FDA has issued a proposed rule to remove menthol cigarettes from the market. In April 2022, FDA announced a proposed rule to prohibit menthol as a characterizing flavor in cigarettes. Its decision was based on clear evidence that prohibiting menthol cigarettes would significantly reduce smoking-caused disease and death by reducing the number of youth who start smoking and increasing the number of smokers who quit. All other characterizing flavors are already prohibited in cigarettes.

Menthol makes it easier for youth to start smoking and become addicted smokers. Menthol is a chemical compound that cools and numbs the throat. When used in cigarettes, it reduces the harshness of tobacco smoke and makes menthol cigarettes more appealing to youth. As a result, menthol cigarettes increase the number of kids who experiment with cigarettes and who become regular smokers. Half of youth who have ever tried smoking started with menthol cigarettes. Between 1980 and 2018, menthol cigarettes were responsible for 10.1 million additional new smokers, an average of 265,000 new smokers a year over the 38-year period.

Menthol cigarettes have had a devastating and disproportionate impact on the health of Black Americans. For more than 60 years, tobacco companies have targeted Black communities with marketing for menthol cigarettes. They have used sponsorship of community and music events, free samples, magazine advertising, and retail promotions to market menthol cigarettes to Black communities. Black neighborhoods have more tobacco retailers, more advertising for menthol cigarettes, and more price promotions for menthol cigarettes. This decades-long marketing campaign is the primary reason why use of menthol cigarettes is highest among Black Americans: 85% of Black smokers smoke menthol cigarettes compared to 29% of white smokers.

Menthol cigarettes also disproportionately harm other communities. In addition to youth and Black Americans, other population groups also have high rates of menthol use. Half of Hispanic smokers, 47% of Asian American smokers, 51% of lesbian or gay smokers, 46% of bisexual smokers, 45% of smokers with mental health conditions and 47% of smokers living in poverty use menthol cigarettes. Women are also more likely than men to use menthol cigarettes, and 60% of pregnant smokers use menthol cigarettes.

Prohibiting menthol cigarettes would reduce youth smoking, decrease the number of people harmed by tobacco, and advance health equity. The evidence is clear that menthol cigarettes have caused substantial harm to public health. A 2013 FDA report determined that menthol cigarettes lead to increased smoking initiation among youth and young adults, greater addiction, and decreased success in quitting smoking. By increasing youth smoking and decreasing quitting, menthol cigarettes magnify the public health harms of smoking. A recent study found that menthol cigarettes were responsible for 378,000 premature deaths from 1980 to 2018. A related study found that Black Americans represented 41% of premature deaths from menthol cigarettes over this period despite accounting for 12% of the population. Prohibiting menthol cigarettes can reverse these trends—researchers estimate that prohibiting menthol cigarettes would eliminate the disparity in lung cancer death rates between Black Americans and other U.S. racial and ethnic groups within five years.

Action to remove menthol cigarettes from the market is long overdue. More than a decade has passed since FDA’s Tobacco Products Scientific Advisory Committee (TPSAC) reviewed the science and concluded, “Removal of menthol cigarettes from the marketplace would benefit public health in the United States.” In 2018, FDA Commissioner Scott Gottlieb announced the agency’s intent to prohibit menthol cigarettes, but the agency did not issue a proposed rule. Now that FDA has followed the science and issued a proposed rule, any effort to block or delay FDA’s rulemaking should be opposed. Removing menthol cigarettes from the market is
supported by public health, medical, and civil rights groups, including the African American Tobacco Control Leadership Council, the American Medical Association, NAACP, and many others. It is critical that FDA work quickly to finalize and implement this rule.

Prohibiting menthol cigarettes does not criminalize individual users. Opponents of FDA’s proposal have argued that prohibiting menthol cigarettes will lead to increased policing in communities of color. Racial bias in policing is an urgent problem and fixing that problem should be a priority. But regulation of tobacco products is also needed to protect children from tobacco addiction, advance health equity and save lives, especially among Black Americans. We can and must do both. The FDA’s proposed rule explicitly states that enforcement will only apply to manufacturers and retailers, and the rule will not make it illegal for individuals to possess or use menthol cigarettes. That is how FDA has enforced the current prohibition on other flavored cigarettes and the current prohibition on sales to minors. There is no reason to expect that FDA would enforce a prohibition on menthol cigarettes any differently.

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