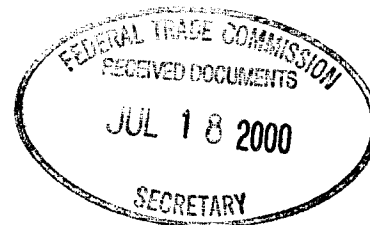




July 17, 2000

Donald S. Clark, Secretary  
Federal Trade Commission  
Room H-159  
600 Pennsylvania Avenue, NW  
Washington, DC 20580



Re: 16 CFR Part 307

Dear Mr. Clark:

The Association of State and Territorial Health Officials (ASTHO) represents the chief health officer of each state and territorial public health agency. It is the mission of ASTHO to formulate and support sound public health policy. ASTHO, in partnership with the National Association of County and City Health Officials (NACCHO) and the National Association of Local Boards of Health (NALBOH), recently published a joint policy statement on tobacco use prevention and control (enclosed, see # 2, pages 1 and 4). This statement calls for increased federal, state, and local regulation of tobacco products, including improvements in the current tobacco product warning labels.

ASTHO recognizes that tobacco use is one of this nation's greatest public health problems and the single most preventable cause of disease, disability, and death. Every state health agency is funded to conduct comprehensive tobacco prevention and control programs, which include efforts to address the use of smokeless or "spit" tobacco, especially by adolescent boys. Recent focus group testing by the Centers for Disease Control and Prevention's Office on Smoking and Health revealed that many young people do not know warning labels are printed on cans of "spit" tobacco, partly because the labels are small, printed on the side, and often in non-contrasting colors.

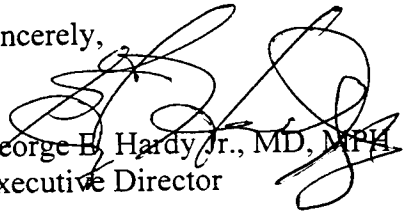
While warning labels are only one element of a broad approach to preventing and controlling the use of "spit" tobacco, they are an important part of the public health effort to avert initiation and to increase cessation. Warning label design and placement based on the same research used by "spit" tobacco marketers could have significant impact on reducing use of this deadly product. We applaud the Commission's efforts to examine and improve the labeling regulations for "spit" tobacco and make the following recommendations for your consideration:

- A. Warning labels must be required on both the top and bottom, or back and front of the container.
- B. The same labels must be required to appear on the outside of any bulk packaging containing multiple cans or boxes.
- C. The warnings must be printed in a font equal to or larger than the largest font on the product label, but be at least a 14-point font.

- D. If a product label contains graphics, the warning labels should also use graphics.
- E. Warning labels must be printed in a “box” format like that of cigarette warning labels in colors that provide maximum contrast to the product package.
- F. The new regulations must specify the rotation of the various warnings by time period and be product specific.
- G. At least one more warning must be added to the list which reads: "The use of smokeless tobacco leads to nicotine addiction."
- H. The current label concerning “spit” tobacco as an alternative to cigarettes must be revised to read, “Warning: this product is an unsafe alternative to cigarettes,” to avoid confusion by the user. Some young users have reported seeing only the words “safe alternative” in the current warning.

Should you have any questions concerning these comments, please contact Jane Moore, Senior Director, Prevention Policy, at [jmoore@astho.org](mailto:jmoore@astho.org) or at the address shown above.

Sincerely,

  
George B. Hardy Jr., MD, MPH  
Executive Director



State and Local Governments Protecting a Nation's Health

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**ASSOCIATION OF STATE AND TERRITORIAL HEALTH OFFICIALS  
NATIONAL ASSOCIATION OF CITY AND COUNTY HEALTH OFFICIALS  
NATIONAL ASSOCIATION OF LOCAL BOARDS OF HEALTH**

**POLICY STATEMENT ON TOBACCO USE PREVENTION AND CONTROL**

*Executive Summary*

Through this joint policy statement, the combined memberships of the Association of State and Territorial Health Officials (ASTHO), the National Association of County and City Health Officials (NACCHO), and the National Association of Local Boards of Health (NALBOH) clearly state their intention to eliminate - to the extent possible - the devastation wreaked on Americans by a product that, when used as intended, causes disease, disability and death. This policy states that there can be no hesitation or delay in implementing measures necessary to protect the public from substances that kill nearly half a million Americans each year. Within this framework, the sponsoring organizations jointly support the following actions to create a tobacco-free society:

