

Section 301 Investigation: China's Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation - Form to Request Exclusion of Product

When submitting a product exclusion request using this form, enter the specified information in the following fields and explain the basis and rationale for your statements. **By completing this form, you certify that the information provided is complete and correct to the best of your knowledge.**

1. **Indicate whether the comment contains business confidential information (BCI), is a public document, or is a public version of a BCI document.**

Public Version of BCI

2. **Please provide a complete and detailed description of the particular product of concern:**

Personal electronic vaporizing devices, commonly known as e-cigarettes, are essentially battery powered personal vaporizers that simulate the traditional method of smoking tobacco cigarettes, but without the deleterious effects of inhaling the many harmful byproducts generated by the combustion process. The devices come in many variations, and may be disposable or reusable in nature and reusable devices may be “closed” or “open” systems. They are sold as final products. No products other than complete electronic vapor devices are covered under this HTS subheading.

See attached supporting letter for further details on this product.

3. **10-digit HTSUS item number* for product you wish to address in this product exclusion request:**

*Use numerical characters only with no special characters (example: 1023456789). For help in finding the HTSUS item number associated with your product, see <https://hts.usitc.gov/>

8543709940

4. **Requestor Information**

Requestor Name (Last, First):

Organization Name:

Note: Representatives submitting on behalf of an organization must enter information below.

Requestor Representative:

5. **Requestor's relationship to the product:**

6. **Does this submission in regulations.gov include additional attachments?**

7. **Please indicate whether any additional attachment contains business confidential information (BCI), is a public document, or is a public version of a BCI document.**

Public Version of BCI

8. Is this product, or a comparable product, available from sources in the United States? (If you indicate "NO", you must provide support for your assertion in Box 12).

NO

9. Is this product, or a comparable product, available from sources in third countries? (If you indicate "NO", you must provide support for your assertion in Box 12).

NO

10. Please provide the value and quantity (with units) of the Chinese-origin product of concern that you purchased for each calendar year specified. Limit this figure to the products purchased by your firm (or by members of your trade association) alone. Please provide estimates if precise figures are unavailable.

2017 Value:	[]	2017 Quantity:	[]
2016 Value:	[]	2016 Quantity:	[]
2015 Value:	[]	2015 Quantity:	[]

11. Is the Chinese-origin product of concern sold as a final product or an input used in the production of a final product or products?

FINAL PRODUCT

a) For imports sold as final products, please provide:

100 % of your total gross sales in 2017 that the Chinese-origin product accounted for.

b) For imports of inputs used in the production of final products, please provide:

 % of the total cost of producing the final product(s) the Chinese-origin input accounts for.

 % of your total gross sales in 2017 that sales of the final product(s) incorporating the input accounted for.

12. Please provide information in support your request, taking account of the instructions provided in Section B of the Federal Register notice. If you responded "NO" to Questions 8 or 9, you must provide support for your assertion in the box below. (Note: text entered below can extend beyond the apparent size of this box).

Vapor and e-cigarette technology emerged from China and Chinese manufacturers lead worldwide production by an overwhelming margin. A GAO report notes that while e-cigarettes, parts, and e-liquids were imported from some 41 countries in 2016, “{i}mports from China also accounted for at least 98 percent of customs value for devices with nicotine and parts with and without nicotine.” (see Electronic Cigarettes: U.S. Imports in 2016 (GAO-17-515R; April 24, 2017)). Import data for this HTS subheading in the U.S. International Trade (ITC) Dataweb database indicate an even further increase in the percentage of imports from China since 2016.

Since China is the world’s sole significant manufacturer of personal vapor devices, there are no other viable alternatives upon which U.S. companies can rely to continue to operate their businesses. No domestic U.S. manufacturers exist that could provide a fallback source of the various vapor devices available on the consumer market. As for securing a viable manufacturing source from a third country other than China and the United States, the ITC import data make clear that, even when combined, any production capacity in all other countries is negligible and thus vastly insufficient to meet current U.S. demand for vapor products.

See attached supporting letter for further data and details supporting the above assertions.



December 18, 2018

Public Version

By Electronic Filing via www.regulations.gov

The Honorable Robert E. Lighthizer
United States Trade Representative
Office of the U.S. Trade Representative
600 17th Street, N.W.
Washington, DC 20508

Attn: Mr. Arthur Tsao
Assistant General Counsel, U.S. Trade Representative

Re: Docket No. USTR-2018-0032 -- Request for Exclusion from Tariffs for Imports from China of E-Cigarette and Electronic Nicotine Delivery System Kits under HTS Subheadings 8543.70.9930 and 8543.70.9940

Section 301: China's Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation

Dear Ambassador Lighthizer:

The Vapor Technology Association (“VTA” or the “Association”) respectfully requests an exclusion from the Section 301 China tariffs for imports of personal vapor device finished kits—also referred to as “e-cigarettes” or “electronic nicotine delivery systems”—classified under Harmonized Tariff System (“HTS”) subheadings 8543.70.9930 and 8543.70.9940. As this letter details, the tariff implemented by the U.S. Trade Representative on the vapor products captured under these HTS subheadings is creating and will continue to have a profoundly negative impact on the operations and business plans of VTA’s member companies across the United States with no offsetting benefits for any U.S. manufacturers. Because the VTA’s members simply have no alternative other than to continue to import the vapor products at issue from China—the first and only source worldwide for such products—the tariff will cause only economic harm to U.S. stakeholders while providing no economic benefit. These U.S. companies need relief, and the VTA believes that approving this exclusion request will not impede the U.S. government’s overall efforts to address China’s unfair trade practices.

This exclusion request and supporting information are timely filed and provided in accordance with the requirements set forth in the September 18, 2018 Notice of the United States

Trade Representative (“USTR”).¹ The VTA certifies that the information contained within brackets (“[___]”) in this exclusion request contains business confidential information, that disclosure of this information would endanger company trade secrets or profitability, and that this information would not customarily be released by the Association to the public. Such information is exempt from disclosure under the Freedom of Information Act, 5 U.S.C. § 552. A public version of this submission with redactions has been prepared and submitted to the docket in this matter for public review.

I. Executive Summary

The VTA seeks an exclusion from the Section 301 China tariffs because of the unique nature of the vapor industry and its near total reliance on the importation of personal vaporizing devices from China. In this instance, the USTR is faced with an industry in which there has been no historic forced technology transfer, no substantial infringement (or attempt thereof) of U.S. intellectual property rights, and no undermining of manufacturing and services in the United States.

The technology and patents covering personal vaporizing devices originated in China and the U.S. government’s own data confirm that China is the only significant manufacturer of these devices, leaving no other viable supply sources for the U.S. distributors and retailers of vapor products that comprise the VTA’s membership. Not a single U.S. manufacturer will benefit from the imposition of the tariffs because, very simply, no U.S. vapor device manufacturers exist.

