg/Waterpipe%20recommendation_Final.pdf.

In addition to the observational study, TPEP conducted focus groups among youth, young adults and parents. TPEP also interviewed community leaders in Oregon and tobacco prevention professionals in other states (Appendix D).

Figure 3. Smoke shop certification applications, December 2008-September 2010



Study methods

Study sample

This study was conducted during summer 2010. The study sample, which was identified in July, does not include businesses that opened or applied for certification after that date. The study sample is described in Table 1. The sample included certified smoke shops (n=15) and certified cigar bars (n=8), as well as other potential indoor smoking lounges identified through certification application records, business name registrations,⁴ Internet searches, and reports from county tobacco prevention programs (n=15). Although 15 cigar bars have been certified, seven were excluded from the study because six of them no longer allow indoor cigar smoking and one is on a private golf course.

The following definitions explain the difference between the types of smoking lounges in Oregon. Refer to Appendix A for ICAA exemption criteria.

- Certified cigar bars – Businesses that have applied for and been granted an exemption from the ICAA because they met the cigar bar certification criteria.
- Certified smoke shops – Businesses that have applied for and been granted an exemption from the ICAA because they met the smoke shop certification criteria.
- Cigar lounges – Certified cigar bars, certified smoke shops and non-certified shops that operate cigar smoking lounges.
- Hookah lounges – Certified smoke shops that operate as hookah lounges and non-certified hookah lounges.
- Non-certified, potential smoking lounges – Businesses identified as possibly allowing indoor smoking in a lounge-type environment. This includes businesses with pending smoke shop certification applications, businesses that have been denied smoke shop certification, businesses identified by county tobacco prevention programs, and businesses identified through the Secretary of State's Business Name Registry and Web searches.
- Tobacco retail stores – Certified smoke shops and non-certified tobacco stores that sell tobacco, but do not operate as smoking lounges.

⁴ www.filinginoregon.com/index.htm

Table 1: Study sample (n=38)

	Description of business based on observation		
Description of business based on certification status	Cigar lounges (n = 14)	Hookah lounges (n = 10)	Tobacco retail stores (n = 14)
Certified cigar bars (n = 8)	8	0	0
Certified smoke shops (n = 15)	5	6	4
Non-certified, potential smoking lounges (n = 15)	1	4	10

Assessment protocol

Assessments were conducted between July and September 2010. The assessment instrument (Appendix E) was developed and piloted by two trained observers. The assessment instrument is a half sheet of paper that includes: ICAA exemption requirements; items for sale and in use; marketing materials; and demographic characteristics of business patrons. Observers also measured indoor air quality using a TSI SidePak AM510 Personal Aerosol Monitor (“SidePak”).

Tobacco retail stores and cigar lounges were assessed on random days of the week at random times during operating hours. Hookah lounges were assessed Friday and Saturday between 9:30 p.m. and 1 a.m. Observations at tobacco retail stores and cigar lounges lasted an average of 10 minutes. Observations at hookah lounges lasted an average of 30 minutes because observers generally had to be seated and make a purchase in order to gain admittance.

Observers brought a letter of introduction from TPEP explaining the study to present to businesses upon request (Appendix F). Observers were prepared to identify themselves, provide the letter of introduction from TPEP and explain the study upon request. They did not otherwise volunteer any information.

Exterior assessment

The observers assessed whether the required “no minors” and “smoking allowed” signs were posted on the entrances and exits of certified smoke shops and certified cigar bars. They assessed whether certified smoke shops were stand-alone businesses. Observers also documented the presence of enclosed outdoor smoking areas, defined by the ICAA as a space between a floor and a ceiling enclosed on three or more sides by permanent or temporary walls or windows, exclusive of doors or passageways.

Interior assessment

Observers documented the times at which they (observers) entered and exited the business, as well as the number of smoking instruments they observed to be in use upon entry, and every 10 to 15 minutes until their exit from the business.

Non-certified businesses were assessed for compliance with the indoor smoking prohibition. Certified smoke shops and certified cigar bars were assessed for compliance with the relevant ICAA exemption criteria including: available seating, presence of a humidor, gambling availability, tobacco sales and use, smoking instrument sales, and use and alcohol availability.

In order to characterize the businesses in more detail, additional information was collected on number and demographics of patrons, number and demographics of employees, and food and nonalcoholic beverage availability. The observers – one male and one female, both of whom are younger than 26 – also noted whether their own identifications were checked, as well as the identifications of patrons.

Observers used a TSI SidePak AM510 Personal Aerosol Monitor (SidePak) to measure indoor air pollution from tobacco smoke. The SidePak monitor measures PM_{2.5} particulate matter, which is less than 2.5 microns in diameter (about 1/30th the diameter of a human hair). Particles of this size are produced by combustion and are associated with premature death from heart and lung diseases. The SidePak draws in air through a tube every 60 seconds. The SidePak was concealed in a bag or purse with the tube extended outside of the bag; concealing the SidePak in this manner does not affect measurements. Because the SidePak creates a whirring noise while operating, air pollution measurements only were taken in establishments with enough ambient noise to obscure the sound of the monitor (n=22).

Marketing assessment

Observers collected shisha tobacco menus, event fliers and other marketing materials from hookah lounges during the assessment visits. Pictures and marketing materials also were collected from public websites, including social marketing websites such as Facebook and MySpace. Samples of these materials are included in Appendix G.

Findings

ICAA compliance

Certified smoke shops and certified cigar bars were in compliance with most of the exemption criteria. Notable exceptions included the smoking of non-cigar tobacco products inside cigar bars and the lack of appropriate “no minors” and “smoking allowed” signage at both types of establishments.

Indoor smoking was observed at four of the 16 non-certified, potential smoking lounges; all four were hookah lounges. One non-certified, potential smoking lounge appeared to function as a cigar lounge, based on employee comments, but no smoking was observed at the time of the assessment. One additional non-certified, potential smoking lounge was allowing hookah smoking outside in anticipation of smoke shop certification.

Certified smoke shops

As shown in Table 2, all of the certified smoke shops were stand-alone businesses, with no gambling or alcohol on the premises, and had posted “No minors under the age of 18” signage. However, 10 of the 15 certified smoke shops lacked signs stating that smoking is allowed on the premises.

Table 2. ICAA compliance among certified smoke shops (n=15)

	n (% observed in compliance)
Stand-alone business	15 (100%)
Signs at each entrance and exit stating persons younger than 18 are prohibited from entering the premises	15 (100%)
Signs at each entrance and exit stating that smoking is allowed on all or some of the premises	5 (33%)
Does not sell or provide alcohol for on-premises consumption	15 (100%)
Does not offer video lottery games, social gaming or betting on premises	15 (100%)

Certified cigar bars

As shown in Table 3, all of the certified cigar bars were compliant with rules pertaining to no gambling, seating capacity, presence of a humidor, and Oregon Liquor Control Commission licensing. However, some cigar bars were noncompliant on three of the exemption criteria: the smoking of non-cigar tobacco products was observed at one cigar bar; three lacked signage prohibiting minors under the age of 21; and half lacked signs stating that smoking is allowed on the premises.

Table 3. ICAA compliance among certified cigar bars (n=8)

	n (% observed in compliance)
Signs at each entrance and exit stating persons younger than 21 are prohibited from entering the premises	5 (63%)
Signs at each entrance and exit stating that smoking is allowed on all or some of the premises	4 (50%)
Has a humidor on the premises	8 (100%)
Has a full, on-premises alcohol sales license	8 (100%)
Maximum seating capacity of 40	8 (100%)
Does not offer video lottery games	8 (100%)
Only cigars being smoked (no other tobacco products)	7 (88%)

Air quality in smoking lounges

Observers measured fine particle (PM_{2.5}) air pollution inside 17 smoking lounges. According to the Environmental Protection Agency:

“Health studies have shown a significant association between exposure to fine particles and premature death from heart or lung disease. Fine particles can aggravate heart and lung diseases and have been linked to effects such as: cardiovascular symptoms; cardiac arrhythmias; heart attacks; respiratory symptoms; asthma attacks; and bronchitis. These effects can result in increased hospital admissions, emergency room visits, absences from school or work, and restricted activity days. Individuals that may be particularly sensitive to fine particle exposure include people with heart or lung disease, older adults, and children.” (www.epa.gov/pmdesignations/basicinfo.htm)

The United States Environmental Protection Agency Air Quality Index identifies PM2.5 concentrations ranging from “good” to “hazardous” and the corresponding Health Advisories that are issued when outdoor PM2.5 concentrations reach these levels (Appendix G). Peak and average PM2.5 measurements are displayed in Tables 4a and 4b.

Air quality in hookah lounges (n = 10)

Observers measured PM_{2.5} in all 10 hookah lounges where indoor smoking was observed (six certified smoke shops and four non-certified businesses). Peak and average PM_{2.5} for each business are displayed in Tables 4a and 4b. Hookah lounges had a median peak PM_{2.5} of 161, which is classified as “very unhealthy” according to the EPA Air Quality Index (Appendix H). This level of air quality would trigger a health alert advising that “everyone may begin to experience more serious health effects.”

