

Anti-smoking groups sue FDA again over menthol ban delays

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Three anti-smoking groups announced Tuesday that they have sued the

U.S. government yet again after it missed its latest deadline for enacting a ban on menthol cigarettes.

This is the second [lawsuit](#) that the plaintiffs—the African American Tobacco Control Leadership Council, Action on Smoking and Health and the National Medical Association—have filed against the U.S. Food and Drug Administration over delays in banning [menthol cigarettes](#).

The first [lawsuit](#), filed in 2020, demanded that the FDA add menthol to its list of prohibited flavors for public health reasons. Once the agency began to take action on the issue, that lawsuit was dismissed.

In the latest lawsuit, the groups claim the agency missed a March deadline for issuing a final rule on a menthol ban. Menthol cigarettes are particularly popular in the Black community.

"Because of defendants' inaction, [tobacco companies](#) have continued to use menthol cigarettes to target youth, women and the Black community—all to the detriment of public health," the lawsuit stated.

"As African American physicians, we are deeply disturbed at the continuing delays in FDA's finalizing of the ban on menthol cigarettes," Dr. Yolanda Lawson, president of the National Medical Association, said in a news release announcing the lawsuit. "Our patients, more than any other group, become disabled and die prematurely due to the continued use of these cigarettes."

All flavored cigarettes except menthols were first banned in 2009. The FDA has been considering a menthol ban for more than a decade, CNN reported.

"We're extremely disappointed to be forced to file this second lawsuit against the FDA in support of protecting Americans from menthol

cigarettes," Laurent Huber, executive director of Action on Smoking and Health, said in the news release. "The FDA's own research confirms that a menthol ban would save lives; there is no scientific reason to delay finalizing this rule."

The FDA told CNN that it does not comment on pending litigation, but "remains committed to issuing the [tobacco product](#) standards for menthol in cigarettes and characterizing flavors in cigars as expeditiously as possible; these rules have been submitted to [the Office of Management and Budget] for review, which is the final step in the rule-making process."

But the plaintiffs said the time for action is long past due.

"The relentless and racist tobacco industry targeting has killed too many members of the Black community," Carol McGruder, co-chair of the African American Tobacco Control Leadership Council, said in the news release. "If Black lives truly matter, then we must end the sale of menthol cigarettes and do it now!"

Studies on the benefits of a menthol ban are plentiful.

Over a 20-year period, it could lower [health care costs](#) among all adult smokers by about \$1.62 billion, a recent [study](#) found. It would also save up to 654,000 lives within 40 years, including 255,000 Black lives, a [2022 study](#) found.

Meanwhile, a [2020 study](#) showed that while 43% of all adult smokers smoked menthols, more than 83% of Black smokers did. But within five years, the elimination of menthol cigarettes could close the gap in lung cancer deaths, another [report](#) found.

"The administration continues to miss the opportunity to leave a

significant, lasting public health legacy, save lives and reach their Cancer Moonshot goals by not finalizing these rules," Dr. Karen Knudsen, CEO of the American Cancer Society and the Cancer Action Network, said in a [news release](#) supporting the move.

The American Lung Association (ALA) is also not part of the lawsuit, but expressed its support.

"The FDA's findings show that menthol cigarettes are not appropriate for the protection of public health. It is frustrating that the continued delay of the menthol rules compelled our partners to go back to court," ALA President and CEO Harold Wimmer said in a [news release](#).

The FDA will likely have about two months to respond to the lawsuit in court, the groups' attorney, Christopher Leung, told CNN.

The White House did not respond to a request for comment on the lawsuit, CNN reported.

More information: The American Lung Association has more on [menthol cigarettes](#).

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