To the contrary, the tariffs are substantially detrimental to the economic health of the many U.S. manufacturers of complimentary e-liquid products. An independent economic analysis (submitted herewith as Appendix 1) indicates that every dollar raised from the additional tariff will cost the American economy at least \$2.60; when scaled, the net effect is a **reduction in U.S. economic activity of \$238.5 million and lost wage income to U.S. workers of more than \$74.6 million.**² In addition to this highly focused economic harm, the tariff also substantially undermines the public health goals of reducing tobacco dependence by increasing the cost to consumers of the very vapor products that have been embraced by the Food and Drug Administration as critical to encouraging smokers to end their dependence on harmful combustible cigarettes. The VTA respectfully submits that the below facts and analysis fully support the granting of an exclusion of these products from the Determination of Additional Action Pursuant to Section 301: China’s Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation.

¹ *Procedures To Consider Requests for Exclusion of Particular Products From the Additional Action Pursuant to Section 301: China’s Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation*, 83 Fed. Reg. 47,236 (Sept. 18, 2018).

² See Economic Analysis by John Dunham & Associates (Appendix 1).

II. Background and Product Information

A. The VTA and Its Members

The VTA is the national non-profit trade association for the vaping industry. The VTA's 600-plus members are dedicated to developing and selling high quality vapor products that provide adult consumers with a safer alternative to traditional combustible cigarettes. The Association represents leading U.S. wholesalers, distributors, and retailers of the personal vapor devices and electronic nicotine delivery systems ("ENDS") subject to the tariff, as well as U.S. manufacturers of e-liquids—the nicotine-containing liquids used in personal vapor devices. Our membership includes some of the largest importers and wholesalers of vapor device products, as well as e-commerce retailers and hundreds of small brick-and-mortar retail store owners throughout the United States. The VTA's members also include 27 independent state vapor associations representing 32 states and their member companies, the overwhelming majority of which are small businesses and retailers who have implemented strict standards to prevent youth access to vapor products. *See* Appendix 2 for a list of the 27 state vapor associations. The state vapor associations are working directly with VTA on developing sound policy, implementing universal and comprehensive marketing standards, and preventing youth access to vapor products.

As noted in our prior submissions to the Section 301 Committee, many of the VTA's members are small businesses started by local entrepreneurs who have invested in their communities, built businesses, and created significant employment opportunities that have substantially contributed to local and state economies. The VTA's membership consists of leaders in the vapor community who promote small businesses and job growth, responsible public policies and regulations, and a high standard of safety within the vapor industry.

For most of our members, being small businesses means that they operate with very thin margins between making a profit and taking a loss. With Section 301 tariffs now in place on these vapor products, our members are struggling. Many of them have been toiling under the uncertainty of the FDA's uncertain regulatory framework and the tariffs now present a direct adverse economic impact such that, in the very near future, many of our members may be forced to curtail certain areas of operation or divert money to other lines of business. Further, in this environment, long term growth plans for the Association's members are negatively impacted by the tariff, as are current and future employment opportunities.

The Section 301 tariff is negatively impacting our members' business operations and they cannot continue to survive with the increased cost of a 25% duty rate on imports in addition to the normal duty rate of 2.6% for these HTS subheadings. With a nearly 28% tariff rate, our members will be forced to absorb some of this financial impact, but will also have to pass along these added expenses directly to consumers. Industry-wide, the direct and consequential impacts to over 14,000 U.S. businesses and over 10 million U.S. consumers will be harsh.³

³ *See* Economic Analysis by John Dunham & Associates (Appendix 1); *see also* Vapor Technology Association comments to the Food and Drug Administration dated July 19, 2018 on Docket No. FDA-2017-N-65656: Regulation of Flavors in Tobacco Products, at 13, available at <http://vaportechnology.org/wp-content/uploads/2018/07/VTA-FINAL-FLAVORS-ANPRM-COMMENTS.pdf>.

B. Product Identification

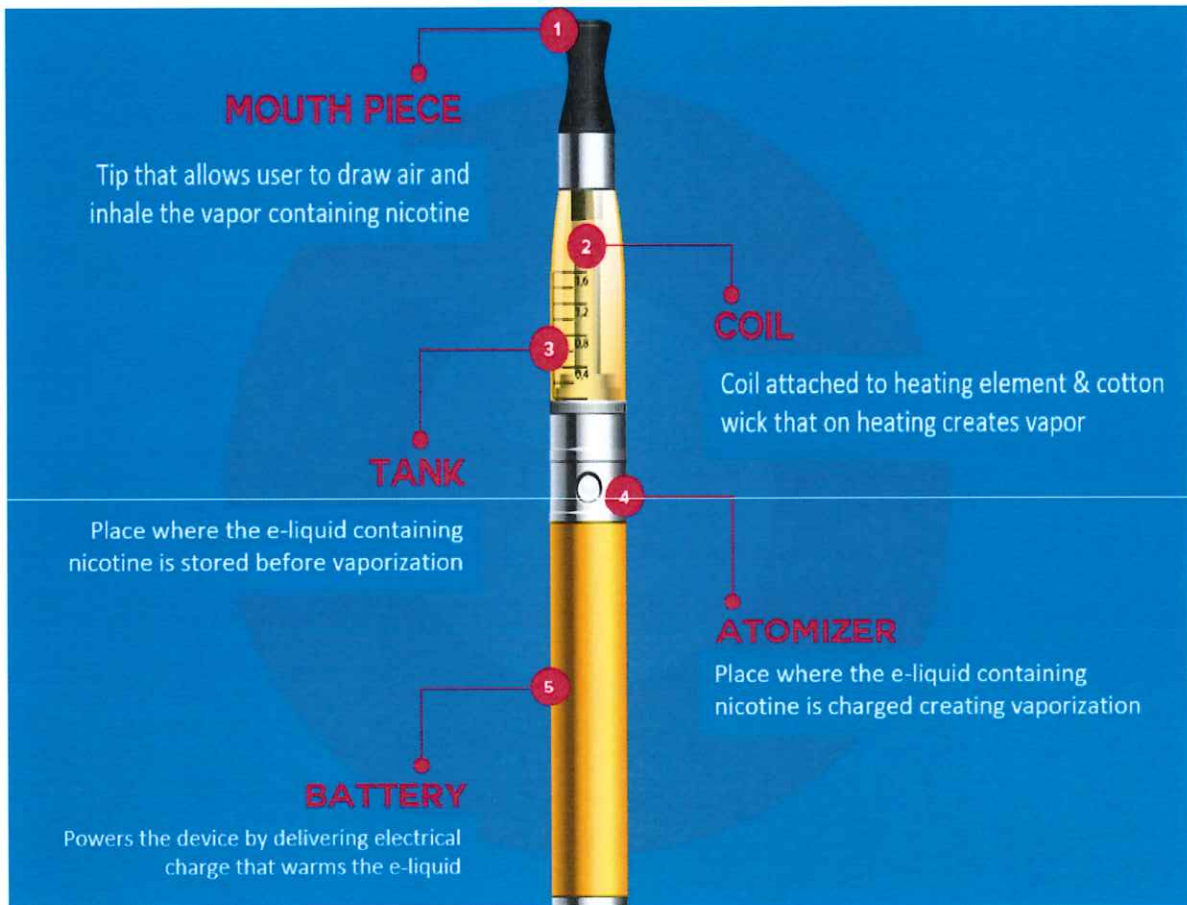
Enforcing VTA's requested exclusion should be easy, as U.S. Customs and Border Protection (CBP) should have no difficulty in identifying vapor products to administer any exclusion. Mainly, CBP may rely upon the HTS subheadings themselves. Presidential Proclamation 9466, which took effect on July 1, 2016, resulted in the renumbering of HTS statistical categories 8543.70.9630 and 8543.70.9640 to 8543.70.9930 and 8543.70.9940.⁴ This renumbering greatly narrowed each affected category. HTS subheading 8543.70.9930, which replaced 8543.70.9630, covers e-cigarette devices imported with cartridges filled with liquid containing nicotine. HTS subheading 8543.70.9940, which replaced 8543.70.9640, covers e-cigarette devices imported with cartridges filled with nicotine-free liquid. These are not broad "catch all" subheadings. No products other than complete electronic vapor devices are covered under these HTS subheadings. As such, CBP can rely entirely on these two HTS subheadings in order to effectively administer any exclusion without any undue administrative burden.