Air quality in cigar lounges (n = 7)

Observers measured PM_{2.5} in seven of the cigar lounges, but were unable to complete inconspicuous measurements in the other seven lounges due to the noise produced by the SidePak. The following description includes five certified cigar bars and two certified smoke shops operating as cigar lounges. Cigar lounges had a median peak PM_{2.5} of 24, which is classified as “moderate,” according to the EPA Air Quality Index (Appendix H). This level of air quality is “acceptable; however for some pollutants there may be a moderate health concern for a very small number of people who are unusually sensitive to air pollution.”

Table 4a. Peak PM_{2.5} in smoking lounges (n = 17)

EPA Air Quality Index	Health advisory	Peak PM _{2.5}	Business type
Hazardous ≥251	Health warnings of emergency conditions. The entire population is more likely to be affected.	750	Hookah lounge
Very unhealthy 151-250	Health alert: Everyone may experience more serious health effects.	220	Hookah lounge
		177	Hookah lounge
		172	Hookah lounge
		166	Hookah lounge
		163	Cigar lounge
		156	Hookah lounge
Unhealthy 66-150	Everyone may begin to experience health effects; members of sensitive groups may experience more serious health effects.	117	Hookah lounge
		83	Hookah lounge
		76	Hookah lounge
		67	Hookah lounge
		66	Cigar lounge
Sensitive groups 41-65	Members of sensitive groups may experience health effects. The general public is not likely to be affected.	64	Cigar lounge
Moderate 16-40	Air quality is acceptable; however, for some pollutants there may be a moderate health concern for a very small number of people who are unusually sensitive to air pollution.	24	Cigar lounge
		18	Cigar lounge
Good ≤15	Air quality is considered satisfactory, and air pollution poses little or no risk.	9	Cigar lounge*
		4	Cigar lounge*

*Only one lit smoking instrument at the time of the observation

Table 4b. Average PM_{2.5} in smoking lounges (n = 17)

EPA Air Quality Index	Health advisory	Average PM2.5	Business type
Hazardous ≥251	Health warnings of emergency conditions. The entire population is more likely to be affected.	576	Hookah lounge
Unhealthy 66-150	Everyone may begin to experience health effects; members of sensitive groups may experience more serious health effects.	72	Hookah lounge
		72	Hookah lounge
		67	Cigar lounge
Sensitive Groups 41-65	Members of sensitive groups may experience health effects. The general public is not likely to be affected.	57	Hookah lounge
		53	Hookah lounge
Moderate 16-40	Air quality is acceptable; however, for some pollutants there may be a moderate health concern for a very small number of people who are unusually sensitive to air pollution.	38	Cigar lounge
		35	Hookah lounge
		30	Hookah lounge
		27	Hookah lounge
		23	Hookah lounge
		22	Hookah lounge
		17	Hookah lounge
Good ≤15	Air quality is considered satisfactory, and air pollution poses little or no risk.	13	Cigar lounge
		8	Cigar lounge
		7	Cigar lounge*
		2	Cigar lounge*

*Only one lit smoking instrument at the time of the observation

Air quality in tobacco retail stores

For comparative baseline measurements of indoor air quality, air quality measurements were taken at five tobacco retail stores where no indoor smoking was observed.

The following description includes five nonsmoking, non-certified establishments. Tobacco retail stores had a median peak PM_{2.5} of 2, which is classified as “good,” according to the EPA Air Quality Index, and comes with no health advisory (see Table 5).

Table 5. Air quality in tobacco retail stores (n = 5)*

EPA Air Quality Index	Health advisory	Peak PM _{2.5}	Average PM _{2.5}	Type of business
Good ≤15	Air quality is considered satisfactory, and air pollution poses little or no risk.	4	3	Tobacco retailer
		2	2	Tobacco retailer
		2	1	Tobacco retailer
		1	1	Tobacco retailer
		1	1	Tobacco retailer

* No lit smoking instruments at the time of the observation

Description of hookah lounges in Oregon

The average hookah lounge in the observational study had seating for 65 patrons (20-150). In comparison, cigar lounges had an average seating capacity of 16 (1-40), while tobacco retail stores had an average seating capacity of one (0-6).

Forty percent of the hookah lounges checked the identifications of the observers and 60 percent checked the identifications of other patrons. About half of patrons were female (44 percent) and 77 percent appeared to be between the ages of 18 and 24. For comparison, cigar lounges averaged five patrons at the time of observation; few patrons were female (6 percent) and none appeared to be between the ages of 18 and 24.

Hookah lounges had an average of three employees working at the time of the assessment. Of the employees, 29 percent were female and about half appeared to be age 18 to 24. For comparison, cigar lounges had an average of one employee working at the time of the assessment. One of four observed cigar lounge employees were female and none appeared to be ages 18 to 24.

Every hookah lounge observed required a minimum hookah purchase for each patron, usually a strict two-person-per-hookah rule. Hookah rentals cost between \$11 and \$17 per session, with the option of purchasing a shisha tobacco refill for between \$5 and \$7. Two hookah lounges had a minimum drink requirement and one hookah lounge required a cash cover charge to enter the lounge.

Patrons order the flavor of shisha tobacco that they would like from a menu at the front counter. Table 6 shows examples of candy-, fruit-, coffee-, cocktail- and sexually themed shisha flavors. Additionally, many hookah lounges had “house blends” created by employees that tended to have risqué names. Examples of hookah lounge shisha tobacco menus are in Appendix H. All shisha flavors contained tobacco; there were no tobacco-free or “herbal” options observed for sale at any hookah lounge. Other items for sale included packaged candy and snacks, soda pop and energy drinks (e.g., Red Bull). In addition, some hookah lounges sold stash cans (storage containers with false bottoms or tops in the shape of soda or beer cans) and K2, also known as “Spice,” which is a packet of incense coated with a synthetic chemical that mimics a marijuana high when smoked.⁵

After ordering, patrons sit in the lounge area. An employee delivers and sets up the hookah, and in some cases “starts” the hookah by taking the first inhalation of smoke. Throughout the smoking session, employees replace the coals on top of the hookah to keep the shisha burning.

⁵ The Oregon Pharmacy Board banned K2 in October 2010 after the hookah lounge assessments were completed. www.pharmacy.state.or.us/Pharmacy/Imports/News/PressReleaseSyntheticCannabis10-14-10.pdf.

Table 6. Examples of observed shisha tobacco flavors

Candy	Fruit	Cocktail	Coffee	Sexual/Risqué/House blends	
Skittles	Banana split	Rum honey	Apple Americano	Triple X	Orgasm
Bubble gum	Big melons	Strawberry margarita	Cappuccino	Sex on the beach	Alcoholism
Cotton candy	Peaches and cream	Vanilla mojito	Mocha latte	Turning trixx	AIDS in a box

Observers identified three general categories of hookah lounges: bar/club, house party and intimate (Appendix I). The majority of patrons of the bar/club and house party lounges appeared to be ages 18 to 24.

The two largest lounges were in the bar/club category. They featured seating for more than 100 patrons, dance floors, DJs and risqué theme nights. Appendix J shows samples of marketing for hookah lounge events.

Three lounges were in the house-party category. They were in small buildings, such as converted homes. They featured seating for 50 to 70 patrons, video gaming systems (e.g., Nintendo Wii, Microsoft Xbox) and multiple levels and rooms with couches and futon beds. Although the observers did not see any alcohol being provided or openly consumed, empty beer cans and broken glass were observed in one lounge of this type, and another had patrons openly discussing being intoxicated.

Five lounges were in the intimate category. They featured seating for 10 to 20 patrons, tables, chairs, couches, televisions and wireless Internet access. They had fewer patrons on average, and most appeared to be ages 24 to 35.

Summary

Compliance rates with the ICAA were high among businesses certified exempt from the indoor smoking ban. Improper signage was the most common compliance issue. Based on these assessments, certified businesses should be reminded about signage required by the ICAA.

Regardless of certification status, indoor air quality in smoking lounges is poor. With the exception of two cigar lounges in which only one cigar was lit at the time of the observation, peak PM_{2.5} ranged from a moderate to hazardous health risk. As currently written, the smoke shop exemption in the ICAA allows for unlimited numbers of new smoking lounges to open, posing a serious health hazard for employees and customers alike.

Smoking lounges, not tobacco retail stores, are the primary type of business operating under the smoke shop exemption. The vast majority of smoke shop applications have been from hookah lounges, and this study indicates that the trend will continue. At least four hookah lounges are operating without smoke shop certification. At the same time, survey data show that hookah smoking has increased among adolescents, and focus group data indicate widespread social acceptance of hookah smoking among adolescents and young adults. Hookah lounges target young people with a party-like atmosphere featuring candy- and cocktail-flavored tobacco, which is an addictive product associated with heart and lung diseases. Hookah lounges make tobacco use more easily accessible and attractive to young people.

