



September 7, 2016

The Honorable Thad Cochran
Chairman
Committee on Appropriations
United States Senate
Washington, D.C. 20510

The Honorable Jerry Moran
Chairman
Subcommittee on Agriculture, Rural
Development, Food and Drug Administration,
and Related Agencies
Committee on Appropriations
United States Senate
Washington, D.C. 20510

The Honorable Barbara Mikulski
Vice Chairwoman
Committee on Appropriations
United States Senate
Washington, D.C. 20510

The Honorable Jeff Merkley
Ranking Member
Subcommittee on Agriculture, Rural
Development, Food and Drug Administration,
and Related Agencies
Committee on Appropriations
United States Senate
Washington, D.C. 20510

Dear Chairman Cochran, Vice Chairwoman Mikulski, Chairman Moran, and Ranking Member Merkley:

As you consider the continuing resolution, we urge you to reject any effort to include policy riders that would weaken FDA's authority to regulate tobacco products. We are grateful that the Senate Appropriations Committee's Agriculture, Rural Development, Food and Drug Administration, and Related Agencies appropriations bill did not include any tobacco-related riders, but unfortunately, the House Appropriations Committee's bill included two riders we strongly oppose.

In May, FDA took an important step to protect children and public health by issuing a final rule that will enable the agency to begin to oversee cigars, e-cigarettes, and other tobacco products that had been outside of FDA's authority. The final rule became effective on August 8th and we urge that Congress not step in now to provide special protections for tobacco companies. The need for FDA oversight of these products could not be clearer. There has been an alarming increase in youth use of electronic cigarettes with 16 percent of high school students currently using e-cigarettes. In addition, high school boys now smoke cigars at a slightly higher rate than cigarettes – 14 percent for cigars and 11.8 percent for cigarettes. The final rule will enable FDA, for the first time, to oversee the manufacturing, marketing, and sale of these products, providing the agency with new tools to address the problem of three million middle and high school students using e-cigarettes and 1.4 million using cigars.

However, the House bill includes two provisions that would weaken this final rule and restrict FDA's ability to oversee these products. One provision would block FDA from using funds to "implement, administer, or enforce" this final rule unless the rule excludes "large and premium cigars" from FDA oversight. FDA specifically examined whether premium cigars should be excluded from FDA oversight and concluded that there was no appropriate public health justification for doing so. FDA's scientific review found that all cigars pose serious negative health risks, including about 9,000 premature deaths a year, and that all cigars are potentially addictive. We are also concerned that the rider defines "large and premium cigars" so broadly that it creates a loophole that invites tobacco companies to modify their products to qualify for this exemption – a loophole that tobacco companies will surely exploit to exempt some cheap, machine-made, flavored cigars that appeal to youth.

The second House provision would change the so-called "grandfather date" in order to exempt e-cigarettes, cigars, and other tobacco products now on the market from an important FDA product review requirement. It would change current law so that manufacturers of these products are no longer required to provide information to the FDA and undergo a scientific review of the risks to public health of new tobacco products, which are defined as products introduced to the market after February 15, 2007. Changing this date would significantly weaken FDA's ability to take prompt action to protect children from thousands of fruit- and candy-flavored e-cigarettes and cigars, including products in flavors such as cotton candy, gummy bear and fruit punch that clearly appeal to kids.

We urge you to allow FDA's final rule on e-cigarettes and cigars to continue to be implemented and reject any effort to include the House tobacco policy riders in the CR.

Sincerely,

Academy of General Dentistry
Action on Smoking & Health
American Academy of Family Physicians
American Academy of Oral and Maxillofacial Pathology
American Academy of Oral Medicine
American Academy of Otolaryngology - Head and Neck Surgery
American Academy of Pediatrics
American Association for Cancer Research
American Association for Dental Research
American Association for Respiratory Care
American Cancer Society Cancer Action Network
American College of Cardiology
American College of Occupational and Environmental Medicine
American College of Preventive Medicine
American Dental Association
American Heart Association
American Lung Association
American Medical Association
American Medical Student Association
American Psychological Association
American Public Health Association
American School Health Association
American Society of Addiction Medicine
American Society of Clinical Oncology
American Thoracic Society
Association of Maternal & Child Health Programs
Association of State & Territorial Health Officials
Association of Women's Health, Obstetric and Neonatal Nurses
Big Cities Health Coalition
Campaign for Tobacco-Free Kids
ClearWay Minnesota
Community Anti-Drug Coalitions of America
COPD Foundation
Eta Sigma Gamma - National Health Education Honorary
International Association for the Study of Lung Cancer
Lung Cancer Alliance
March of Dimes
National African American Tobacco Prevention Network
National Association of County and City Health Officials
National Association of Pediatric Nurse Practitioners
National Association of School Nurses
National Hispanic Medical Association
National Network of Public Health Institutes
National Physicians Alliance
Oncology Nursing Society
Oral Health America
Prevention Institute
Prevention Partners
Society for Cardiovascular Angiography and Interventions
Society for Public Health Education
The Society of State Leaders of Health and Physical Education
The Society of Thoracic Surgeons
Trust for America's Health

CC: United States Senate Committee on Appropriations Members