

January 18, 2024

The Honorable Joseph R. Biden
President of the United States
The White House
1600 Pennsylvania Avenue, N.W.
Washington, DC 20500

Dear President Biden:

On behalf of the Association of State and Territorial Health Officials (ASTHO), I am asking for your administration's support in adopting and implementing a federal rule to prohibit the sale of menthol flavored combustible cigarettes as soon as possible. Because menthol cigarettes are more appealing to underage consumers, easier to inhale, more difficult to quit, and more deliberately marketed to underserved communities, federal action to remove them from the market is a long overdue public health and health equity priority. Implementing this rule would both save lives by closing racial and ethnic disparities in tobacco use and protect a new generation from the dangers of combustible tobacco products.

ASTHO is a 501(c)(3) nonprofit membership association serving the chiefs of state, territorial, and freely associated states health agencies and the more than 100,000 staff who work to improve the public's health every day. Our mission, from which our organizational strategy flows, is to support, equip, and advocate for state and island health officials as they advance the public's health and well-being. ASTHO tracks, evaluates, and advises members on the impact and formation of policy—public or private—pertaining to health that may affect state and/or island health agencies' administration and provides guidance and technical assistance to its members on improving the nation's health. ASTHO's membership-approved tobacco position statement calls for policies to limit the use of menthol flavored products, while allowing FDA to fully exercise its authority to regulate the sale of tobacco products in the United States.¹

Menthol products present a distinct and urgent threat to public health and racial disparities stemming from tobacco use. Menthol cigarettes are more harmful because the smoke is less irritating to inhale deeply and more addictive by changing how nicotine impacts the brain.² Eliminating menthol cigarettes would reduce tobacco use and break the cycle of life-long tobacco addiction among African Americans, youth, young adults, the LGBTQ community, and other underserved populations that the tobacco industry has directly targeted for decades.³

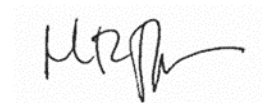
Menthol cigarettes are also more popular among middle school students, high school students, and young adults aged 18-25 than in the general population, indicating that menthol in cigarettes encourages nicotine addiction in America's young people.^{4,5,6} More than 80% of African American and 36% of LGBTQ smokers use menthol-flavored cigarettes.^{7,8}

The tobacco industry has argued baselessly that, if implemented, this rule would negatively impact African Americans by increasing the potential for criminal charges and creating an underground market for illegal menthol cigarette sales. FDA has made it known that it has no authority to criminally charge consumers and there is no evidence to support claims of increased underground markets.⁹ However, there is ample evidence to support that removing menthol cigarettes from the market would increase successful cessation efforts and decrease youth initiation rates, which is the overall intention of this proposed rule and has the potential to save thousands of American lives each year.^{10,11}

In 2023, the White House reignited the Cancer Moonshot with a set of ambitious goals to reduce cancer death rates by 50% over the next 25 years. Tobacco use is the leading cause of preventable cancer cases and death in the United States, with smoking causing 40% of all cancer diagnoses and 30% of all cancer deaths.¹² The most impactful ways to reduce cancer deaths are to prevent tobacco product initiation and promote quitting. By implementing the FDA rule, the White House can make considerable progress in achieving the Cancer Moonshot goals.

To save more lives and reduce the burden menthol-flavored cigarettes have placed on millions of Americans, particularly those groups facing greater health disparities, ASTHO encourages your administration to implement this final rule. We look forward to working with you to address this important public health and health equity priority. Please contact Jeffrey Ekoma, ASTHO's senior director of government affairs, at jekoma@astho.org for additional information.