Appendix A. Cigar bar and smoke shop exemption criteria

Oregon Indoor Clean Air Act

433.835 Definitions

(1) "Cigar bar" means a business that:

- (a) Has on-site sales of cigars as defined in ORS 323.500;
- (b) Has a humidor on the premises;
- (c) Allows the smoking of cigars on the premises but prohibits the smoking of all other tobacco products in any form including, but not limited to, loose tobacco, pipe tobacco, cigarettes as defined in ORS 323.010 and cigarillos as defined by the Oregon Health Authority by rule;
- (d) Has been issued and operates under a full on-premises sales license issued under ORS 471.175;
- (e) Prohibits persons under 21 years of age from entering the premises and posts notice of the prohibition;
- (f) Does not offer video lottery games as authorized under ORS 461.217;
- (g) Has a maximum seating capacity of 40 persons;
- (h) Has a ventilation system that is certified by the assistant to the State Fire Marshal described in ORS 476.060 for the jurisdiction in which the cigar bar is located as adequate to remove the cigar smoke in the cigar bar and vents the smoke from the cigar bar in a manner that prevents the smoke from entering any other establishment; and
- (i) Requires all employees to read and sign a document that explains the dangers of exposure to secondhand smoke.

5) "Smoke shop" means a business that:

- (a) Is primarily engaged in the sale of tobacco products and smoking instruments, with at least 75 percent of the gross revenues of the business resulting from such sales;
- (b) Prohibits persons under 18 years of age from entering the premises;
- (c) Does not offer video lottery games as authorized under ORS 461.217, social gaming or betting on the premises;
- (d) Does not sell or offer on-premises consumption of alcoholic beverages; and
- (e) Is a stand-alone business with no other businesses or residential property attached to the premises.

433.850 Smoke free place of employment required; exceptions; posting signs.

(c) Smoking is permitted in a smoke shop.

(d) Smoking is permitted in a cigar bar that generated on-site retail sales of cigars of at least \$5,000 for the calendar year ending December 31, 2006.

Oregon Administrative Rules

333-015-0040 Signs

(4) In a cigar bar or smoke shop where smoking is allowed under OAR 333-015-0035(8), the employer or entity in charge shall post signage at each entrance and exit to clearly state that smoking is allowed in all or some of the premises, and that anyone under the age of 21 for cigar bars and under the age of 18 for smoke shops is prohibited from entering the premises.

333-015-0066 Cigar Bars

- (1) A business must apply to DHS for certification before allowing cigar smoking on its premises.
- (2) A business must apply for certification on a form prescribed by DHS and the following information or documentation must be included:
 - (a) A copy of the business' full on-premises liquor sales license issued by the Oregon Liquor Control Commission under ORS 471.175;
 - (b) A site-map of the premises including a detailed seating capacity chart;
 - (c) Certification from the assistant to the State Fire Marshal for the jurisdiction where the cigar bar is located that the cigar bar's ventilation system is adequate to remove the cigar smoke in the cigar bar and prevent the smoke from entering any other establishment;
 - (d) Using the official form provided by the Public Health Division, Tobacco Prevention and Education Program, proof that all employees have read and signed a document explaining the dangers of exposure to secondhand smoke. This form is available on the Internet at www.healthoregon.org/tobacco or by calling the Public Health Division, Tobacco Prevention and Education Program; and
 - (e) Documentation demonstrating to the satisfaction of the Assistant Director of the Public Health Division that the cigar bar generated onsite retail sales of cigars of at least \$5,000 in the calendar year 2006.
- (3) DHS shall review application materials within 30 days of receipt and shall determine whether the application is complete.
- (4) Within 10 days of an application being declared complete, DHS shall deny or grant the application. DHS shall grant a business certification if, upon review of the application materials, DHS finds that sufficient documentation has been provided to demonstrate the compliance with section (2) of this rule. In lieu of denying an application, DHS may request additional information from the applicant in order to determine compliance with section (2) of this rule.
- (5) DHS may permanently deny the application for cigar bar certification if an applicant provides information that is false or deliberately misleading.

333-015-0068 Smoke Shops

- (1) A business must apply to DHS for certification prior to allowing smoking on the premises.
- (2) A business must apply for certification on a form prescribed by DHS (this form is available on the Internet at www.healthoregon.org/tobacco or by calling the Public Health Division, Tobacco Prevention and Education Program) and the following information or documentation must be included:
 - (a) Documentation demonstrating that at least 75 percent of the smoke shop's gross revenue is derived from the sale of tobacco products or smoking instruments; and
 - (b) Documentation, including written descriptions or visual aids, demonstrating that the smoke shop is a stand-alone business with no other businesses or residential property attached to the premises.
- (3) DHS shall review application materials within 30 days of receipt and shall determine whether the application is complete.
- (4) Within 10 days of an application being declared complete, DHS shall deny or grant the application. DHS shall grant a business certification if, upon review of the application materials, DHS finds that sufficient documentation has been provided to demonstrate the compliance with section (2) of this rule. In lieu of denying an application, DHS may request additional information from the applicant in order to determine compliance with section (2) of this rule.
- (5) DHS may permanently deny the application for smoke shop certification if an applicant provides information that is false or deliberately misleading.

(6) Every year, within 30 calendar days from the date certification was originally granted, a smoke shop must provide DHS with documentation demonstrating that at least 75 percent of the smoke shop's gross revenue is derived from the sale of tobacco products or smoking instruments.

333-015-0069 Revocation of Cigar Bar and Smoke Shop Certification

DHS may revoke the certification of a cigar bar or smoke shop for up to one year for a violation of ORS 433.835 through 433.875 or these rules.

333-015-0075 Complaint Response

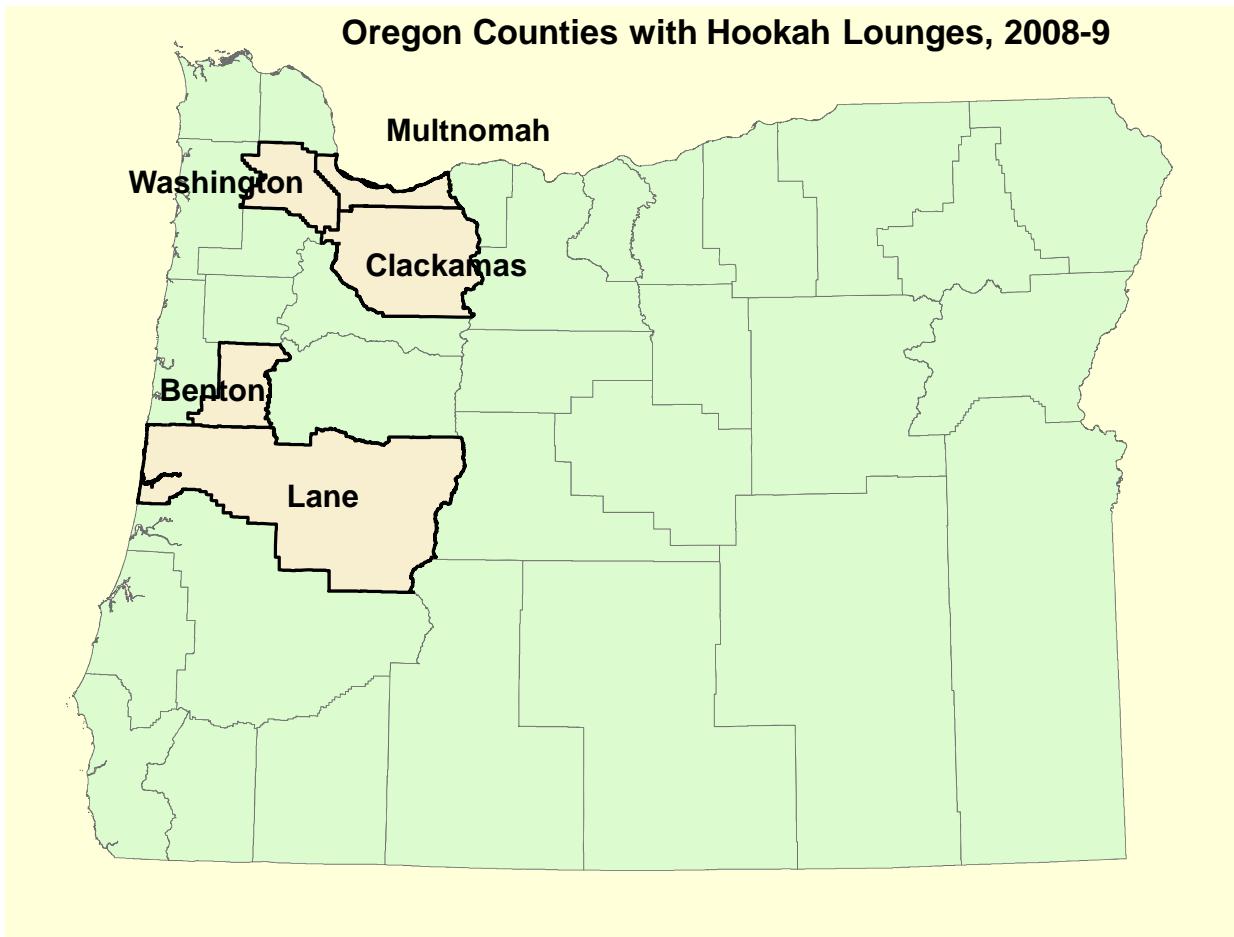
(3) Finding of violation:

(a) A violation of indoor smoking prohibitions is deemed to have occurred if during a site visit pursuant to a second or subsequent complaint, the DHS or LPHA representative:

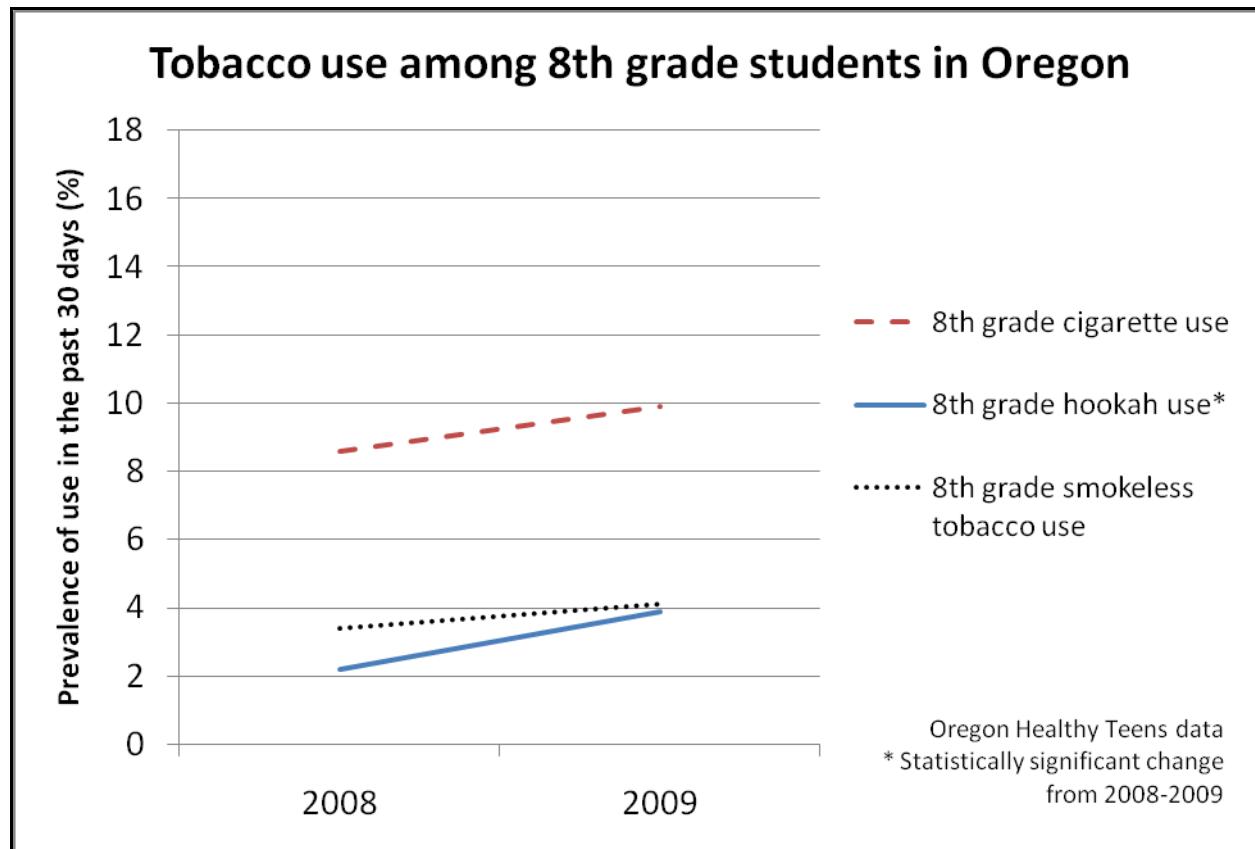
(E) Determines that a cigar bar does not have proper certification from DHS;

(F) Determines that a smoke shop that allows smoking does not have proper certification from DHS;

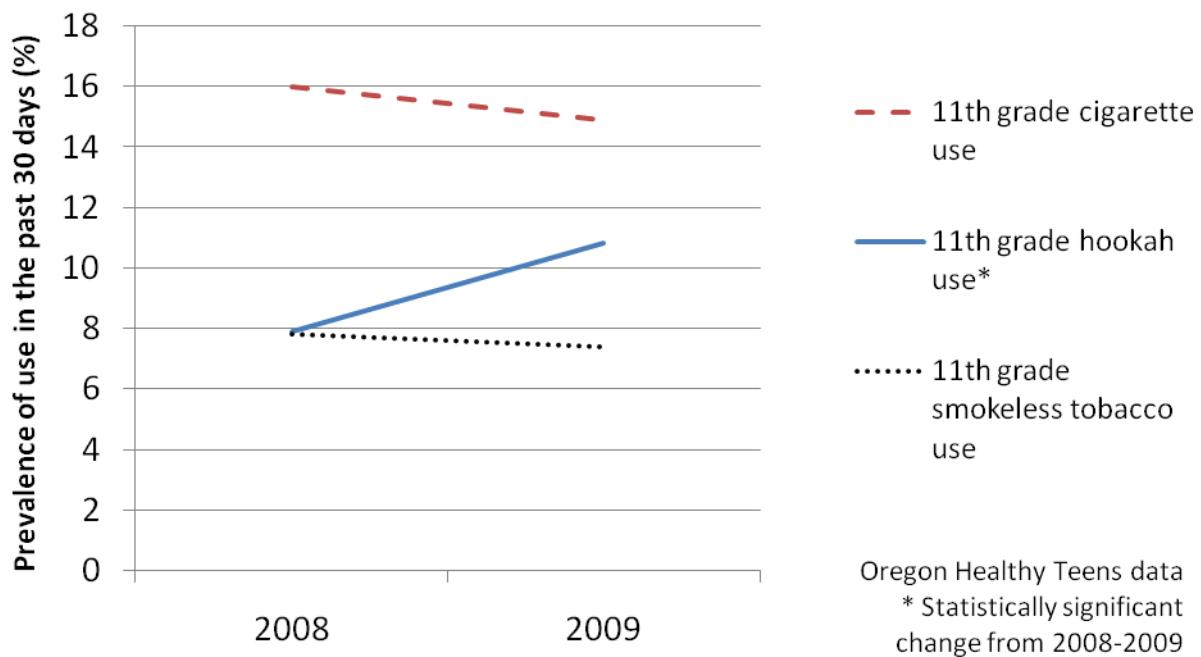
Appendix B



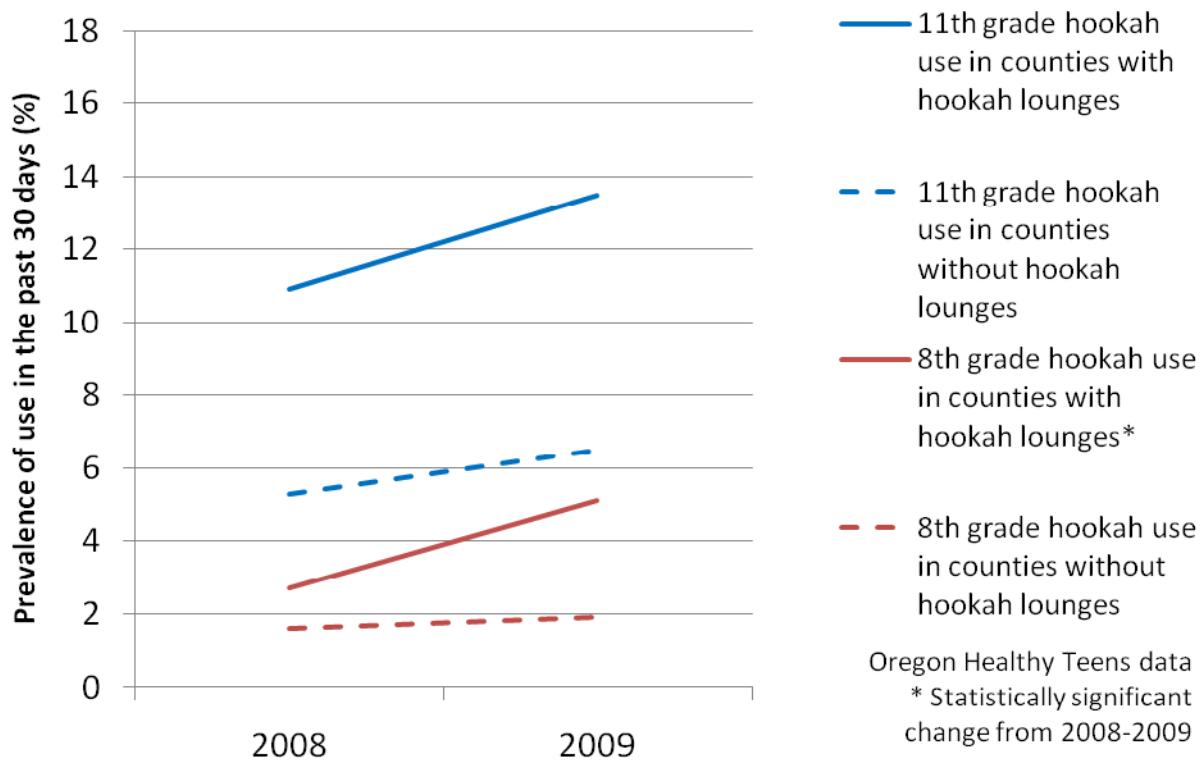
Appendix C. Youth tobacco use data from Oregon Healthy Teens



