

# **Tobacco Master Settlement Agreement & Tobacco Control in NM; e-cigarette update**

*Sandra Adondakis*

*American Cancer Society Cancer Action Network*

*Tobacco Settlement Revenue Oversight Committee*

*June 18, 2014*

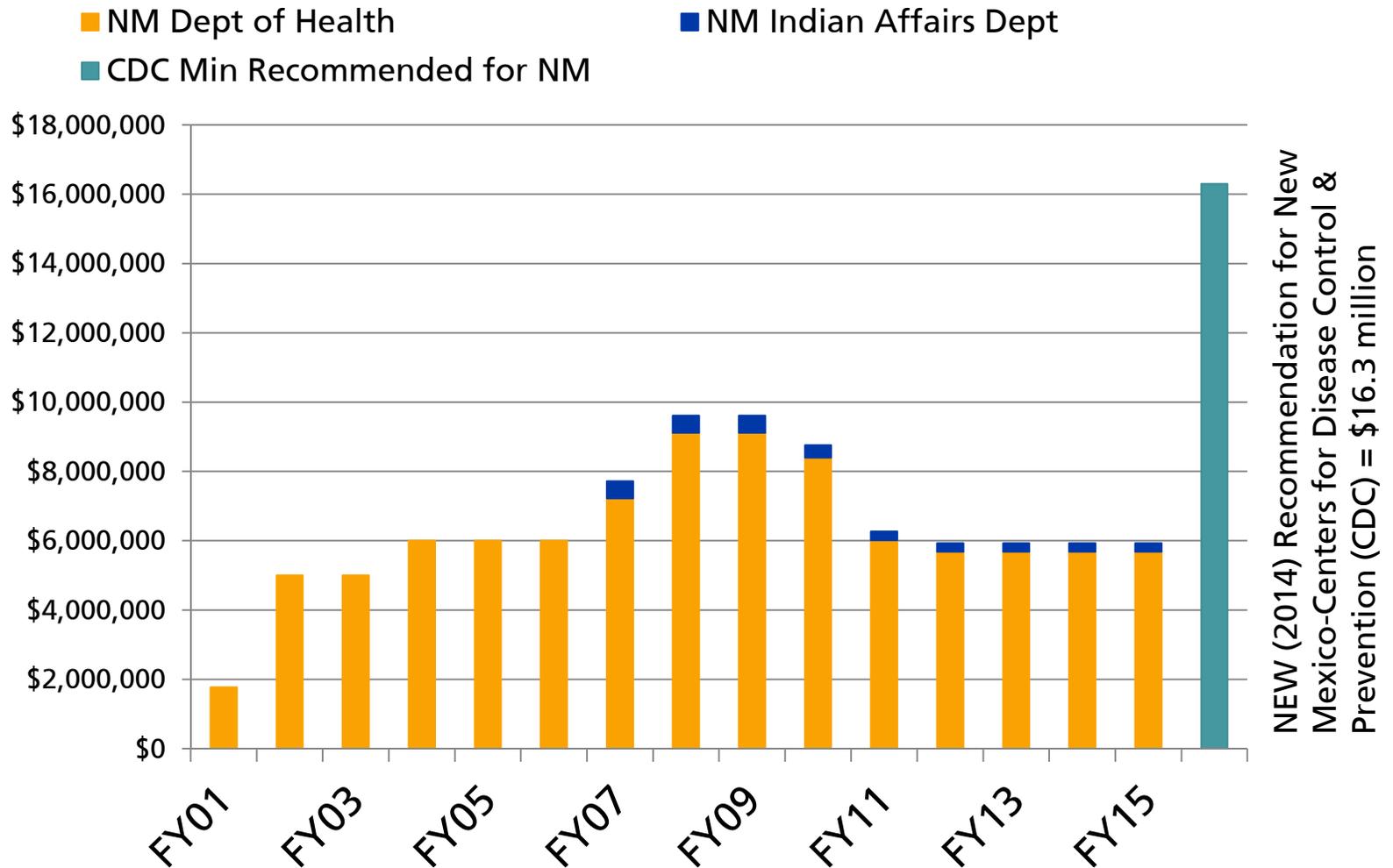


## *Overview of Topics*

---

- Tobacco Control & the MSA in NM
  - Program Funding
  - Smoking Rates
  - Tobacco's Cost to New Mexico
- E-Cigarettes and the Food and Drug Administration's Proposed "Deeming" Rules

# Tobacco Control Funding in NM



Source: Legislative Council Service for years FY01-FY13 (<http://www.nmlegis.gov/lcs/handouts/TSROC%2006112013%20Item%204%20Tobacco%20Settlement%20Fund%20Appropriations%20FY99-FY13%20Powerpoint.pdf>) ; HB2 for FY14

# *Funding Tobacco Control Works*

- When adequately funded, comprehensive state tobacco prevention programs reduce tobacco use, save lives, and cut health related tobacco-use costs.
- The more states spend on tobacco control programs, the greater the impact.
- States with sustained, well-funded prevention programs have reduced youth smoking by 45 to 60 percent.

