

Congress of the United States
Washington, DC 20515

November 7, 2023

Joseph R. Biden, Jr.
President of the United States of America
1600 Pennsylvania Avenue, NW
Washington, D.C. 20500

Dear President Biden:

On October 13, 2023, the Food and Drug Administration (FDA) submitted to the Office of Management and Budget (OMB) its final rule banning the sale of menthol cigarettes.¹ With submission to OMB, the final rule to ban the sale of menthol cigarettes now sits one step away from implementation. While critics and proponents of the FDA's decision to ban menthol as a characterizing flavor in cigarettes argue over ancillary and indirect impacts, our focus is on the impact the ban will have on working families and farmers in North Carolina.

Tobacco cultivation and cigarette manufacturing has been a significant contributor to North Carolina's culture and economic prosperity and was the state's top industry for the entirety of the 20th century. Tobacco farmers have called North Carolina home for generations and have led the world in developing best practices for soil management, conservation, and yield improvements in the industry. Cigarette manufacturers, many of which grew from small tobacco farm families in the state, have been a stable employer for working families in North Carolina for well over a century. The tobacco industry brought generations of North Carolinians out of poverty and built cities and towns across the state.

The menthol cigarette industry is responsible for 27,000 jobs in North Carolina alone.² The production and sale of menthol cigarettes account for over 6,000 of those jobs, with more than 2,000 in manufacturing. Each one of these jobs represents the opportunity to buy a home, send a child to college, and provide a thriving life for their family. If OMB were to approve the FDA's proposed final rule banning the sale of menthol cigarettes, each one of those jobs and the economic opportunity they bring would be lost. Throughout the state, this loss would mirror the struggle we experienced during the mass exodus of the textile and furniture industries over the past three decades.

This ban will affect the constituents that all of us are sworn to protect and work to provide the opportunities to continue to better their lives. As recently pointed out by the National Black Farmers Association, a federal ban on the adult use of menthol cigarettes will put Black farmers out of business and deprive small towns in North Carolina of critical income. We are unaware of any assistance programs that will compensate our farmers, particularly Black farmers, who have for generations relied upon tobacco production to support their livelihoods and families. We

¹Office of Information and Regulatory Affairs, Office of Management and Budget. (2023, October 13). *Pending EO 12866 Regulatory Review HHS/FDA "Tobacco Product Standard for Menthol in Cigarettes."* <https://www.reginfo.gov/public/do/eoDetails?rriid=341268>

²John Dunham & Associates, New York, New York 2022 (Tobacco Industry Footprint – Menthol Cigarettes)

cannot leave Black farmers without a viable path and adequate time to transition to alternative crop production.³

Just as government regulations related to energy production have fundamentally altered the employment opportunities for coal workers in West Virginia, the FDA's menthol ban will disrupt the livelihoods of farmers and cigarette manufacturer employees in North Carolina. The disruption will leave families searching for both answers and employment opportunities in communities with so few alternatives. These communities exist because of the tobacco industry, where North Carolina serves as the agricultural epicenter and business hub of a global enterprise. This ban would abandon those communities with nothing to fill that void.

Our ask, Mr. President, is a simple one. Before making any final determination on the FDA's proposed rule for banning the sale of menthol cigarettes, we request that your Administration carefully assess the impact of a ban on economically distressed agricultural and rural communities throughout North Carolina and beyond.

As you know well from your own lived experience, industries come and go with the times – North Carolinians know this too. However, government intervention can lead to massive layoffs without a viable economic transition strategy. But it does not have to be this way with our state's tobacco industry. Business leaders and government officials are continuing to work to find ways to keep adult consumer products out of the hands of our children, including action to raise the minimum age to purchase products and transition towards harm-reduction products. That is where the FDA should continue its oversight, protecting American consumers through its mission to keep illicit products out of the market and working to regulate market transitions.

Thank you for your attention to this critical and urgent matter and for ensuring that the federal government adequately weighs the immense economic and personal impact of this policy before taking any action.

Respectfully,



Don Davis
Member of Congress



David Rouzer
Member of Congress

CC:

Shalanda Young, Director, Office of Management and Budget
Tom Perez, Senior Advisor to the President for Intergovernmental Affairs

³John Boyd, Jr. (2023, October 15). *Black farmers are being targeted by a misguided federal policy. that's nothing new*. The Hill. <https://thehill.com/opinion/congress-blog/4257574-black-farmers->