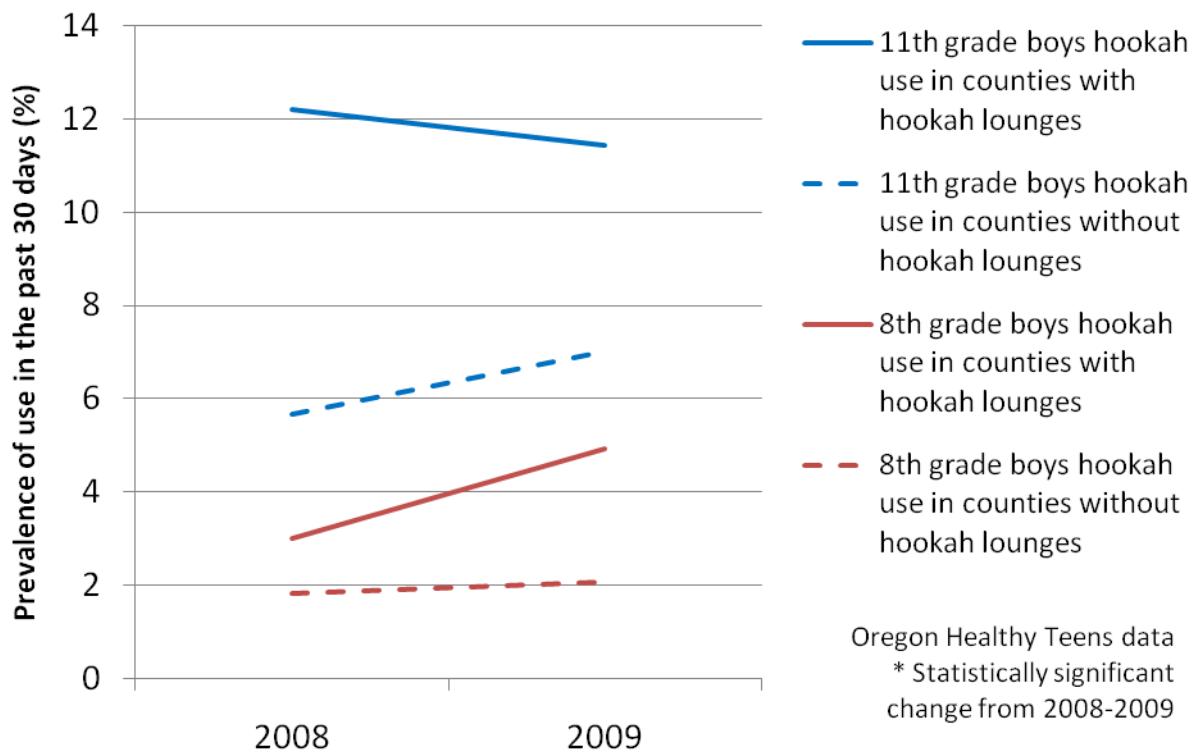
Tobacco use among 11th grade students in Oregon



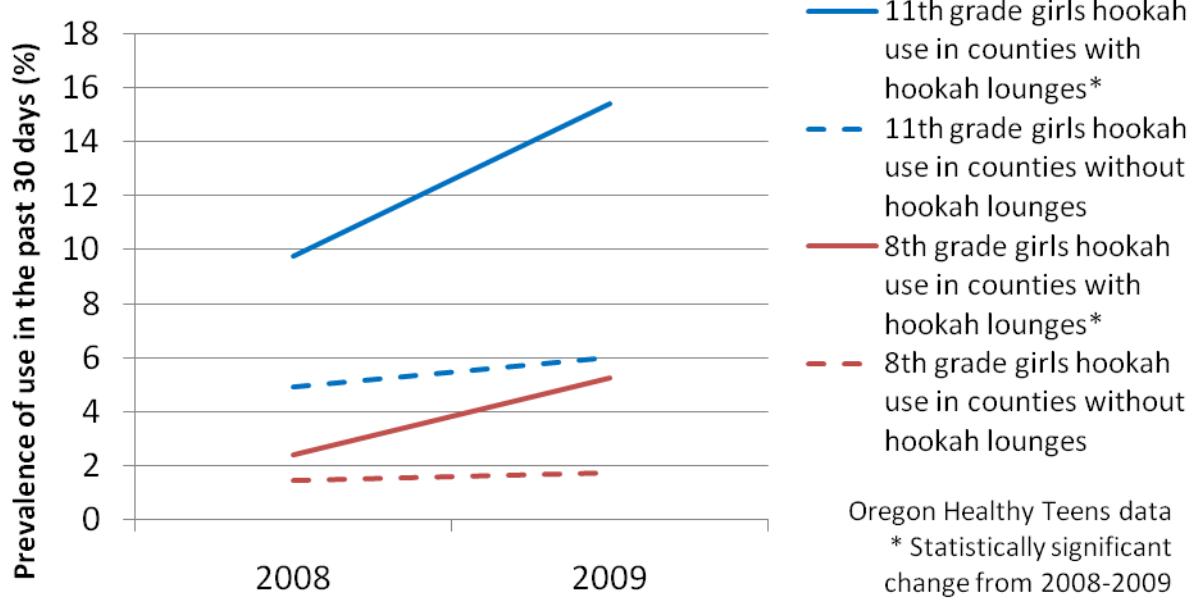
Hookah use among 8th and 11th grade students in Oregon, comparing counties with and without hookah lounges



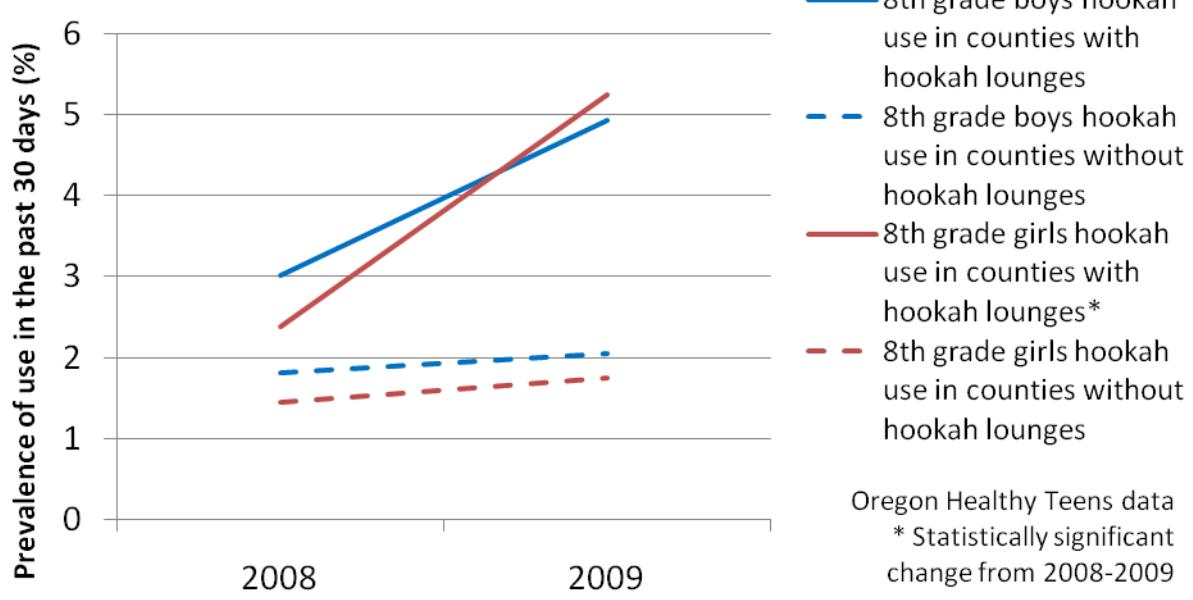
Hookah use among 8th and 11th grade boys in Oregon, comparing counties with and without hookah lounges



