

# [***Lawsuit seeks to force ban on menthol cigarettes after months of delays by Biden administration***](https://advance.lexis.com/api/document?collection=news&id=urn:contentItem:6BPG-H111-DYMD-6250-00000-00&context=1516831)

The Associated Press

April 2, 2024 Tuesday 8:58 PM GMT

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**Section:** BUSINESS NEWS; WASHINGTON DATELINE; STATE AND REGIONAL

**Length:** 600 words

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**Dateline:** WASHINGTON

**Body**

WASHINGTON — Anti-smoking groups sued the U.S. government Tuesday over a [*long-awaited ban on menthol cigarettes*](https://apnews.com/article/us-news-race-and-ethnicity-science-business-tobacco-industry-regulation-ce47f1f2527f5fbadcb18d58e7e97f7f), which has been idling at the [*White House for months*](https://apnews.com/article/menthol-cigarettes-fda-ban-white-house-bb9395ecb0921affd589e6a9cfcd8fb1).

The lawsuit is the latest effort to force the government to ban menthols, which are disproportionately used by Black smokers and young people. It comes amid growing concerns from advocates that the federal plan could be derailed by election-year ***politics***.

Health officials under President Joe Biden initially targeted last August to publish the rule eliminating the minty flavor. Late last year, White House officials said they would take until March to review the rule. Three nonprofit groups, including Action on Smoking and Health, filed their lawsuit in a federal court in California after the March deadline passed.

“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 groups state in their complaint.

A spokesperson for the White House declined to comment on the lawsuit Tuesday.

The Food and Drug Administration has spent years [*developing the plan*](https://apnews.com/article/science-health-business-lobbying-smoking-6b60a4d1160f23e4daa7ee10e2134039) to eliminate menthol, [*estimating*](https://apnews.com/article/us-news-race-and-ethnicity-science-business-tobacco-industry-regulation-ce47f1f2527f5fbadcb18d58e7e97f7f) it could prevent 300,000 to 650,000 smoking deaths over several decades. Most of those preventable deaths would be among Black Americans.

Like all major federal regulations, the plan must get final approval from the White House.

Previous FDA efforts on menthol have been scuttled by [*tobacco industry pushback*](https://apnews.com/article/science-health-business-lobbying-smoking-6b60a4d1160f23e4daa7ee10e2134039) or competing political priorities across [*several administrations*](https://apnews.com/general-news-6773f62603764a68a2ec27764865ff10). The latest delay comes as Democrats voice worries about Biden’s prospects in a rematch against former President Donald Trump.

White House officials have held dozens of meetings with groups opposing the menthol ban, including civil rights advocates, business owners and law enforcement officials. Some suggested a rule targeting menthols could suppress Biden's turnout among Black voters. In almost all cases, groups opposing the ban receive financial support from tobacco companies.

In recent months, supporters of the plan have tried to assure the White House that banning menthol will not hurt Biden’s re-election chances.

“If Black lives truly matter, then we must end the sale of menthol cigarettes and do it now,” said Dr. Carol McGruder, of the African American Tobacco Control Leadership, in a statement. McGruder's group is among those suing the FDA and its parent agency, the Department of Health and Human Services.

A lawyer who helped file the lawsuit said the government will have about two months to respond.

A 2020 lawsuit by the same groups jump-started FDA's work on menthol, alleging that the agency had “unreasonably delayed” action against the flavor.

Menthol is the only cigarette flavor that was not banned under the 2009 law that gave the FDA authority over tobacco products, an exemption negotiated by industry lobbyists. The act did, though, instruct the agency to continue to weigh whether to ban menthol.

The flavor’s persistence has infuriated anti-smoking advocates, who point to research that menthol’s numbing effect masks the harshness of smoking, making it easier to start and harder to quit.

More than 11% of U.S. adults smoke, with rates roughly even between white and Black populations. About 80% of Black smokers — and most teenagers who smoke — use menthol.

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Associated Press writer Zeke Miller contributed to this story

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The Associated Press Health and Science Department receives support from the Howard Hughes Medical Institute’s Science and Educational Media Group. The AP is solely responsible for all content.

**Load-Date:** April 2, 2024

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