



September 7, 2016

The Honorable Thad Cochran  
Chairman  
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 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 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 8<sup>th</sup> 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