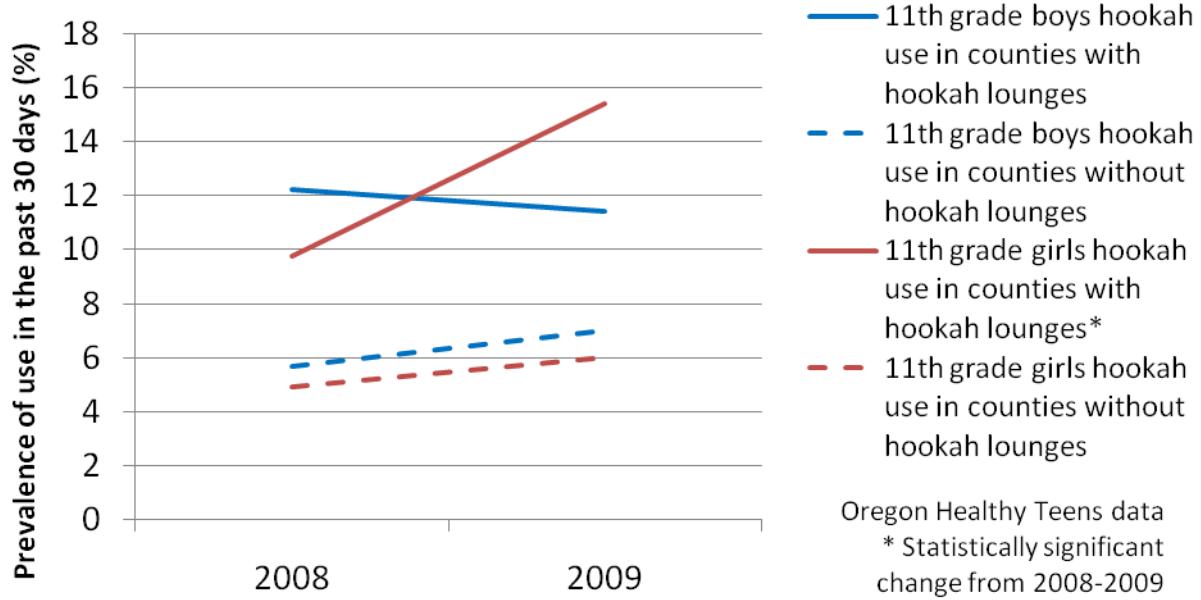
Hookah use among 8th and 11th grade girls in Oregon, comparing counties with and without hookah lounges



Hookah use among 8th grade boys and girls in Oregon, comparing counties with and without hookah lounges



Hookah use among 11th grade boys and girls in Oregon, comparing counties with and without hookah lounges



Prevalence of hookah smoking, cigarette smoking, and smokeless tobacco* use in the past 30 days for 8th grade students

	Hookah use in the past 30 days						Cigarette smoking in the past 30 days						Smokeless tobacco use in the past 30 days					
	2008			2009			2008			2009			2008			2009		
	Prevalence	95% CI	Prevalence	95% CI	Prevalence	95% CI	Prevalence	95% CI	Prevalence	95% CI	Prevalence	95% CI	Prevalence	95% CI	Prevalence	95% CI	Prevalence	95% CI
All 8th grade students	2.2	1.8 - 2.5	3.9	3.1 - 4.9	8.6	8.0 - 9.3	9.9	8.7 - 11.2	3.4	3.0 - 3.9	4.1	3.3 - 5.1						
Counties with hookah lounges (N=5)**	2.7	2.2 - 3.3	5.1	3.9 - 6.7	8.2	7.2 - 9.2	9.7	8.1 - 11.6	2.4	1.9 - 3.0	3.2	2.2 - 4.7						
Other counties (N=31)	1.6	1.3 - 2.1	1.9	1.3 - 2.7	9.1	8.3 - 10.1	10.2	8.8 - 11.9	4.5	3.8 - 5.3	5.6	4.5 - 6.9						
8th grade girls																		
Counties with hookah lounges (N=5)	2.4	1.7 - 3.2	5.2	3.7 - 7.4	9.4	8.0 - 11.0	11.4	9.0 - 14.5	1.3	0.9 - 2.0	2.3	1.2 - 4.5						
Other counties (N=31)	1.4	1.0 - 2.1	1.7	1.0 - 2.9	10.2	8.9 - 11.6	11.3	9.2 - 13.7	2.4	1.7 - 3.4	2.9	1.9 - 4.3						
8th grade boys																		
Counties with hookah lounges (N=5)	3.0	2.2 - 4.0	4.9	3.2 - 7.5	6.8	5.6 - 8.2	7.8	5.9 - 10.2	3.6	2.7 - 4.7	4.3	2.7 - 6.6						
Other counties (N=31)	1.8	1.3 - 2.5	2.1	1.3 - 3.3	8.0	6.8 - 9.4	9.1	7.2 - 11.4	6.7	5.5 - 8.1	8.4	6.5 - 10.8						

* Smokeless tobacco includes chewing tobacco, snuff, and dip

**Benton, Clackamas, Lane, Multnomah, and Washington Counties had hookah lounges in 2009

Data from Oregon Healthy Teens

Prevalence of hookah smoking, cigarette smoking, and smokeless tobacco * use in the past 30 days for 11th grade students

	Hookah use in the past 30 days						Cigarette smoking in the past 30 days						Smokeless tobacco use in the past 30 days					
	2008			2009			2008			2009			2008			2009		
	Prevalence	95% CI	Prevalence	95% CI	Prevalence	95% CI	Prevalence	95% CI	Prevalence	95% CI	Prevalence	95% CI	Prevalence	95% CI	Prevalence	95% CI	Prevalence	95% CI
All 11th grade students																		
Statewide	7.9	7.0 - 8.8	10.8	9.7 - 12.0	16.0	14.9 - 17.1	14.9	13.6 - 16.3	7.8	7.1 - 8.6	7.4	6.5 - 8.4						
Counties with hookah lounges (N=5)**	10.9	9.5 - 12.5	13.5	11.9 - 15.4	15.5	13.8 - 17.3	12.8	11.2 - 14.6	6.4	5.4 - 7.6	5.5	4.5 - 6.8						
Other counties (N=31)	5.3	4.4 - 6.3	6.5	5.3 - 7.9	16.4	15.0 - 17.9	18.3	16.2 - 20.5	9.0	8.0 - 10.2	10.4	8.8 - 12.1						
11th grade girls																		
Counties with hookah lounges (N=5)	9.8	8.0 - 11.8	15.4	13.1 - 18.1	15.0	12.9 - 17.5	13.3	11.2 - 15.8	1.9	1.3 - 2.8	2.0	1.3 - 3.3						
Other counties (N=31)	4.9	3.8 - 6.4	6.0	4.5 - 8.0	16.4	14.5 - 18.5	16.5	13.7 - 19.6	3.1	2.3 - 4.1	4.8	3.4 - 6.7						
11th grade boys																		
Counties with hookah lounges (N=5)	12.2	10.1 - 14.7	11.4	9.3 - 14.0	16.0	13.6 - 18.8	12.2	10.0 - 14.8	11.5	9.5 - 13.8	9.4	7.5 - 11.8						
Other counties (N=31)	5.7	4.4 - 7.3	7.0	5.3 - 9.2	16.4	14.3 - 18.6	20.0	17.0 - 23.3	15.4	13.5 - 17.6	15.7	13.1 - 18.7						

* Smokeless tobacco includes chewing tobacco, snuff, and dig

** Benton, Clackamas, Lane, Multnomah, and Washington Counties had hookah lounges in 2009

Data from Oregon Healthy Teens

Appendix D. Summary of research on hookah trends and awareness, October 2010

The Oregon Health Authority Tobacco Prevention and Education Program (TPEP) has noticed a significant increase in Oregon youth's use of hookah and is studying the issue to understand the scope, risk and options for change. TPEP contracted with Metropolitan Group to conduct formative research as part of its exploration, in conjunction with a TPEP observational study. The goals of this research were to:

- Gain a better understanding of Oregon youths' behaviors, attitudes and perceptions toward hookah.
- Determine awareness and attitudes regarding hookah use among adult influencers to youth.
- Assess other states' experience with hookah lounges and hookah smoking.

Methodology

- Eight focus groups in Portland with 16- to 18-year olds, college-age individuals, and parents. Participants represented hookah users and non-users, men and women, and urban and suburban residents. They were recruited through a variety of methods, aiming for a random sample.
- Executive interviews with tobacco prevention experts and youth influencers.
- A scan of media coverage on hookah.
- A review of existing research on the health effects of hookah.

Key findings

Trends in other states

The increase in hookah lounges and hookah smoking is not unique to Oregon. Several other states—including Washington, New Jersey, Massachusetts, Michigan and Utah—have experienced increases in hookah lounges and youth hookah smoking, and have tightened or are tightening their smokefree workplace laws to address the issue. Those that have taken action have seen a decrease in use and acceptance.

Youth attitudes, awareness and perceptions

With the exception of two people, youth in every focus group were aware of hookah and either had used it or knew people who had. They estimated that between half and three-quarters of their peer group smokes hookah. They said they were not surprised at all to learn that there had been a dramatic increase in hookah smoking among eighth- and 11th-graders. Most participants had only heard of hookah in the past one to two years, which exactly corresponds with the time period when hookah lounges began opening.

Youth expressed very high acceptance of hookah and said that all kinds of people smoke it; it is not limited to certain cliques or social groups. There was no judgment expressed about smoking hookah. By contrast, smoking cigarettes was described as a bad habit, unhealthy, addictive and smelly. Several participants said they would

never smoke cigarettes or use other tobacco because it is gross and unhealthy, but they had started using hookah because it smells good and they think it is natural.

Hookah is undoubtedly tobacco. Youth said they were aware that even though it looks and smells different from cigarettes, the substance they are smoking through a hookah is tobacco. They also said they knew that tobacco use, and particularly cigarettes and chewing tobacco, is highly hazardous to their health. Those who smoked cigarettes or chewed tobacco said they were addicted and had tried unsuccessfully to quit in the past (this sentiment was most prominent in the 16- to 18-year-old boys' group). Nearly all said secondhand smoke is even more dangerous than smoking.