Personal electronic vaporizing devices, commonly known as e-cigarettes, are essentially battery powered personal vaporizers that simulate the traditional method of smoking tobacco cigarettes, but without the deleterious effects of inhaling the many harmful byproducts generated by the combustion process. The user activates his or her vapor device by either inhaling or pressing a button on the device itself. The device's atomizer, or heating element, is then activated to a high temperature by an electrical charge and aerosolizes a nicotine-containing e-liquid, generating an aerosol, or "vapor," that is delivered to the user's lungs. The use of a personal vaporizing device is often referred to as "vaping."

As shown below, the devices come in many variations. Vapor devices may be disposable or reusable in nature and reusable devices may be "closed" or "open" systems. Devices that are "closed" come pre-filled with e-liquid or use only cartridges or pods that are pre-filled with e-liquid; they do not allow the consumer the option of using a different e-liquid of his or her choice. "Open" systems, in contrast, allow the consumer to separately purchase an e-liquid of his or her choice and refill the device as the e-liquid is consumed. The vapor devices most commonly found in convenience stores and mass market channels are disposable and reusable closed systems, while refillable open systems are more commonly found in specialty vape and tobacco shops. Both types of devices are also sold through online retailers.

A vapor device is comprised of five principal components: (1) a mouthpiece, which is where the user places their mouth to inhale the aerosolized nicotine; (2) a heating element or atomizer, which aerosolizes the e-liquid—typically through contact with a metal coil or ceramic plate; (3) a microprocessor, (4) a tank—a clear cylinder or other compartment that is capable of storing the e-liquid; and (5) a "mod," or power source, which typically includes a battery and regulates power. Virtually all vapor devices include these principal components, some of which, such as tanks, mods, and atomizers, are often imported and sold separately to consumers. The graphic below depicts these components in one type of vapor device:

⁴ *To Implement the World Trade Organization Declaration on the Expansion of Trade in Information Technology Products and for Other Purposes*, 81 Fed. Reg. 44,129, 44,153-56 (July 6, 2018).



While they come in a variety of configurations, below is a sampling of personal electronic vaporizing devices offered by VTA member companies:





It is these completely finished personal electronic vaporizing devices that are covered under these two HTS subheadings. Individual parts and components of such devices are not covered by these subheadings.

C. The 10-digit Subheading of the HTSUS applicable to the Particular Product Requested for Exclusion

The VTA requests an exclusion from the Section 301 China tariffs for imports of personal vapor device finished kits classified under HTS subheadings 8543.70.9930 and 8543.70.9940.

D. The Annual Quantity and Value of the Chinese-origin Product that the Requestor Purchased in Each of the Last Three Years

The VTA is the largest trade association for the vaping industry, representing more than 600 members. The VTA's members – including some of the largest wholesalers and distributors, as well as e-commerce retailers and hundreds of small brick-and-mortar retail vape shops – purchase or import a significant share of Chinese-origin personal vapor device finished kits, with or without nicotine, classified under HTS subheadings 8543.70.9930 and 8543.70.9940. According to the VTA's internal aggregated data from some of its largest members, they together imported over [] of Chinese-origin personal vapor device finished kits in 2017 based on value.

**BUSINESS PROPRIETARY
INFORMATION DELETED**

In aggregation, [] have imported personal vapor device finished kits in 2015, 2016, and 2017, as follows:⁵

[]	Value (Dollars)	Quantity (Units)
2015	[]	[]
2016	[]	[]
2017	[]	[]

E. For Imports Sold as Final Products, the Percentage of their Total Gross Sales in 2017 For Which Sales of the Chinese-Origin Product of Concern Accounted

By definition, the personal vapor device finished kits classified under HTS subheadings 8543.70.9930 and 8543.70.9940 are sold as final products. Chinese-origin products accounted for 100% of the total gross sales of all imports sold as final products and classified under these two HTS subheadings in 2017.

Given the significant volume of the associated data to be collected from its members, the covered products' percentages of the VTA members' total gross sales are not available at the time of submission. The data report of New York-based Nielsen, a Wells Fargo Securities subsidiary, which tracks the e-cigarette mass channel and convenience-store marketplace for the entire industry, is instructive in demonstrating the sales percentage. According to a January 2018 Nielsen data report, the sales of personal vapor product finished kits accounted for approximately 17% of total retail sales in the vapor market in the 52 weeks between January 2017 and January 2018.⁶

That data, however, is understated, as it does not capture all sales channels, including e-commerce sales and sales by specialty vape and tobacco shops, where Nielsen has limited tracking and a significant portion of total vaping industry consumer sales occur. The distinction is important given that \$1.2 billion of the \$3.8 billion in e-cigarette revenue that Nielsen projected for 2018 in a more recent August 2018 report came from e-commerce and other non-convenience store retail channels.⁷ Nielsen projected \$6.6 billion in overall e-cigarette and e-

⁵ Data collected and aggregated by VTA.

⁶ Wells Fargo Securities, Nielsen: Tobacco 'All Channel' Data 1/27 (Feb. 6, 2018) at 7, available at <https://11bxcx1bcuig1rfxaq3rd6w9-wpengine.netdna-ssl.com/wp-content/uploads/2018/02/Nielsen-Tobacco-All-Channel-Report-Period-Ending-1.27.18.pdf>.