Sincerely,



Michael Fraser, PhD, MS, CAE, FCPP
Chief Executive Officer
Association of State and Territorial Health Officials

CC:

Shalanda Young, Director, Office of Management and Budget
Stephen Benjamin, Senior Advisor & Director, Office of Public Engagement
Richard Revesz, Administrator, Office of Information and Regulatory Affairs
Edgar Melgar, Office of Management and Budget
Carmine Leggett, Office of Management and Budget
Adrian Mixon, Food and Drug Administration
Beth Buckler, Food and Drug Administration
Scott Chesmore, Food and Drug Administration
Jane Wargo, Department of Health and Human Services

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- ¹ Association of State and Territorial Health Officials. "Tobacco Use Prevention and Control Position Statement." 2017. Available at : <https://www.astho.org/advocacy/policy-statements/tobacco-use-prevention-and-control/>. Accessed: 1-16-2024.
- ² Ton HT, Smart AE, Aguilar BL, *et al.* "Menthol Enhances the Desensitization of Human $\alpha 3\beta 4$ Nicotinic Acetylcholine Receptors." *Molecular Pharmacology*. 2015. Aug;88(2):256-64. Available at: <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4518085/>. Accessed: 1-16-2024.
- ³ Lee JGL, Henriksen L, Rose SW, *et al.* "A Systematic Review of Neighborhood Disparities in Point-of-Sale Tobacco Marketing." *Am J Public Health*. 2015. Available at: <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4529779/#>. Accessed 1-16-2024.
- ⁴ Villanti AC, Mowery PD, Delnevo CD, *et al.* "Changes in the prevalence and correlates of menthol cigarette use in the USA, 2004–2014." *Tobacco Control*. 2016. Available at: <https://pubmed.ncbi.nlm.nih.gov/27729565/>. Accessed: 1-16-2024.
- ⁵ Gentzke AS, Wang TW, Cornelius M, *et al.* Tobacco Product Use and Associated Factors Among Middle and High School Students — National Youth Tobacco Survey, United States, 2021. *MMWR Surveill Summ*. 2022. 71(No. SS-5):1–29. Available at: https://www.cdc.gov/mmwr/volumes/71/ss/ss7105a1.htm?s_cid=ss7105a1_w. Accessed: 1-16-2024.
- ⁶ Substance Abuse and Mental Health Services Administration. "Key substance use and mental health indicators in the United States: Results from the 2019 national survey on drug use and health (HHS Publication No. PEP20-07-01-001, NSDUH Series H-55)." Rockville, MD: Center for Behavioral Health Statistics and Quality, Substance Abuse and Mental Health Services Administration. 2020. Available at <https://www.samhsa.gov/data/>. Accessed: 1-16-2024.
- ⁷ Fallin A, Goodin AJ, King BA. "Menthol cigarette smoking among lesbian, gay, bisexual, and transgender adults." *Am J Prev Med*. 2015. 48(1):93-7. Available at: <https://pubmed.ncbi.nlm.nih.gov/25245795/>. Accessed: 1-16-2024.
- ⁸ Centers for Disease Control and Prevention. "Menthol Smoking and Related Health Disparities." 2023. Available at https://www.cdc.gov/tobacco/basic_information/menthol/related-health-disparities.html. Accessed: 1-16-2024.
- ⁹ Food and Drug Administration. "FDA Proposes Rules Prohibiting Menthol Cigarettes and Flavored Cigars to Prevent Youth Initiation, Significantly Reduce Tobacco-Related Disease and Death." 2022. Available at <https://www.fda.gov/news-events/press-announcements/fda-proposes-rules-prohibiting-menthol-cigarettes-and-flavored-cigars-prevent-youth-initiation>. Accessed: 1-16-2024.
- ¹⁰ Levy DT, Meza R, Yuan Z, *et al.* "Public health impact of a US ban on menthol in cigarettes and cigars: A simulation study." *Tobacco Control*. 2021. Available at: <https://tobaccocontrol.bmj.com/content/early/2022/04/13/tobaccocontrol-2021-056604>. Accessed: 1-16-2024.
- ¹¹ Chung-Hall J, Fong GT, Meng G, *et al.* "Evaluating the impact of menthol cigarette bans on cessation and smoking behaviours in Canada: longitudinal findings from the Canadian arm of the 2016–2018 ITC Four Country Smoking and Vaping Surveys." *Tobacco Control*. 2021. Available at: <https://tobaccocontrol.bmj.com/content/early/2021/03/31/tobaccocontrol-2020-056259>. Accessed: 1-16-2024.
- ¹² Centers for Disease Control and Prevention. "Cancer and Tobacco Use." 2019. Available at <https://www.cdc.gov/vitalsigns/cancerandtobacco/index.html>. Accessed: 1-16-2024.