Despite their knowledge about the health harms of tobacco, hookah is perceived to be less harmful and not addictive because it tastes and smells good, because hookah lounges are legal, because it's not done every day, and because no one has told them it's harmful. "I've never heard of someone getting cancer from a hookah," said one participant. They said the main risk in cigarettes is the chemical additives, and said that hookah is safer because it is "natural." Several said they had heard that hookah tobacco contains no nicotine or tar.

Hookah is described as a social activity; youth described the appeal of the environment in lounges and the chance to do something new and different with friends. They said cigarette smokers sneak outside alone to smoke, but the social nature of hookah removes any stigma or shame. College-age young people said they frequent hookah lounges, and are drawn by the party atmosphere, the sweet-flavored tobaccos and the club-like social scene. Both age groups said that most lounges ask for ID, but that it is easy to get in through the back door by someone they know. High school students said hookah is a common fixture at parties and friends' houses, and is something fun to do with a group. They said that lounges appear to be geared toward high school students and people younger than 21, and that they will likely stop going when they are able to get into bars.

If the lounges closed, hookah would likely become less popular, they said, although people who wanted it could still buy it for home use.

Parents and influencers

Parents were largely unaware of the rise in hookah use. About half did not know anything about hookah, and some assumed the pipes were for smoking dried fruit or herbs. Many were surprised and concerned about use by underage youth, and by sweet-flavored tobacco products and promotional events that targeted youth. They advocated for harsher enforcement of 18-and-older policies, and for educating parents and youth about the harms of smoking hookah. In a follow-up survey, all but two reported that they had gone home and talked to their children about hookah; most of the kids said they did not use it.

Influencers said that they talk with youth in their care about the harms of tobacco, and considered hookah part of that general education. None of them said they addressed hookah directly.

Analysis and conclusions

There is overwhelming acceptance of hookah smoking among youth. The perception is that “everyone does it,” and that it is a much less harmful way to smoke tobacco because it smells and tastes good.

There is a significant disconnect between hookah and other tobacco use for youth. When youth hear about the harms of tobacco, they don’t equate it with hookah. It appeals to people — particularly girls — who would never smoke a cigarette because of the smell, social stigma and health risk.

Campaigns like *Truth* have been effective in informing youth about the chemical additives in cigarettes — so much so that focus group participants said the main risk in cigarettes is these chemicals. By contrast, they described hookah tobacco as “natural,” failing to recognize the health risk in the tobacco itself.

Youth and adults both stress the social aspect of the behavior. It is important to note that this is a key factor in tobacco addiction. The good news here is that if hookah use starts to decline, it will likely decline rapidly because it is a group behavior.

Youth influencers perceive that they are addressing hookah along with other tobacco use, but clearly this message is not coming through.

Parents are largely unaware of hookah use by youth and are motivated to talk to their children and others about the harms once they know about them.

Hookah lounges are increasing the popularity of hookah use. They create an illicit “going out” behavior for youth before they can get into bars. This, in turn, has increased the popularity of hookah among those younger than 18 because they want to emulate older kids; these youth are smoking hookah at home, at parties and in lounges. Hookah lounges create both supply and demand for hookah smoking by glamorizing and normalizing the product, and making it more visible and readily available.

Appendix E. Assessment instrument

Date/time _____ Observer(s) _____

BUSINESS IDENTIFICATION

Business name _____
Address _____ City _____
Primary business: Tobacco sales Lounge: Cigar / Cigarette / Hookah / Other

BUSINESS DESCRIPTION

Humidor on premises? Y / N
Ventilation system present? Y / N
Attached to another business or residential property? Y / N
If yes, indicate type of property:
Total number of seats available to patrons _____
Is signage present at each entrance/exit stating that:
Smoking is allowed in all/some of the premise? Y / N
Anyone <21 is prohibited? Y / N
Anyone <18 is prohibited? Y / N
Did the observers have their IDs checked? Y / N
Did other patrons have their IDs checked? Y / N
Business description comments:

CUSTOMER PROFILE (ESTIMATE)

How many patrons are present? _____
Number/proportion who are female _____
Number/proportion ages 18-24 _____
Customer profile comments:

EMPLOYEE PROFILE (NOTE NUMBER, AGE, AND GENDER)

GAMBLING
Betting on premises? Y / N
If yes: which of the following:
Video lottery games Keno Lottery tickets
Social gaming (describe) _____
Gambling comments:

TOBACCO	FOR SALE	IN USE	LOCATION OF USE
Cigarettes			
Cigars			
Shisha/Hookah			
Pipe tobacco			
Roll your own tobacco			
Smokeless tobacco			
Other			

Is there an enclosed outdoor smoking area? Y / N

SMOKING INSTRUMENTS	FOR SALE	IN USE
Hookah pipes		
Glass pipes		
Non-glass pipes		
Rolling papers		
Cigarette rolling machines		
Electronic cigarettes		
Other		

Tobacco product/instrument comments:

FOOD AND NON-ALCOHOLIC DRINK AVAILABILITY

Food offered for sale? Y / N
If yes: Packaged / Prepared on premise
Non-alcoholic beverages for sale? Y / N
If yes: Fountain / Sealed
Food and non-alcoholic drink availability comments:

ALCOHOL AVAILABILITY

Alcohol offered for sale? Y / N
For off-premises consumption? Y / N
For on-premises consumption? Y / N
Type of alcohol available: Beer / Wine / Liquor
Alcohol availability comments:

Air Quality Monitor Time Log	Number of Patrons	Percentage/Proportion Female	Comments about the number of active hookahs/cigars/cigarettes, etc.

Applicable constraints and mandates in ICAA of January 1, 2009	Cigar Bar	Smoke Shop
Age	Prohibits persons under 21 years of age from entering the premises and posts notice of the prohibition at each entrance and exit	Prohibits persons under 18 years of age from entering the premises and posts notice of the prohibition at each entrance and exit
Alcohol	Yes , has been issued and operates under a full on-premises sales license issued under ORS 471.175	Yes and No. Can sell alcohol for off-premises consumption. Cannot sell or offer on-premises consumption of alcoholic beverages
Equipment	Has a humidor on the premises	N/A
Locating	N/A	Is a stand-alone business with no other businesses or residential property attached to the premises
Seating	Has a maximum seating capacity of 40 persons	N/A
Signage	Post signage at each entrance and exit stating that smoking is allowed on all or some of the premises	Post signage at each entrance and exit stating that smoking is allowed on all or some of the premises
Ventilation	Has a ventilation system as adequate to remove the cigar smoke from the cigar bar and vents the smoke from the cigar bar in a manner that prevents the smoke from entering any other establishment	N/A
Video lottery game	Does not offer video lottery games	Does not offer video lottery games, social gaming or betting on premises
What can be smoked?	Cigars , but prohibits all other tobacco products in any form including, but not limited to, loose tobacco, pipe tobacco, cigarettes, and cigarillos	Not specified

Appendix F. Letter of introduction



Oregon

Theodore R. Kulongoski, Governor

Department of Human Services
Public Health Division
800 NE Oregon Street
Portland, OR 97232-2162
(971) 673-0984
Fax (971) 673-0994

July 29, 2010

To Whom It May Concern:

The Oregon Public Health Division is conducting a study to gain an understanding of businesses that allow indoor smoking. The Oregon Indoor Clean Air Act requires that most businesses in Oregon be smokefree as of January 1, 2009, the exception being certified cigar bars and smoke shops.

Your business was selected for assessment as part of the study. A trained observer from the Public Health Division will spend a short amount of time at your business, observing both the inside and outside of the establishment to determine if your business is in compliance with the Indoor Clean Air Act. No action is required on your part. Study results will be available on the TPEP website at www.healthoregon.org/tobacco.

Please note that this visit is for study purposes only. Any information collected will not be used to report a violation of the Indoor Clean Air Act or lead to any administrative action.

If you have any questions regarding the study or the ICAA, please do not hesitate to contact the Tobacco Prevention and Education Program at (971) 673-0984.

Thank you for your assistance.

