

As a matter of health equity and social justice, FDA should immediately finalize and implement the proposed standard for menthol in cigarettes to reduce smoking-attributable deaths and health disparities among African Americans

**Docket No. FDA-2021-N-1349
for “Tobacco Product Standard for Menthol in Cigarettes”**

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In the preamble to the proposed rule that would prohibit menthol in cigarettes, the FDA details how this rule would especially benefit African American smokers who have the highest prevalence of menthol cigarette smoking and experience a disproportionate burden of tobacco-related harms. The FDA correctly states that the proposed product standard would substantially decrease tobacco-related health disparities and advance health equity. We applaud FDA for taking this stand and urge it to immediately finalize and implement the proposed rule.

In addition to the many references cited by FDA in the proposed rule, a recent paper not cited by FDA quantifies the health harms caused by menthol to the African American population over the last four decades and underscores menthol’s disproportionate impact on the African American community compared with the total menthol toll in the US. Using National Health Interview Survey data, the study found that menthol cigarettes were responsible for 1.5 million new smokers, 157,000 smoking-related premature deaths, and 1.5 million life-years lost among African Americans during the period 1980-2018. Further, although African Americans constitute 12% of the total US population, these figures represent 15% of new smokers, 41% of smoking-related premature deaths, and 50% of life-years lost of the total menthol-related harm.¹ ***These staggering statistics confirm the disproportionate health harms to African Americans***

¹ Mendez D, Le TTT, Consequences of a match made in hell: the harm caused by menthol smoking to the African American population over 1980–2018 *Tobacco Control* 2022;**31**:569-571. Available: <https://tobaccocontrol.bmj.com/content/31/4/569>

attributable to menthol smoking and further demonstrate the urgent need for FDA to remove menthol cigarettes from the market.

These health disparities result from decades of predatory marketing strategies specifically targeting the African American community, including aggressive advertising, promotions, and price discounts, all of which have promoted and integrated menthol into African American identity and culture.^{2,3} Compounding these tactics, the tobacco industry supported African American organizations and recruited Black leaders to gain trust in the African American community.⁴

Indeed, the tobacco industry continues to coopt the Black Lives Matter movement and finance African American organizations and leaders to garner their influence and to lobby against menthol prohibitions. Philip Morris has contributed hundreds of thousands of dollars annually to the Congressional Black Caucus Foundation, and Reynolds American provides financial support to the Reverend Al Sharpton's National Action Network,^{5,6} the National Newspaper Publishers Association, and law enforcement groups such as the National Organization of Black Law Enforcement (NOBLE) and the Law Enforcement Action Partnership (LEAP).^{7,8} These efforts have resulted in Black leaders like Rev. Sharpton making the tobacco industry's case by promoting false and unsupported claims that FDA's proposed rule prohibiting menthol cigarettes would lead to increased law enforcement activity against African American communities.⁹

Taken together, the tobacco industry's deliberate efforts to maximize their profits by targeting African American smokers and funding African American leadership groups has resulted in African Americans bearing the greatest burden from tobacco-related morbidity and mortality. ***As a matter of health equity and social justice, FDA should address these***

² Gardiner PS. The African Americanization of menthol cigarette use in the United States. *Nicotine & Tobacco Research*. 2004 Feb 1;6(Suppl_1):S55-65.

³ Proctor RN, Proctor R. *Golden holocaust: origins of the cigarette catastrophe and the case for abolition*. Univ of California Press; 2011.

⁴ Yerger VB, Malone RE. African American leadership groups: smoking with the enemy. *Tobacco Control*. 2002 Dec 1;11(4):336-45.

⁵ Noah T. *Kool Move: Don't Let the Tobacco Industry Use George Floyd to Kill a Ban on Menthol Cigarettes*. *The New Republic*, April 29, 2022. Available: <https://newrepublic.com/article/166246/fda-ban-menthol-cigarettes-al-sharpton-rj-reynolds-george-floyd>

⁶ Goodman JD. *When Big Tobacco Invoked Eric Garner to Fight a Menthol Cigarette Ban*. *The New York Times*, July 14, 2019. Available: <https://www.nytimes.com/2019/07/14/nyregion/fur-menthol-bans-lobbyists.html>

⁷ Stockton B, Baumgaertner E, Lindsay R. *Paid Protesters, Free Lunches, and Backroom Chats: Inside the Menthol Lobbying Machine*. *The Bureau of Investigative Journalism*, April 25, 2022. Available: <https://www.thebureauinvestigates.com/stories/2022-04-25/inside-the-menthol-cigarette-lobbying-machine>

⁸ Baumgaertner E, Stockton B, Lindsay R. *How Big Tobacco used George Floyd and Eric Garner to stoke fear among Black smokers*. *The Los Angeles Times*, April 25, 2022. Available: <https://www.latimes.com/world-nation/story/2022-04-25/inside-big-tobaccos-strategy-to-stoke-fear-among-black-smokers-facing-menthol-bans>

⁹ Truth Initiative, *Tobacco industry has fueled false claims that eliminating menthol cigarettes will put Black Americans at greater risk from law enforcement*, May 23, 2022. Available: <https://truthinitiative.org/research-resources/targeted-communities/tobacco-industry-has-fueled-false-claims-eliminating>

burgeoning health disparities by immediately finalizing and implementing the product standard and removing menthol cigarettes from the marketplace.¹⁰

We attach a recent paper written by Dr. Valerie Yerger, which states the case most eloquently and a recent paper written by Drs. David Mendez and Thuy T T Le that quantifies the harm caused by menthol smoking to the African American population.

¹⁰ Yerger V. What more evidence is needed? Remove menthol cigarettes from the marketplace—now. Tobacco Control. 2021 Sep 17.