



June 3, 2022

The Honorable Robert M. Califf, MD  
Commissioner  
Food and Drug Administration  
10903 New Hampshire Avenue  
Silver Spring, MD 20993

**RE: Request for Extension – Tobacco Product Standard for Menthol in Cigarettes  
(Docket No. FDA-2021-N-1349) and Tobacco Product Standard for Characterizing  
Flavors in Cigars (Docket No. FDA-2021-N-1309)**

Dear Commissioner Califf,

The National Association of Convenience Stores (NACS), NATSO, Representing America's Travel Plazas and Truckstops, and SIGMA: America's Leading Fuel Marketers (together, "the Associations")<sup>1</sup>, respectfully request a 60-day extension of the comment period for the Food & Drug Administration's (FDA's) proposed rules (Docket Nos. FDA-2021-N-1349 and FDA-2021-N-1309) that would prohibit menthol as a characterizing flavor in cigarettes and characterizing flavors (other than tobacco) in all cigars.<sup>2</sup>

The convenience, travel center, and fuel marketing industry's sole objective is to sell legal products, in a lawful way, to customers who want to buy them. With more than 148,000 convenience stores in the United States, the convenience and retail fuels industry employed approximately 2.34 million workers and generated more than \$705 billion in total sales in 2021, representing more than 3 percent of U.S. gross domestic product.<sup>3</sup> Menthol cigarettes accounted for 34% of all cigarette sales and flavored cigars accounted for 51% of all cigar sales.<sup>4</sup>

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<sup>1</sup> NACS is an international trade association representing the convenience store industry with more than 1,500 retail and 1,600 supplier companies as members, the majority of whom are based in the United States. NATSO represents approximately 5,000 travel plazas and truck stops nationwide, comprised of both national chains and small, independent locations. SIGMA represents a diverse membership of approximately 260 independent chain retailers and marketers of motor fuel.

<sup>2</sup> Food and Drug Administration, *Tobacco Product Standard for Menthol in Cigarettes*, 87 FR 26454 (May 4, 2022) available at <https://www.govinfo.gov/content/pkg/FR-2022-05-04/pdf/2022-08994.pdf> and Food and Drug Administration, *Tobacco Product Standard for Characterizing Flavors in Cigars*, 87 FR 26396 (May 4, 2022) available at <https://www.govinfo.gov/content/pkg/FR-2022-05-04/pdf/2022-08993.pdf> [hereinafter "Proposed Rules"].

<sup>3</sup> NACS, State of the Industry: Annual Report (2021).

<sup>4</sup> PDI Software, n = 194.6M Tobacco baskets collected from Jan-Dec 2021

The industry is truly an industry of small business. More than 60 percent of convenience stores are single-store operators. Less than 0.2 percent of convenience stores that sell gas are owned by a major oil company and about 4 percent are owned by a refining company. More than 95 percent of the industry, then, are independent businesses.

In its proposed rules, FDA states it has studied the complex policy issues surrounding menthol cigarettes and flavored cigars since the implementation of the Tobacco Control Act in 2009. On April 29, 2021, FDA announced that it would grant the request of the citizen's petition to prohibit menthol cigarettes and begin the rulemaking process. A full year later, the agency published proposed rules prohibiting menthol cigarettes and flavored cigars.

Given the complexity of the rules, the extensive data to analyze, and the impact to the marketplace to consider, the Associations are requesting a 60-day extension of the comment period. This additional time will ensure the Associations and our retail members can provide FDA with detailed and meaningful comments on these complex issues.

Thank you for your consideration of this request.

Sincerely,

NACS  
NATSO  
SIGMA

CC: Michele Mital, Acting Director, Center for Tobacco Products, Food & Drug Administration  
Beverly I. Chernaik, Director, Office of Regulations, Center for Tobacco Products, Food & Drug Administration