Sincerely,

Karen Girard, Manager
Tobacco Prevention and Education Program

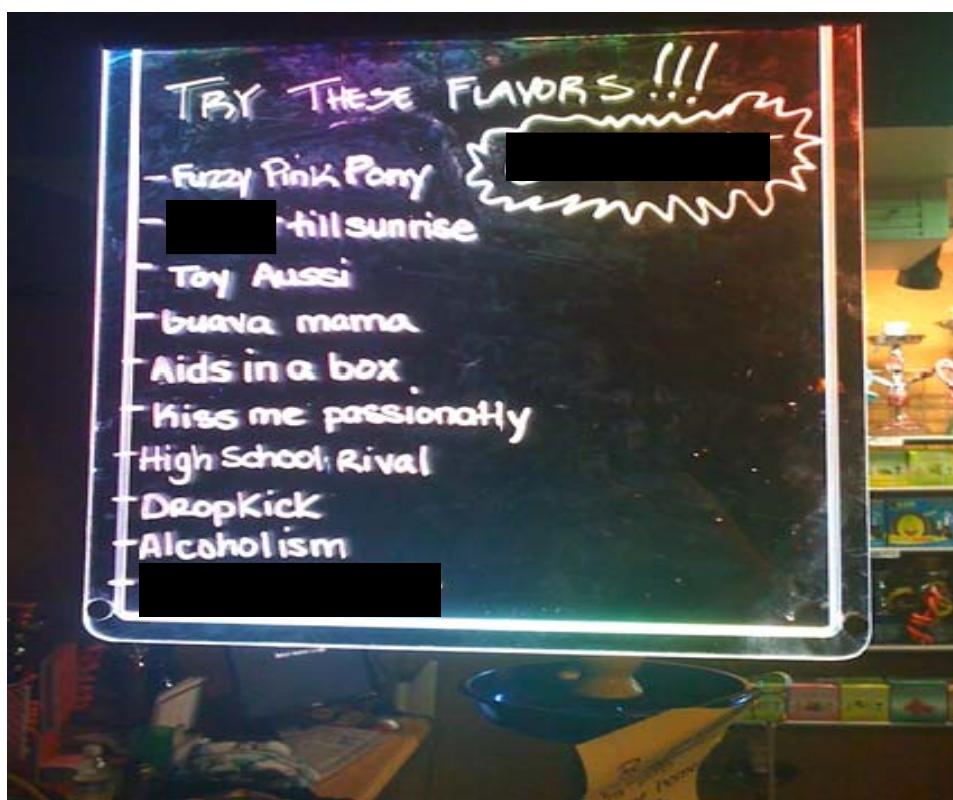
Assisting People to Become Independent, Healthy and Safe
An Equal Opportunity Employer

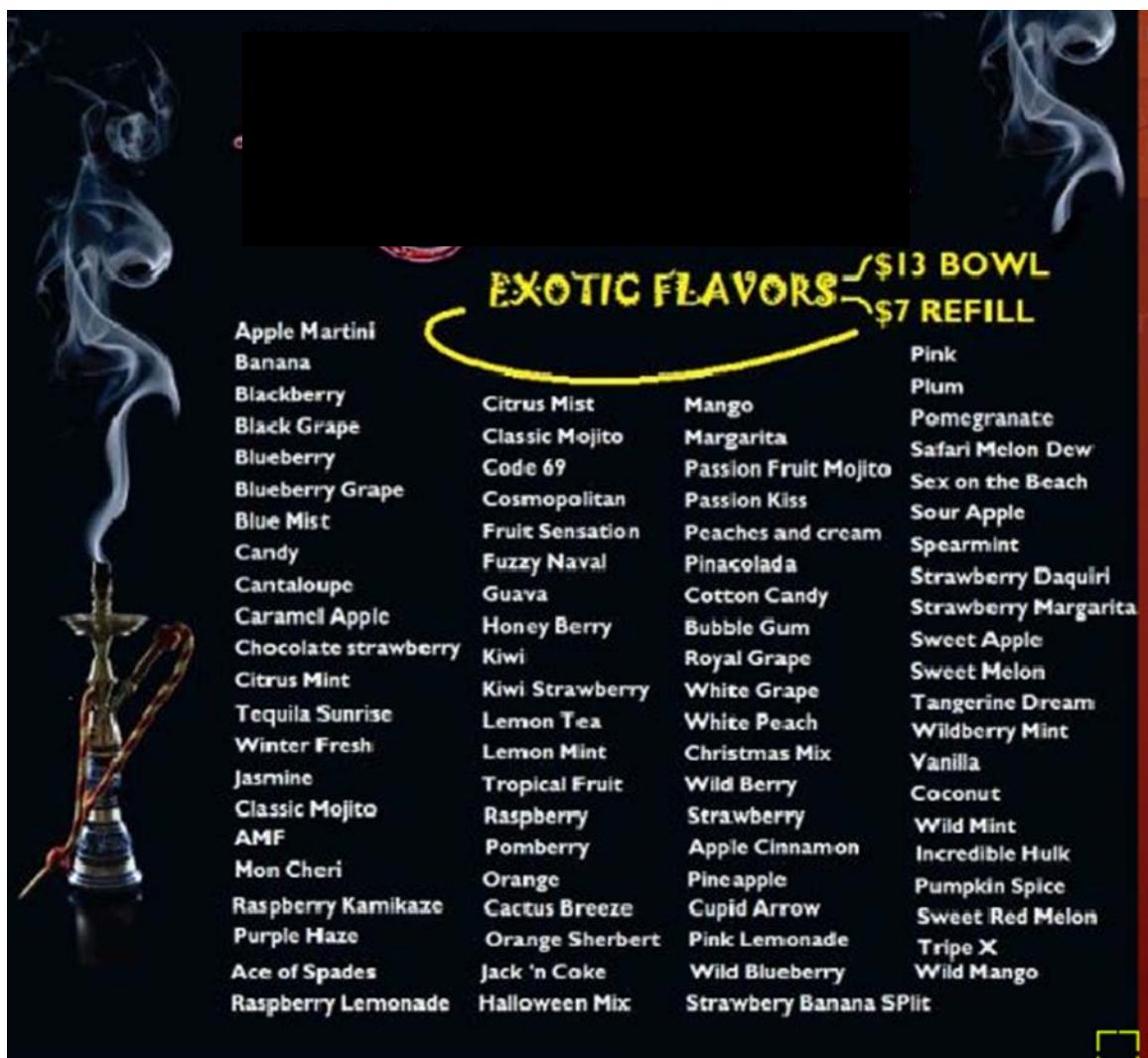
Appendix G. United States Environmental Protection Agency Air Quality Index

US EPA Air Quality Index

Air Quality	PM _{2.5} ($\mu\text{g}/\text{m}^3$)	Health Advisory
Hazardous	≥ 251	Health warnings of emergency conditions. The entire population is more likely to be affected.
Very Unhealthy	151-250	Health alert: everyone may experience more serious health effects.
Unhealthy	66-150	Everyone may begin to experience health effects; members of sensitive groups may experience more serious health effects.
Unhealthy for Sensitive Groups	41-65	Members of sensitive groups may experience health effects. The general public is not likely to be affected.
Moderate	16-40	Air quality is acceptable; however, for some pollutants there may be a moderate health concern for a very small number of people who are unusually sensitive to air pollution.
Good	≤ 15	Air quality is considered satisfactory, and air pollution poses little or no risk.

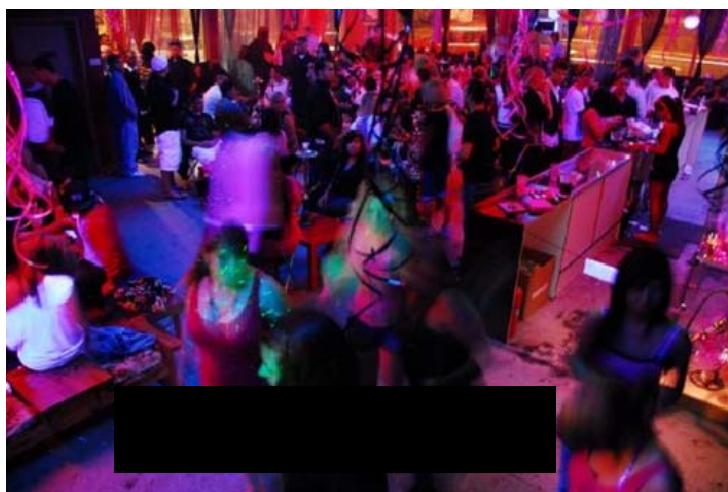
Appendix H. Shisha tobacco flavors





Appendix I. Types of hookah lounges

Category 1: Bar/Club



Category 2: House party



Category 3: Intimate



Appendix J. Hookah lounge marketing of events



Ladies wear your naughtiest outfit & gentlemen wear your dorkiest outfit !!



Search

Stop Light Party

Share • Public Event

Time September 18 at 8:00pm - September 19 at 4:00am

Location [REDACTED]

Created By [REDACTED]

More Info

This is a KINKY stop light party people!!!! Wear green if you're single, wear yellow if maybe so maybe not, and wear red if you're taken but wanna be shakin'!

Dance floor, DJ Sirus, Exotic Hookah & Shisha, Sexy staff, get creative and come on in! Arrive early to assure your seating!

Text [\\$ for info](#)
Text [for more info](#)

[REDACTED] Come on out and dress up for halloween and party it up!!!!

 **Halloween Party**

Sunday, October 31, 2010 at 5:00pm

[REDACTED]

[REDACTED] Oct. 8th we are having our first theme night. We are going to be doing Lingerie Night on our friday ladies night!!!! Mark it on your calender!!! Guys pay a \$4 cover and ladies get in free.

September 25 at 1:47am

 3 people like this.

 Come on out to ladies night tonight people!!!! We need to get more people here!!!! Come out and support your local Hookah Lounge/18+ dance club

September 24 at 9:46pm

[REDACTED]

Come out for College Night tonight and get \$2 off your

bowl with a college ID

September 23 at 6:28pm

 3 people like this.

 \$13 for Regular Flavors, \$15 for the exotic Flavors, and \$16 for the Tea Shisha. \$5 for each person added after the initial 2 people. (that is only a 1 time charge not applied to refills)

September 21 at 6:26pm



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