- 1) Reduce or eliminate access to tobacco by minors.**
- 2) Support efforts at the local, state, and federal level to increase the regulation of tobacco products.**
- 3) Support effective K-12 school-based programs for tobacco use prevention to reduce initiation and encourage cessation of tobacco use among young people.**
- 4) Enhance access and availability of cessation services, remove structural barriers to tobacco use cessation, and increase cessation research, especially for youth.**
- 5) Increase tobacco product prices to prevent initiation of tobacco use by children and reduce consumption.**
- 6) Support actions that limit advertising and promotion of tobacco products.**
- 7) Advocate for effective, hard-hitting media campaigns that educate the public about the health effects of tobacco use, tobacco policy, and cessation resources, and inform the public about tobacco industry marketing tactics.**
- 8) Eliminate exposure to secondhand tobacco smoke, particularly in places where children would be exposed, in workplaces, indoor public areas, and in all government facilities and vehicles.**
- 9) Assess and report the health and economic impact of tobacco use.**

- 10) **Assure community-wide involvement in tobacco use prevention and control efforts.**
- 11) **Support partnerships with the legal community to explore strategies, including the use of litigation, to support public health and tobacco use prevention and control.**
- 12) **Advocate for local government legislative and regulatory autonomy to control tobacco.**
- 13) **Advocate for significant, sustained funding for comprehensive tobacco prevention and control programs at the federal, state and local levels.**
- 14) **Assess and report on money spent and actions taken by the tobacco industry in promoting tobacco and opposing tobacco regulation at the community, state, and federal levels.**

These policy goals are interdependent; none could stand alone as a solution to this country's single greatest preventable cause of death. However, they are also flexible and will be revised and redirected as circumstances require. The goal of the sponsoring organizations is to assist state and local agencies as they build the infrastructure for comprehensive, sustainable tobacco control programs, including effective prevention activities, media strategies, and policies to address tobacco objectives established in *Healthy People 2010\** – activities that foster a society and environment supportive of non-use of tobacco as the social norm. State and local public health organizations do not act alone in this effort, but must take the lead as the primary agents for protecting and improving the health of the nation. NACCHO, which represents almost 3,000 local health officials, ASTHO, representing the chief health officials in each state and territory, NALBOH, representing about 3,500 local boards of health across the country, along with Primary Care organizations representing agencies that provide medical care to the nation's underserved, are committed to promoting healthy behaviors and preventing disease and premature death resulting from the use of tobacco products.

\*U.S. Department of Health and Human Services, published in January, 2000.

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 Washington, D.C. 20005  
 (202) 371-9090 [www.astho.org](http://www.astho.org)

**NACCHO** National Association of County and City Health Officials  
 1100 17<sup>th</sup> Street, NW, Second Floor  
 Washington, D.C. 20036  
 (202) 783-5550 [www.naccho.org](http://www.naccho.org)

**NALBOH** National Association of Local Boards of Health  
 1840 East Gypsy Lane Road  
 Bowling Green, Ohio, 43402  
 (419) 353-7714 [www.nalboh.org](http://www.nalboh.org)

# POLICY STATEMENT ON TOBACCO USE PREVENTION AND CONTROL

## **The Problem:**

When used as intended, tobacco products are known to cause disease, disability, and the death of over 430,000 Americans each year at a total cost of over \$100 billion, according to the Centers for Disease Control and Prevention. The public health community must continue to take action to reduce tobacco use. State and local health organizations must work with state legislatures and policy making bodies, the federal government, community members, voluntary and civic organizations, health care institutions, educators, the business community and the media to address this public health crisis. State governments are urged to take advantage of the immediate availability of significant resources for tobacco use prevention and control resulting from the settlement of lawsuits brought by state Attorneys General against the tobacco industry

## **Surveillance:**

State and local health agencies must collect, analyze, and utilize data and information to respond effectively to rapidly changing tobacco issues. State health agencies, in partnership with local health departments, have the unique expertise to mount a coordinated effort to assemble and disseminate this information in an organized and understandable manner, given the necessary resources and funding such as can be made available from settlement funds. These coordinated surveillance efforts will serve to protect public health by tracking intervention outcomes and trends in use of tobacco products.

## **Infrastructure Building:**

Tobacco use prevention and control programs must be fully integrated and supported within state and local health agencies to ensure that activities supported by this policy statement are implemented. Infrastructure must be built and maintained for these programs, with adequate organizational and financial support, to ensure significant program outcomes. Partnerships between governmental entities and voluntary or private organizations must also be strengthened to ensure the durability and effectiveness of tobacco use prevention and control initiatives within states and communities, especially as plans are developed and legislation is introduced to secure settlement dollars for public health tobacco control.