⁷ Wells Fargo Securities, Nielsen: Tobacco 'All Channel' Data 8/11 (Aug. 23, 2018) at 9, available at <https://athra.org.au/wp-content/uploads/2018/09/Wells-Fargo-Nielsen-Tobacco-All-Channel-Report-Period-Ending-8.11.18.pdf>.

liquid sales in 2018, of which \$3.8 billion (or 57% of total sales) were from sales of vapor devices.⁸

The estimated 57% is more representative of the sales percentage for the industry. It [], which ranges from approximately []. The average sales percentage of the personal vapor device finished kits for these members was []% in 2017.

F. For Imports Used in the Production of Final Products, the Percentage of the Total Cost of Producing the Final Products the Chinese-Origin Input Accounted For

Not applicable.

III. Rationale for the Requested Exclusion

For the following reasons, the VTA believes that the USTR should consider and grant this product exclusion request.

A. Suppliers are Unable to Source Production from the United States or Any Third Countries.

As noted above, vapor and e-cigarette technology emerged from China and Chinese manufacturers lead worldwide production by an overwhelming margin. Indeed, a GAO report notes that while e-cigarettes, parts, and e-liquids were imported from some 41 countries in 2016, “{i}mports from China also accounted for at least 98 percent of customs value for devices with nicotine and parts with and without nicotine”:⁹

Table 3: Customs Value of U.S. E-cigarette Imports by Country of Origin and Product in 2016

41 countries, in millions of dollars

Country	Liquid		Devices		Parts		Total by country
	With 5 percent or more of nicotine ^a	With less than 5 percent of nicotine ^b	With nicotine ^c	Without nicotine ^d	With nicotine ^e	Without nicotine ^f	
China	24.671	1.581	53.865	125.987	26.157	80.750	313.010
Canada	0.139	0.084	-	11.214	0.016	0.103	11.556
Mexico	-	-	-	9.403	-	0.032	9.435
Germany	-	0.191	0.017	1.612	0.006	0.174	1.999
United Kingdom	0.744	0.110	0.030	0.605	0.009	0.124	1.621
Israel	0.453	-	-	0.246	-	0.158	0.856
France	0.153	0.241	0.003	0.176	0.008	0.073	0.654
Austria	0.100	0.115	0.055	0.136	0.025	0.191	0.620
Japan	0.197	0.112	0.005	0.148	-	0.025	0.487
Switzerland	-	0.104	-	0.104	0.003	0.183	0.393
Other (31 countries)	0.161	0.353	0.057	0.710	0.077	0.268	1.627
Total by product	26.618	2.889	54.032	150.339	26.302	82.078	342.257

⁸ *Id.*

⁹ *Electronic Cigarettes: U.S. Imports in 2016* (GAO-17-515R; April 24, 2017) at 3, available at <https://www.gao.gov/products/GAO-17-515R>.

Import data for these HTS subheadings in the U.S. International Trade (ITC) Dataweb database indicate an even further increase in the percentage of imports from China since 2016. In 2017, the customs value for Chinese imports of devices with nicotine and parts with and without nicotine remained steady at 97.3 percent.¹⁰ During the interim period of year-to-date 2018, this percentage has further increased to 99.3 percent (up from 96.8 percent during the corresponding interim period in 2017).¹¹ Even these data may be understated, as imports of the Chinese-origin product of concern shipped through a third country such as Canada and Mexico into the United States have not been captured. Essentially, China is the only source of imports for personal vapor product devices and components.

Since China is the world's sole significant manufacturer of personal vapor devices, there are no other viable alternatives upon which U.S. companies can rely to continue to operate their businesses.¹² No domestic U.S. manufacturers currently exist that could provide a fallback source of the various vapor devices available on the consumer market.¹³ Further, in August 2016, the U.S. Food and Drug Administration (FDA) implemented strict regulations that have essentially frozen the U.S. marketplace and prevented any new vapor products from being developed in the United States and entering the consumer market.

On May 10, 2016, the FDA published a final rule that "deemed" vapor products to meet the statutory definition of a "tobacco product," thus subjecting products such as e-cigarettes and other vapor devices to the Federal Food, Drug and Cosmetic Act, as amended by the Family Smoking Prevention and Tobacco Control Act of 2009. This final rule took effect on August 8, 2016.¹⁴ While FDA noted that "there are distinctions in the health risks presented by various nicotine-delivering products" and that there are many types of ENDS (including e-cigarettes, e-cigars, e-hookah, vape pens, personal vaporizers, and electronic pipes), all such products are now subject to the relevant FDA authorities. Under the current FDA regulatory regime, no new vapor devices can be sold or offered to be sold in the U.S. market absent an FDA marketing order issued following the submission of a premarket tobacco application,¹⁵ which requires the expenditure of millions of dollars and takes no less than two years to complete. This regulatory scheme has effectively banned the manufacture and sale of any new or modified vapor devices,

¹⁰ See data sourced from ITC Dataweb (Appendix 3) (including imports from Macau or Hong Kong to the United States).

¹¹ See *id.*

¹² See Eric A. Feldman, et al., "E-Cigarette Regulation in China: The Road Ahead", Penn Law: Legal Scholarship Repository (2016) ("A Chinese chemist in 2003 developed the first e-cigarette, and China quickly emerged as the world's largest manufacturer of e-cigarettes, currently responsible for over 90% of global e-cigarette production.") (citations omitted).

¹³ According to the most recent survey conducted by John Dunham & Associates, which did comprehensive research on over 28,000 U.S. companies, there are no e-cigarette finished vapor device manufacturers in the United States. See Economic Analysis by John Dunham & Associates (Appendix 1).

¹⁴ See *Deeming Tobacco Products To Be Subject to the Federal Food, Drug, and Cosmetic Act, as Amended by the Family Smoking Prevention and Tobacco Control Act; Restrictions on the Sale and Distribution of Tobacco Products and Required Warning Statements for Tobacco Products*, 81 Fed. Reg. 28,974 (Dep't Health and Human Services May 10, 2016).

¹⁵ *Id.*, 81 Fed. Reg. at 28,977.

components, or parts in the United States. Instead, the only vapor products that can be sold in the United States without a marketing order (for which companies have until August 2022 to apply) are those that already were on the U.S. market as of August 8, 2016.

As for securing a viable manufacturing source from a third country other than China and the United States, the ITC import data make clear that, even when combined, any production capacity in all other countries is negligible and thus vastly insufficient to meet current U.S. demand for vapor products. Moreover, even if there were other viable international supplier options, they could and would not enter the U.S. market since it would be prohibitively expensive and virtually impossible in terms of time and financial resources to do so. As of today, unless their products were on in the U.S. market more than 2 years ago (August 8, 2016), given all of the testing, product design approvals, and other assessments now required by FDA for bringing new products to market, none would make any such attempts. Further, the premarket application process—which is patterned in many respects on the process for medical devices—takes years, not weeks or months, to complete. Only after such extensive review and analysis will the FDA issue an order providing marketing authorization where appropriate for new vapor products. Otherwise, any unauthorized vapor products will be subject to FDA enforcement.

