



State of California  
Office of the Attorney General

**ROB BONTA**  
ATTORNEY GENERAL

April 28, 2021

**Via Federal eRulemaking Portal**

Docket Management Staff (HFA-305)  
Food and Drug Administration  
5630 Fisher Lane, Rm. 1061  
Rockville, MD 20852

RE: Docket No. FDA-2013-P-0435 – Comments on Tobacco Control Legal Consortium, et. al., Citizen Petition to the Federal Food and Drug Administration Related to Prohibiting Menthol as a Characterizing Flavor in Cigarettes (April 12, 2013)

To Whom It May Concern:

For consideration of Docket No. FDA-2013-P-0435, please accept this letter as formal comments submitted by the Attorney General of California urging the U.S. Food and Drug Administration (“FDA”) to prohibit menthol in cigarettes.

In making this request, I join my fellow state attorney general colleagues, who on January 22, 2021, and February 24, 2021, submitted letters marshalling overwhelming scientific evidence to demonstrate that a ban on menthol cigarettes will enhance public health and health equity. The evidence underlying these comments continues to grow: a late February report of public health advocacy organizations recounts the decades of predatory targeting of minority and at-risk communities, *see* Campaign for Tobacco Free Kids, *et al.*, Stopping Menthol, Saving Lives: Ending Big Tobacco’s Predatory Marketing to Black Communities (February 2021)<sup>1</sup>; and a paper published on February 25, 2021, in Tobacco Control reviewed decades of data on smoking behavior and morbidity to conclude that menthol cigarettes “were responsible for 10.1 million extra smokers, 3 million life years lost and 378,000 premature deaths” between 1980 and 2018, slowed the decline in smoking prevalence during the period, and “have had a significant detrimental impact on the public’s health and could continue to pose a substantial health risk.”<sup>2</sup>

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<sup>1</sup> <https://www.tobaccofreekids.org/what-we-do/industry-watch/menthol-report>

<sup>2</sup> Le TT, Mendez D. An estimation of the harm of menthol cigarettes in the United States from 1980 to 2018. Tobacco Control Published Online First: 25 February 2021. doi: 10.1136/tobaccocontrol-2020-056256.

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To prevent our youth from suffering further negative health consequences caused by these products and to address the systemic and disproportionate impact of these products on minorities and vulnerable groups, I strongly urge the FDA to prohibit menthol in cigarettes. Such action is in line with other recent measures, including the FDA's earlier-announced bans on flavored vape products and efforts like Senate Bill 793, the California statewide ban on the sale of flavored tobacco products I supported as an assembly member and am now defending against tobacco industry challenge as Attorney General of California. Prohibiting menthol would serve the public's best interest and is amply supported by scientific evidence. The time has come for such action.

Sincerely,



ROB BONTA  
Attorney General