## **Addressing Health Disparities:**

State and local public health practitioners, primary care providers, and policy makers recognize that the promotion practices of the tobacco industry are often targeted at women, youth, and communities of color. In addition, some population subgroups are disproportionately affected by the maladies associated with tobacco use. These problems must be addressed by programs that adequately deal with socio-cultural differences between groups, develop advocacy leadership in these communities, and promote diversity within state and local coalitions and program personnel. Settlement dollars can provide the necessary resources to target special populations disproportionately impacted by tobacco marketing and tobacco use.

## **Comprehensive Programming and Evaluation:**

For these goals to be achieved, specific actions must be strategically designed to address multiple aspects of the tobacco issue. State and community based programs must be continuously evaluated to assure that targets are being met and goals are achieved. Many of these actions are articulated in the Centers for Disease Control and Prevention's (CDC) *Best Practices for Comprehensive Tobacco Control Programs*. In addition, state and local health organizations must be flexible and adaptable in responding to changing

situations and new research. Programming at the state and local level must be sufficiently strengthened through use of tobacco settlement dollars as well as state and federal programs to withstand challenges from the tobacco industry, which employs the best lobbying, advertising, marketing, and legal expertise that its virtually unlimited financial resources can buy.

**Within this framework, the sponsoring organizations jointly support the following actions to create a tobacco-free society:**

**1) Reduce or eliminate access to tobacco by minors.**

- Demand strict enforcement of statutes, such as the Synar Amendment, Food and Drug Administration (FDA) regulations, and state and local regulations that ban the sale or distribution of tobacco products to minors.
- Collaborate with state and local authorities to implement and report on enforcement of youth access laws, educate tobacco vendors about laws regarding the sale of tobacco products to minors, and inform vendors about the dangers that tobacco products pose to youth in the community.
- Advocate for the enactment of effective state legislation or local ordinances that require vendors to be licensed to sell tobacco products, exact fines and revoke licenses for non-compliance, and allow licensing fees to fund enforcement efforts.
- Support bans on cigarette vending machines, self-service displays of tobacco products, single cigarette sales, free samples, and coupon discounts.
- Advocate for programs that educate parents and others about the sources from which youth obtain tobacco products and the important role adults play in protecting young people from addiction to tobacco.
- Urge tribal governments to tighten restrictions on tribal sales of tobacco products to minors.
- Be vigilant in tracking new tobacco products to assure enforcement of youth access laws.

**2) Support efforts at the local, state, and federal level to increase the regulation of tobacco products.**

- Support the FDA's authority to regulate nicotine as a drug and tobacco products as drug delivery devices.
- Advocate for strong warning labels on all tobacco product packaging, including the placement of warning labels on cigar packaging.

- Advocate for greater regulation of advertising and improved nicotine and tar measurements by the Federal Trade Commission.
- Where permitted by law, advocate for state and/or local action to regulate the production, promotion and sale of tobacco products.

### **3) Support effective kindergarten through twelfth grade (K- 12) school-based programs for tobacco use prevention to reduce initiation and encourage cessation of tobacco use among young people.**

- Encourage state and local education agencies to implement the CDC Division of Adolescent and School Health *Guidelines for School Health Programs to Prevent Tobacco Use and Addiction* which includes a ban tobacco use on all school property, in school vehicles, and at all school-sponsored events at all times.
- Work with state and local departments of education to adapt appropriate programs for use in individual school settings.
- Integrate school programs with other community tobacco control activities to reach youth who are out of school and can be reached in alternative settings.

### **4) Enhance access to and availability of cessation services, remove structural barriers to tobacco use cessation, and increase cessation research, especially for youth.**

- Support and promote formal smoking cessation counseling programs, including the use of cessation products in combination with personal advice and assistance from health educators or care providers, as recommended in the Agency for Health Care Policy and Research's *Clinical Practice Guidelines*.
- Work to assure that tobacco cessation services are available without regard to insurance coverage, and are covered as reimbursable expenses by third party payers (including managed care organizations).
- Train health care providers to counsel and refer patients to cessation programs.
- Assure the availability of culturally appropriate cessation programs at multiple locations in the community, including workplaces, schools, and elsewhere.
- Encourage increased availability of tobacco use cessation services within institutions, including those serving mentally ill, developmentally disabled, and incarcerated populations.
- Encourage all health care providers and public health workers who use tobacco to quit.

- Promote and support the development and continuous evaluation of cessation programs targeting: adolescents; adults; pregnant women throughout the continuum of child birth and parenting.

**5) Increase tobacco product prices to prevent initiation of tobacco use by children and reduce consumption.**

- Advocate for progressively higher federal, state and local excise taxes on all tobacco products.
- Utilize revenue generated by increased taxes to institutionalize tobacco control activities, such as health promotion, smoking cessation, enforcement of tobacco control laws, and to counteract tobacco industry marketing efforts.