Moreover, even in the absence of the existing onerous regulatory restrictions, it would take years to build a new manufacturing facility in the U.S., as the lead time to procure specialty equipment to manufacture these products takes at least six months, not to mention the time required to allocate financial and human resources and secure the permits for such a facility. Thus, there is no American alternative.

B. Severe Economic Harm Caused by Imposition of the Tariffs

The vapor industry is the first fully vertical industry – including importers, wholesalers, e-liquid manufacturers, suppliers, and retail brick-and-mortar stores – that has ever challenged the traditional tobacco industry, employing between 60,000 and 90,000 U.S. workers. As discussed in Section III.A., *supra*, no U.S. manufacturers produce vapor devices or provide a financially valid alternative for the production of replacement products. Instead, the entire domestic vapor industry relies entirely on imports from China and each sector is directly or indirectly affected by the imposition of a 25 percent tariff. A conservative economic impact analysis (attached hereto as Appendix 1) prepared by John Dunham & Associates, an economic research firm based in New York, demonstrates that every dollar raised from the additional tariff will cost the American economy at least \$2.60, generating a net loss of \$1.60. Specifically, the imposition of the additional 25% tariff, which would raise about \$91.8 million for the Federal government, is estimated to result in lost wage income to U.S. workers of at least \$74.6 million and a reduction in overall domestic economic activity of about \$238.5 million.¹⁶

¹⁶ Economic Analysis by John Dunham & Associates (Appendix 1).

Table 1
Estimated Economic Impact of 25 Percent Tariff
on Vape Devices and Components Imported from China

	Jobs	Wages	Output
Direct	(395)	\$ (23,983,342)	\$ (76,440,304)
Production	(242)	\$ (19,822,802)	\$ (65,678,722)
Wholesale	(34)	\$ (3,073,765)	\$ (8,572,300)
Retail	(119)	\$ (1,086,775)	\$ (2,189,282)
Supplier	(395)	\$ (23,983,342)	\$ (76,440,304)
Induced	(515)	\$ (26,716,715)	\$ (85,641,522)
Total	(1,305)	\$ (74,683,399)	\$ (238,522,130)

The additional 25% tariff will be devastating to the entire industry. Absent any alternative, retailers have to absorb the additional 25% tariff as an add-on to their inventory cost, which will directly lead to price increases for consumers. Vape shop owners like Bryan Robbins, a 52-year-old supporter of the President’s efforts to crack down on China’s trade practices, have already been left with no choice but to raise prices.¹⁷ Robbins, whose e-cigarette devices sell for \$25 to \$130, indicates that the higher prices caused by the tariffs will depress sales – hampering the growth of a nascent market.¹⁸ “It might be good for the trade deficit in the long run, but how many stores is it going to put out of business in the short term?” questioned Robbins.

Sales of vapor products are very responsive to price increases as less healthy substitutes – such as traditional combustible cigarettes – are readily available. According to a recent study, every 10 percent increase in e-cigarette prices is associated with a drop in e-cigarettes sales of appropriately 8.2%, and, based on dynamic models, the drop can be 11.5% in the long run.¹⁹ According to another recent study published in the journal *Tobacco Control*, it is predicted that for every 10% price increase in e-cigarettes, sales will fall by a range of 12% to 19%.²⁰ In other words, a 25 percent increase in price will translate into a reduction of demand (*i.e.*, sales) in the range of 20.5 percent to 47.5 percent. The economic analysis by John Dunham & Associates – relying on a cigar demand model that shares similar elasticity – concludes that the domestic industry not only will not benefit from the additional tariff, but will instead suffer a significant economic loss, even if the analysis conservatively assumes that a 10 percent increase in price would only lead to a reduction in demand of about 10.5 percent, and excludes the substitution

¹⁷ Mark Niquette and Matthew Townsend, “Vaping Industry Decries Trump’s Tariffs Targeting E-Cigarettes” (July 20, 2018) available at <https://www.bloomberg.com/news/articles/2018-07-20/vaping-industry-decries-trump-s-tariffs-targeting-e-cigarettes>.

¹⁸ *Id.*

¹⁹ Stoklosa M., *et al.*, *Prices and E-Cigarette Demand: Evidence From the European Union*, *Nicotine & Tobacco Research*, Vol. 18, Issue 10, Oct. 1, 2016 (Published Apr. 16, 2016).

²⁰ See e.g., Jidong Huang, *et al.*, *The impact of price and tobacco control policies on the demand for electronic nicotine delivery systems*, *Tob Control* 2014; 23:iii41-iii47, available at https://tobaccocontrol.bmj.com/content/tobaccocontrol/23/suppl_3/iii41.full.pdf.

effects that would only amplify the economic loss as consumers switch back from vapor products to combustible tobacco products.

As there are no domestic ENDS device manufacturers, higher prices on imported vaping products provide no benefit to domestic manufacturers. Indeed, perversely, the approximately 1,000 U.S. manufacturers of e-liquids, sales of which are complimentary to and dependent upon sales of vaping devices, stand to lose substantial revenues as an indirect consequence of the tariff.

The domestic vaping industry suffered a severe decline in cash flow in 2017. The imposition of the higher tariff rate further increases the VTA members' cost of borrowing and impairs their ability to raise capital, which has a negative impact on their liquidity.

Reduced cash flow for any small business means being forced to choose between workforce or perhaps closing businesses altogether: "‘Margins on products are already low, to maintain margins we’d have two choices, raise prices or cutting employees’ hours,’ said Matthew Milby, who owns two Maryland vape shops under the name Smoke Free Nation. He also predicted that some shops would be put out of business."²¹ Even relying on conservative assumptions on a cigar demand model that fails to capture the job losses in hundreds of thousands of vape shops, the independent economic analysis by John Dunham & Associates estimates at least 1,300 jobs will be lost as a consequence of the 25 percent tariff increase.²²

While there are no device manufacturers in the United States, the vapor industry has until recently maintained necessary investments in plant and equipment for e-liquid production. The severe downturn in financial performance in 2017, however, will dissuade investment in further expansion of e-liquid manufacturing capacity going forward.

C. Continued Tariffs Will Harm the Public Health and Welfare

The VTA indicated in its written comments to the Section 301 Committee (*see* VTA submission dated July 23, 2018 on Docket No. USTR-2018-0018; USTR Document ID USTR-2018-0018-0521) that implementing a 25% tariff on these HTS subheadings has the potential to harm the health of those U.S. persons who are seeking to quit smoking or, at the very least, are seeking alternative methods to traditional tobacco-based cigarette products. No lesser authorities than public health researchers, the National Academies of Sciences, Engineering, and Medicine, Public Health England, and the FDA itself have offered support for this view. Indeed, continued implementation of the tariffs would undermine the Administration's widely praised public health initiative to end death and disease from combustible tobacco products.

