

Tobacco Grower Introduction to the Menthol Ban  
Foley, Kimberly  
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Hello tobacco farming community,

My prayer for each of you is the transplanting (flue cured) and greenhouse (burley/dark) is moving along smoothly for each of you.

2022 continues to present many challenges. If you follow Foley Seed on social media, you know that the **FDA announced a proposed rule for a menthol ban in cigarettes** yesterday afternoon<sup>1</sup>. In addition to regular course of business, it is likely you will now start receiving information from domestic tobacco manufacturers (RJR and Altria) soliciting your support to oppose such a ban.

On Thursday, May 5, 2022 at 8pm I will host a webinar on this subject and the details below.

It is in my interest as the owner of a tobacco seed distribution company to help you protect the volume and financial return in tobacco production. So, the purpose to today's note is twofold:

1. Explain the menthol ban and why it's happening
2. Address a few theories I have for your response to the FDA or any requests from companies that may come your way in the next few days.

Disclosure: any opinions that may be presented in this analysis are mine and mine alone. I will present the facts and try to steer clear of anything beyond that.

## The Menthol Ban

Let's keep this short. This is a Notice of Proposed Rule Making (NPRM) to prohibit menthol as a characterizing flavor in cigarettes. This is following an Advanced Notice of Proposed Rule Making (ANPRM) back in 2013<sup>2</sup>, but more recently, a petition and court order for the FDA to take a deeper dive into looking at the ban for public health. The public health rationale is as follows<sup>1</sup>:

1. Menthol increases the appeal of initiation among youth and young adults
2. Mentholated tobacco products are allegedly harder to quit.
3. "Certain populations, specifically African Americans, have been targeted, and disproportionately impacted by tobacco use

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The NPRM will be published next week on May 4, 2022. I will not have details on the contents of the rule until then. However, I do know there is a 60-day comment period – meaning YOU as a farmer can submit your position (oppose or support) to the FDA. YOU can also leverage your relationships with congressmen and women to support your position either way.

If this NPRM is approved, most likely it will be YEARS before we see it go into effect. Manufacturers will likely fully litigate any ban if the evidence they gather is strong enough.

Historically, tobacco manufacturers have requested a comment extension – they usually get it, but I don't think they will this time. Additionally, they will likely ask for your help.

The second part of this note is to help you decide what you want to do, and how, as a community, you can work together for your benefit. I'm here to help either way.

### Impact to the Growing Community

In 2020, the top four tobacco companies Altria, RJR, ITG Holdings, and Vector Group sold a cumulative 203.7 billion cigarettes<sup>3</sup>. We know that on average there is 0.7 grams of tobacco filler per cigarette<sup>4</sup>, so that equals 314,357,140 pounds of tobacco. Thirty-seven percent of 2020's market share was attributed to menthol cigarettes; therefore, we can estimate menthol cigarette leaf utilization is around 116 million pounds<sup>5</sup>. Table 1 and Table 2 provide an analysis of the top brands, their market shares, and tobacco utilization based on reports.

Analyzing the impact to the grower community, I am curious about a few things:

1. How much will smoking decrease following a menthol ban going into effect?
2. How big of an impact will this have on the grower community?
3. Are there opportunities for growers increase US tobacco sustainability discussions with manufacturers?

<u>Brand</u>	<u>Parent Company</u>	<u>Market Share</u>	<u>Total Pounds of Tobacco Needed</u>
Newport	RJR	31%	35,524,697
Marlboro	Altria	26%	29,923,485
Pall Mall	RJR	8%	9,656,861
Camel	RJR	8%	8,947,994
KOOL	ITG Holdings	6%	6,414,666
L&M	Altria	3%	3,846,475
Basic	Altria	2%	2,300,913
Maverick	ITG Holdings	1%	1,382,872
Roll Your Own	Other	1%	1,371,251
Salem	ITG Holdings	1%	1,336,389
American Spirit	RJR	1%	1,313,147
Virginia Slims	Altria	1%	1,162,077
Misty	RJR	1%	1,022,628
USA Gold	ITG Brands	1%	708,867
All other Brands	Other	9%	10,749,213

Table 1. Top Menthol Cigarette brand market share and tobacco utilization.<sup>6</sup>

<u>Parent Company</u>	<u>Pounds of Tobacco Needed</u>	<u>Market Share</u>
RJR	56,465,326	49%
Altria	37,232,950	32%
ITG Holdings	9,133,926	8%
All others	13,375,507	12%
Total	116,207,709	100%

Table 2. Top Menthol Manufacturers and Tobacco Utilization.<sup>6</sup>

Question 1: How much will smoking decrease if a menthol ban goes into effect?