**6) Support actions that limit advertising and promotion of tobacco products.**

- Support restrictions on public tobacco advertising, including price advertising paid for by tobacco vendors.
- Encourage and assist community organizations accepting donations from the tobacco industry to secure alternative sponsorship of their activities.
- Assist state Attorneys General in enforcing the provisions of the national tobacco settlement that restrict tobacco advertising and promotion.
- Support the FDA's authority to regulate advertising and promotion of tobacco products directed at youth.

**7) Advocate for effective, hard-hitting media campaigns that educate the public about health effects of tobacco use, tobacco policy, cessation resources, and inform the public about tobacco industry marketing tactics.**

- Develop comprehensive media plans to advocate for legislative or public policy issues and educate the general public.
- Promote counter-marketing to rebut tobacco industry advertising.
- Provide information about available resources, such as smoking cessation hotlines or educational materials on tobacco, that are easily accessible by the public.
- Collaborate with the American Legacy Foundation to coordinate media education campaigns that address individual state and local needs.



**8) Eliminate exposure to secondhand tobacco smoke, particularly in places where children would be exposed, in workplaces and indoor public areas, and in all government facilities and vehicles.**

- Educate the public, through advertising campaigns, media advocacy, and other available means, about the dangers secondhand smoke poses to their health and the health of others, particularly children.
- Support the U. S. Environmental Protection and other efforts to educate smokers on the health risks of smoking around children, particularly in the home and automobiles.
- Promote and support policies, legislation or regulations that ensure that indoor air in workplaces and public venues is free from secondhand smoke.
- Provide data and expert testimony to promote the passage of state or local legislation, regulations or policies aimed at banning smoking in places where non-smokers would be exposed to tobacco smoke.
- Emphasize first the need for regulation of public areas where people, particularly children, are required to assemble, then direct efforts at privately owned facilities.
- Provide technical assistance to agencies and businesses in the development, implementation, and, when necessary, the enforcement of smoke-free policies.

**9) Assess and report the health and economic impact of tobacco use.**

- Advocate and assist in development of surveillance systems in clinical settings by use of chart codes and through the use of vital records such as birth and death certificates.
- Conduct state and local surveys, such as the Behavioral Risk Factor Surveillance Survey (BRFS), Smoking-related Assessment of Morbidity, Mortality and Economic Costs (SAMMEC), Current Population Survey (CPS), Youth Tobacco Survey (YTS), and Youth Risk Behavior Survey (YRBS), and collect other appropriate data to monitor tobacco use on an annual basis.
- Assure that surveillance activities related to enforcement of minors' access laws, such as FDA and Synar, are maintained and compliance with state and local laws regarding youth access is monitored.

**10) Assure community-wide involvement in tobacco use prevention and control efforts.**

- Establish program goals that address the Healthy People 2010 tobacco objectives, especially the disparities in tobacco use and health consequences that disproportionately impact special populations.

- Reach out to diverse local and state organizations and individuals to participate in, guide, and organize tobacco use prevention programs.
- Seek out non-traditional partners to address the tobacco problem on a community-wide basis. When developing tobacco control coalitions, include such groups as churches, community service organizations, merchants, veterans' organizations, civic clubs, and others.

**11) Support partnerships with the legal community to explore strategies, including the use of litigation, to support public health tobacco use prevention and control.**

- Provide state or local health data, medical and economic cost information, tobacco related mortality statistics, and other consultation to prosecuting attorneys and plaintiffs' counsels.
- Participate in and encourage others to join in amicus curiae briefs in criminal and civil cases.
- Enlist the assistance of public and private lawyers to ensure that all possible legal avenues are used to restrict and regulate tobacco products and that laws, regulations and legal agreements are enforced.
- Support efforts by breathing-disabled citizens to push public venues to go smokefree through the filing of claims under the federal Americans with Disabilities Act.

**12) Advocate for local government legislative and regulatory autonomy to control tobacco.**

- Support initiatives to repeal preemptive statutes or replace preemptive language in existing state legislation with specific non-preemptive language.
- Support the inclusion of specific anti-preemption language in all state tobacco control legislation and oppose legislation containing any preemptive language.
- Expose legislative tactics that seek to rescind existing local tobacco control ordinances and invoke "super-preemption" of all local tobacco control legislation through language added to minor or unrelated bills.

**13) Advocate for significant, sustained funding for comprehensive tobacco prevention and control programs at the federal, state and local levels.**

- Advocate that a significant portion of state tobacco settlement funds be used for comprehensive tobacco use prevention and control programs at the state and local health agency level, through primary care associations, and community-base organizations.
- Support the use of CDC's *Best Practices for Comprehensive Tobacco Control Programs* to plan and fund comprehensive state and local programs on an ongoing basis.