In past enforcement actions, the USTR has typically excluded healthcare and/or medical related products from any tariffs or embargoes on exports or imports. According to Section 7202

²¹ Kara Carlson, "Tariffs on Chinese goods could batter the U.S. vaping industry" (Aug. 8, 2018) available at <https://www.reuters.com/article/us-usa-trade-china-vaping/tariffs-on-chinese-goods-could-batter-the-u-s-vaping-industry-idUSKBN1KT2AV?il=0>.

²² *See* Economic Analysis by John Dunham & Associates (Appendix 1).

of the Trade Sanctions Reform and Export Enhancement Act of 2000 (Public Law No. 106-387; October 28, 2000), the President's ability to impose unilateral sanctions – defined as “prohibition, restriction or condition on exports” – against a foreign country is limited when it concerns medical or humanitarian aid. Further, under Section 337 of the Tariff Act of 1930, as amended, in proceedings before the United States International Trade Commission (“ITC”), it has been found that even in instances where a foreign party is found to be in violation of intellectual property rights or other unfair competition, there are exceptions to enforcing any determination when the results would affect the public health and welfare in the United States. For example, after an affirmative finding, the ITC denied relief in *Certain Fluidized Supporting Apparatus*, finding that it was not in the public interest to exclude the importation of specialized hospital beds for burn patients, where the U.S. domestic producer could not supply beds within a commercially reasonable time and where no comparable substitute was available.²³

Applying this reasonable logic to the Section 301 tariffs against China should result in a similar finding for any party seeking an exclusion request on public health grounds. Clearly, if 25% tariffs continue on vapor products, prices will increase as supplies dwindle, with the resulting inevitable outcome of millions of U.S. consumers being denied easy and affordable access to healthier products in their efforts to wean themselves from deadly cigarettes.

Importantly, vapor products offered by the VTA member companies are widely recognized as significantly safer than traditional combustible tobacco products. U.S. researchers recently published a study in *Tobacco Control* concluding that switching from traditional cigarettes to e-cigarettes would prevent annually between 1.6 million and 6.6 million premature deaths in the United States.²⁴ This conclusion has been further supported by the rigorous analysis of the National Academies of Sciences, Engineering, and Medicine (“NASEM”) which, in January 2018, published the following material findings regarding e-cigarettes:

- “There is conclusive evidence that completely substituting e-cigarettes for combustible tobacco cigarettes reduces users’ exposure to numerous toxicants and carcinogens present in combustible tobacco cigarettes.”
- “There is substantial evidence that completely switching from regular use of combustible tobacco cigarettes to e-cigarettes results in reduced short-term adverse health outcomes in several organ systems.”
- “The evidence about harm reduction suggests that across a range of studies and outcomes, e-cigarettes pose less risk to an individual than combustible tobacco cigarettes.”²⁵

²³ See *Certain Fluidized Supporting Apparatus*, Inv. No. 337-TA-182/188, USITC Pub. 1667 at 23-25 (Oct. 1984).

²⁴ See Levy DT, et. al., 2018 Potential deaths averted in USA by replacing cigarettes with e-cigarettes. *Tob. Control* 2018 Jan;27(1):18-25. doi: 10.1136/tobaccocontrol-2017-053759. Epub 2017 Oct 2.

²⁵ See National Academies of Sciences, Engineering, Medicine, Public Health Consequences of E-Cigarettes (Jan. 2018), available at <https://www.nap.edu/resource/24952/012318ecigaretteConclusionsbyEvidence.pdf>, at 604, 617 and 487 respectfully.

As importantly, Public Health England further found that e-cigarettes are at least 95% less harmful than combustible tobacco products.²⁶

In light of the significant risk differences when compared with traditional cigarettes, for more than a year now, the FDA has been implementing a strategic initiative to reduce reliance on combustible tobacco products and “bend the curve” of nicotine consumption by adult smokers toward less harmful ENDS products. As FDA Commissioner Scott Gottlieb, M.D. recently stated:

While it’s the addiction to nicotine that keeps people smoking, it’s primarily the combustion, which releases thousands of harmful constituents into the body at dangerous levels, that kills people.

This fact represents both the biggest challenge to curtailing cigarette addiction – and also holds the seeds of an opportunity that’s a central construct for our actions.

E-cigarettes may present an important opportunity for adult smokers to transition off combustible tobacco products and onto nicotine delivery products that may not have the same level of risks associated with them. So, we set out on a new rulemaking process that seeks to regulate the nicotine levels in combustible cigarettes to render them minimally or non-addictive. That process is well underway.

And at the same time, we’re developing a path to properly regulate non-combustible forms of nicotine delivery, like electronic cigarettes, that may be an alternative for adults who still want to get access to satisfying levels of nicotine, without all the risks associated with lighting tobacco on fire.

We saw an important opportunity. We saw a chance to leverage the potential benefits of new and non-combustible technology to allow more adults to get nicotine from sources that could pose a lot less harm than smoking cigarettes. We continue to believe in this central concept.²⁷

The dramatic health impact recognized by the FDA is due to the fact that e-cigarettes and other vapor products do not produce carbon monoxide and many other carcinogenic and harmful chemicals found in the smoking of traditional combustible tobacco products. Currently, it is estimated that more than 10.2 million adults in the United States use vapor products, with many

²⁶ See Evidence review of e-cigarettes and heated tobacco products - McNeill A, Brose LS, Calder R, Bauld L & Robson D (2018), available at <https://www.gov.uk/government/publications/e-cigarettes-and-heated-tobacco-products-evidence-review>.

²⁷ FDA, Statement from FDA Commissioner Scott Gottlieb, M.D., on new steps to address epidemic of youth e-cigarette use (Sept. 12, 2018), available at <https://www.fda.gov/NewsEvents/Newsroom/PressAnnouncements/ucm620185.htm>.

citing the desire to cease using combustible tobacco products or to assist them in quitting to smoke as a motivating factor.

Given the foregoing, there is no reason for one branch of the Administration—the USTR—to slow or reverse through the tariff the on-going tobacco market transformation that another branch of the Administration—the FDA—sees as a potential public health boon. For this public health reason alone, the USTR and the Section 301 Committee should approve this exclusion request.