That's a tough one. According to the Tax Foundation, states that have already ban menthol have lost sales and tax revenue to neighboring states<sup>5</sup>. For example, Massachusetts cigarettes sales receipts declined 22% following their menthol

ban<sup>5</sup>. However, those smokers must do is cross state lines and get their preferred cigarette.

However, one can expect a nationwide ban to make acquiring menthol preferences a little more difficult. The real question that I don't have the answer to is "what is the new mix between smokers quitting, purchasing illicit menthol cigarettes, and purchasing tobacco only cigarettes compared to Massachusetts?"<sup>5</sup>

Question 2. How big of an impact will this present to the grower community?

Again, a tough one. This depends on US tobacco inclusion rates and the "new mix." Here is a table showing possible inclusion rates versus rate of menthol smoking attrition:

<u>Rate of Menthol Ban Impact on Current Menthol Smoker Rates</u>	<u>Rate of USA Tobacco Inclusion</u>				
	75%	60%	50%	40%	20%
100%	\$ 180,412,468.61	\$ 144,329,974.89	\$ 120,274,979.07	\$ 96,219,983.26	\$ 48,109,991.63
80%	\$ 144,329,974.89	\$ 115,463,979.91	\$ 96,219,983.26	\$ 76,975,986.61	\$ 38,487,993.30
70%	\$ 126,288,728.03	\$ 101,030,982.42	\$ 84,192,485.35	\$ 67,353,988.28	\$ 33,676,994.14
60%	\$ 108,247,481.17	\$ 86,597,984.93	\$ 72,164,987.44	\$ 57,731,989.96	\$ 28,865,994.98
50%	\$ 90,206,234.31	\$ 72,164,987.44	\$ 60,137,489.54	\$ 48,109,991.63	\$ 24,054,995.81
40%	\$ 72,164,987.44	\$ 57,731,989.96	\$ 48,109,991.63	\$ 38,487,993.30	\$ 19,243,996.65
30%	\$ 54,123,740.58	\$ 43,298,992.47	\$ 36,082,493.72	\$ 28,865,994.98	\$ 14,432,997.49
20%	\$ 36,082,493.72	\$ 28,865,994.98	\$ 24,054,995.81	\$ 19,243,996.65	\$ 9,621,998.33
10%	\$ 18,041,246.86	\$ 14,432,997.49	\$ 12,027,497.91	\$ 9,621,998.33	\$ 4,810,999.16
0%	\$ -	\$ -	\$ -	\$ -	\$ -

Table 3. Sensitivity table comparing the rate of menthol smoker decline to US tobacco inclusion in menthol cigarettes.

To explain the chart, let's use the Massachusetts example. If the entire United States tobacco market declines 22%, that means 60% of current menthol sales transitioned to illicit trade or quitting smoking all together (Menthol is 37% of the entire market multiplied by 60% is a 22% total rate in decline). That means the range of direct impact to growers at \$2.07 per pound of leaf is between \$108 million to \$29 million depending on US tobacco inclusion. While it is certainly

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possible menthol cigarettes include more than 75% US tobacco, I don't think that is the case.

Conclusion: We cannot definitively say how much this will impact growers without those two data points.

Question 3. Are there opportunities for growers to enhance discussions with the manufacturing community to increase sustainability?

To me that is always the case. You have a few options here:

<b><u>Grower Community Options</u></b>	<b><u>Considerations</u></b>	<b><u>How Foley Seed Can Help</u></b>
<i>Option 1. 100% Oppose the Menthol Ban</i>	Aligns with manufacturer strategy and would demonstrate that US growers are a strategic partner.	Provide support materials and focus groups to activate the grower community
<i>Option 2. Have an open discussion with manufacturers on how they see a menthol ban impacting the grower community</i>	Opens the door to have a transparent discussion on US inclusion rates and pricing structures for US tobacco  May invite an opportunity to negotiate inclusion in pricing going forward.	
<i>Option 3. Decline supporting manufacturers opposition to the menthol ban.</i>	Sets a strong stance and a limited partnership position.	

As I stated, I will be hosting a webinar next Thursday May 5, 2022 at 8pm. I will work on getting more answers on my questions above by then.

Please join me to learn more and have a strategic discussion on how this impacts your business moving forward.

## Sources:

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3. Neuman, Scott. “Cigarette sales went up last year for the first time in 20 years”. NPR. October 27, 2021. <https://www.npr.org/sections/coronavirus-live-updates/2021/10/27/1049638567/cigarette-sales-increase-smoking-pandemic>
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6. Miller Lo, E.J.; Young, W.J.; Ganz, O.; Talbot, E.M.; O’Connor, R.J.; Delnevo, C.D. Trends in Overall and Menthol Market Shares of Leading Cigarette Brands in the USA: 2014–2019. Int. J. Environ. Res. Public Health 2022,19,2270. [https:// doi.org/10.3390/ijerph19042270](https://doi.org/10.3390/ijerph19042270)