D. Vaporizing Devices Are Not of Strategic Importance to the “Made in China 2025” Program

The vaporizing products that are manufactured in China are not strategically important or related to any “Made in China 2025” or other industrial program in China. As such, Chinese vapor product manufacturers do not benefit from the “Made in China 2025” policy. While these consumer products have advanced a healthier alternative to traditional combustible tobacco products and may offer significant advantages for smoking cessation, these products do not involve high or sensitive technology. The “Made in China 2025” roadmap summarized and issued by the U.S.-China Business Council provides a clear view that vapor products do not fit in any of the target sectors or industries under the “Made in China 2025” initiative.²⁸

In fact, and as previously indicated to the Section 301 Committee in the VTA’s written comments earlier in this proceeding, vapor product technology was invented in China in 2003, and not in the United States. A Chinese scientist, Hon Lik, is credited for developing the first commercially successful e-cigarette and bringing it to market via the company he worked for, Golden Dragon Holdings (now known as Ruyan).²⁹ Since introducing this technology, China has remained the largest manufacturer of e-cigarettes and other vapor products in the world. Thus, the relevant Chinese manufacturers already have access to this technology and, in many instances, actually own the patents and other intellectual property rights to advanced vapor technology absent any U.S. input.

The production of vapor products does not advance the intent of the “Made in China 2025” policy to make China dominant globally in high-technology manufacturing and advanced industries. As such, it is not likely that the ongoing imposition of the Section 301 tariff on these consumer products will force China to curb any discriminatory acts or policies. Instead, the principal consequence of the Section 301 tariff on U.S. vapor companies will be to impose a 25 percent additional cost on their U.S. operations that is severely disadvantageous to these small businesses.

²⁸ The US-China Business Council, “Unofficial USCBC Chart of Localization Targets by Sector Set in the MIIT Made in China 2025 Key Technology Roadmap”, available at <https://www.uschina.org/sites/default/files/2-2-16%20Sector%20and%20Localization%20Targets%20for%20Made%20in%20China%202025.pdf>.

²⁹ See Consumer Advocates for Smoke Free Alternatives Association (CASAA), “A Historical Timeline of Electronic Cigarettes” (last visited Dec. 7, 2018) available at <http://www.casaa.org/historical-timeline-of-electronic-cigarettes/>.

E. The USTR Should Exclude the Imports of All the Affected E-Cigarette Associated HTS Subheadings from Additional Tariffs

To complicate matters even further, the third tranche of tariffs on the imports of the components and parts for personal vapor products classified under the two other HTS subheadings, 8543.9088.50 and 8543.9088.60,³⁰ further compounds the problem. All replacement parts, such as coils, which consumers use regularly and purchase on a weekly basis, are adversely affected by the third tranche of tariffs. Further, unlike other consumer products, consumers will tend to purchase multiple mods and multiple tanks (in addition to replacing coils weekly). Thus, there is a dramatic multiplier effect on the consumer from the imposition of the third tranche tariff on ENDS components and replacement parts. The imposition of the tariffs on vapor devices and parts together would simply eliminate a growing and job-producing market and dismantle the growing import, distribution, and retail network that has been created in the last few years in the United States and that has generated tens of thousands of jobs and tens of millions of dollars in taxes for the national economy.

IV. Conclusion

Given the above, the VTA respectfully seeks approval of this exclusion request. This tariff will cause severe economic harm and financial hardship on the tens of thousands of U.S. small businesses, importers, distributors, wholesalers and retailers selling vapor device kits. Further, there are no other viable options for production outside of China, and the production of the products under this HTS subheading in China is not related to any high-technology industries and does not advance or benefit the “Made in China 2025” program. Thus, the imposed tariff on these products will not advance the USTR’s goal of seeking a change to China’s unfair trade practices. Instead, the imposition of this tariff on such products is mainly affecting and undermining the VTA’s member companies and their U.S. customers.

Thank you for your consideration. Should your staff have any questions or require any additional information, please contact me directly.

Sincerely,



Tony Abboud
Executive Director
On behalf of the Vapor Technology Association

³⁰ “Parts of other – of personal electric or electronic vaporizing devices: with substances containing nicotine” or without substances containing nicotine.

Appendix 1



JOHNDUNHAM
& ASSOCIATES

**Impact on American Economy
by the Imposition of Additional 25% Tariffs
on the Imports of Chinese-Origin
Personal Vapor Devices**

John Dunham & Associates

December 13, 2018

Impact on American Economy by the Imposition of Additional 25% Tariffs on the Imports of Chinese-Origin Personal Vapor Devices

John Dunham & Associates

December 13, 2018

The Administration has imposed new 25 percent duties on a wide range of products imported from the People’s Republic of China. Of the thousands of products tariffed are those falling under sections 8543.70.99.30, and 8543.70.99.40 of the Harmonized Tariff Schedule of the United States, namely **Other machines and apparatus with substances containing nicotine, and Other machines and apparatus - other.**

Based on data from the US Food and Drug Administration, which maintains registration records for all tobacco (and vapor) product manufacturers in the United States,¹ and a thorough analysis of all 3,817 of these records by JDA’s team of researchers, only 81 of these firms were found to produce any hardware used for vaping, including aftermarket replacement parts.² It appears as if none of these US firms produces the finished devices that are classified under the two HTS codes.

Table 1
Estimated Economic Impact of 25 Percent Tariff on Vapor Devices
Imported from China

	Jobs		Wages		Output
Direct	(395)	\$	(23,983,342)	\$	(76,440,304)
Production	(242)	\$	(19,822,802)	\$	(65,678,722)
Wholesale	(34)	\$	(3,073,765)	\$	(8,572,300)
Retail	(119)	\$	(1,086,775)	\$	(2,189,282)
Supplier	(395)	\$	(23,983,342)	\$	(76,440,304)
Induced	(515)	\$	(26,716,715)	\$	(85,641,522)
Total	(1,305)	\$	(74,683,399)	\$	(238,522,130)

There will be a negative effect on American businesses if these tariffs remain in place. Higher prices for vaping devices adversely impact American retailers, distributors and manufacturers of

¹ *Establishment Registration & Tobacco Product Listing*, United States Food and Drug Administration. Available at <https://ctpocerl.fda.gov/rlapp/home.html;jsessionid=reupPW3iZ0aPJiZyferXN3LKOarzecrAII2WCFXT3dJbeCBgccBI!1320654007>. Data accessed 10/05/18.

² JDA reviewed all of the records in the FDA list and identified specific firms that were still in operation, and then further determined the product or products that they manufactured based on matches with data from Infogroup, individual company websites, Yelp reviews of the company, or direct examination of company locations using Google Earth.

e-liquid, and other vaping technologies. Based on the model described below, the additional 25 percent tariff imposed on vaping devices (nearly all of which are imported from China), would lead to the loss of approximately 1,300 domestic jobs in manufacturing, retailing and associated industries. As set forth in Table 1, these job reductions would lead to almost \$74.7 million in lost income and a reduction in overall economic activity in the United States of about \$238.5 million.

In effect, a tariff that would raise about \$91.8 million for the federal government would cost the American economy about \$2.60 for each dollar raised – hardly a good investment.

Methodology

This model uses government data, the tariff increase, the estimated e-cigarette economic impact from a model developed by JDA in 2015, and a cigar demand model to determine the economic impact on the domestic vape industry of proposed import tariffs on Chinese products.

Table 2
Impacted Device Imports from China (2017)

HS Code	China	Hong Kong	Macau	Total
8543.70.99.30	\$ 63,238,177	\$ 39,700	\$ -	\$ 63,277,877
8543.70.99.40	\$ 300,261,470	\$ 8,378,896	\$ -	\$ 308,640,366
Total	\$ 363,499,647	\$ 8,418,596	\$ -	\$ 371,918,243

The model applies an additional 25 percent import tariff on vaping devices imported from China.³ Import data are gathered from the US Department of Commerce, USA Trade database for 2017. Data are available by country but in the case of the People’s Republic of China, data for both Macau and Hong Kong are added to the total. (See Table 2 above)

Table 3
Calculated Manufacturers’ Prices and Tariff Amounts

HS Code	Import Value	Manufacturers' Price	Tariff	New Price
8543.70.99.30	\$ 63,277,877	\$ 62,456,086	\$ 15,614,022	\$ 79,097,346
8543.70.99.40	\$ 308,640,366	\$ 304,632,050	\$ 76,158,012	\$ 385,800,458
Total	\$ 371,918,243	\$ 367,088,136	\$ 91,772,034	\$ 464,897,804

All data are in dollars including freight; however, since the tariff is assumed to be applied at the manufacturer level, the transportation margin is backed out of the value. This margin comes

³ HS Codes 8543.70.99.30, 8543.70.99.40

from the US Department of Commerce, Bureau of Economic Analysis.⁴ For exports, the transportation and wholesaling margins are backed out to get to the manufacturers' price.

The 25 percent additional tariff is then applied to the manufacturers' price of the concerned. Since there is not a tariff on shipping, existing tariffs and other restrictions are held constant.

The manufacturer's price times the new tariff rate provides the estimate of the increased tax. This is added back to the manufacturer's price and then the new cost is marked up to the import price using the transportation margin. (See Table 3)

This approach likely under-estimates the total cost of a tariff. Economic theory suggests that when tariffs impose a price floor, that all trading partners price their products at least at that level in the importing country. Since the domestic price of the imported product rises by at least the amount of the tariff, domestic producers as well as additional importers can also raise their prices. Since 99 percent of imports come from China, the effect of other importers would be small.

From that point, since no vapor demand model has been constructed, JDA utilizes a cigar industry demand model developed about 6 years ago as a proxy to determine how the tariff will impact US demand. The percent change in price is calculated by dividing the margined tariff increase by the total market size.⁵ That percent change is applied to the existing modeled price from the old demand model.⁶ The price change is applied equally across all products and states. This is possible because the model is based on weighted average prices (in this case for cigars), and the industry impact is based on the entire e-cigarette industry (including all open and closed vapor systems). So, while a tariff may impact one company more than another, from a modeling standpoint, it is averaged across the entire industry.

An estimate of the change in volume is calculated in each individual state using the elasticities in the cigar demand model and an exponentially downward sloping demand curve. This is a standard demand curve shape, and the calculated elasticity is close to unit elastic.⁷ Generally, all things being equal, a 10 percent increase in price leads to a reduction in demand of about 10.5 percent.

⁴ Markups from: *Margins After Redefinitions: 2007 Detail*, Industry Economic Accounts Directorate, Bureau of Economic Analysis (BEA), U.S. Department of Commerce. The margin used in this analysis is 0.013157895 which is the reported transportation margin for *Other electronic component manufacturing*.

⁵ In this case, the market size is equal to total imports plus estimated US production discussed in note 4 above.

⁶ This is a weighted average cigar price which was \$5.55. Since elasticities are calculated based on a percentage change, the actual base price used should not impact the calculation.

⁷ In this case, the calculated elasticity is -0.933 which is equal to a volume change of -23.19 percent divided by the 24.85 percent price change.

Jobs are directly tied to demand changes from the model. Vapor production jobs (and wages and output) are directly linked to changes in national sales volumes. Retail and wholesale jobs are based on changes in demand at the individual state level. Supplier effects are directly related to changes in direct output, while induced effects are related to changes in direct plus supplier wages. Each change is calculated at the individual state level and then aggregated into a final number.

An analysis currently being conducted by JDA for the Vapor Technology Association suggests that there are more than 14,000 businesses in the United States that either manufacture or sell products related to the finished kits being impacted by these tariffs.⁸ This includes businesses that manufacture e-liquids, firms that manufacture replacement parts and accessories for vaping devices, and the thousands of local businesses that distribute and retail vape products. Job losses will be spread throughout these firms as workers see their hours reduced, full-time employees are shifted to part-time positions, and more marginal businesses potentially close.

The assumptions used in the model help to ensure that the effects calculated are modest relative to other ways of calculating the effects of tariffs on both price and sales. At present no substitution effects are calculated. Products that are close substitutes to each other display what economists call *cross-elasticities*, whereby a change in the price of one product impacts demand for other substitutes. In this case, higher costs for vaping devices could lead to a shift in demand for cigarettes, moist snuff, cigars, or other nicotine containing products. The relatively high initial elasticities calculated from the demand model are based on a market (like that for tobacco and vape products) where substitutes are readily available. If consumers substitute other nicotine products for vape, the impacts could be even larger.

Again, the model cannot calculate how an individual firm might be impacted by a particular tariff, but it does measure the overall industry impact of specific tariffs.

⁸ The economic impact analysis of the vaping industry is due to be completed at the end of 2018.

Appendix 2

VTA State Association Member List

Arizona Smoke Free Business Alliance
Arkansas Vape Advocacy Alliance
Breathe Easier Alliance of Alabama
California Smoke Free Organization
Florida Smoke Free Association
Georgia Smoke Free Association
Indiana Smoke Free Alliance
Iowans For Alternatives to Smoking Tobacco
Kentucky Smoke Free Association
Louisiana Vaping Association
Maryland Vapor Alliance
Montana Smoke Free Association
Nevada Vaping Association
Ohio Vapor Trade Association
Oregon Vapor Trade Association
Pink Lung Brigade (WA)
Pennsylvania Smoke Free Association
Smoke Free Alternatives Coalition of Illinois
Dakota Vaping Association (SD)
Tennessee Smoke Free Association
Texas Vapor Coalition
Utah Smoke Free Association
Virginia Smoke Free Association
North Carolina Vaping Council
New Jersey Vapor Rights Coalition
New England Vapor Technology Association (RI, MA, CT, NH, ME and VT)
Vapors' Association for Rights & Standards (MI)

Appendix 3

Import Data sourced from U.S. International Trade Commission's Dataweb

Table Name	Total	Year 2017	Percentage	Ytd 2017	Percentage	Ytd 2018	Percentage
Customs Value of devices and components from China, Hongkong and Macau	TOTAL	655,712,837	97.3%	501,294,499	96.8%	1,050,871,257	99.3%
Customs Value of devices and components from all countries	TOTAL	674,224,982	100%	517,876,378	100%	1,058,222,032	100%