Sources: <http://www.tobaccofreekids.org/research/factsheets/pdf/0045.pdf>; Farrelly, MC, et al., "The Impact of Tobacco Control Programs on Adult Smoking," *American Journal of Public Health* 98:304-309, February 2008; Tauras, JA, et al., "State Tobacco Control Spending and Youth Smoking," *American Journal of Public Health* 95:338-344, February 2005.

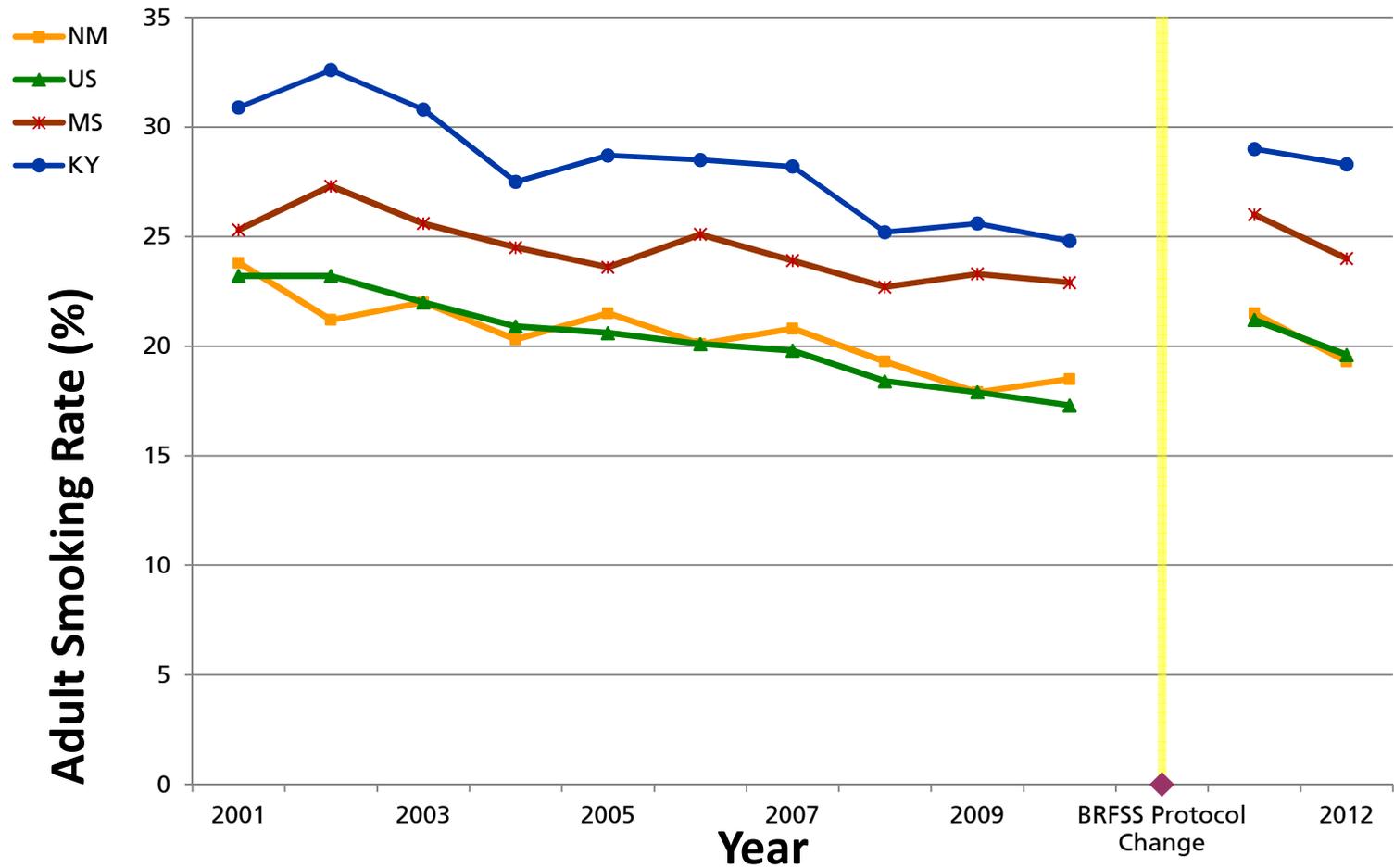
# *Increase Tobacco Control Funding*

---

- When program funding is cut, smoking rates stop declining (California, Indiana) or actually rise (e.g., Florida, Ohio, Massachusetts).
- States must:
  - ✓ Insulate against the tobacco industry attempts to reduce or divert program funding away from tobacco control best practices.
  - ✓ Sustain funding over time to protect initial tobacco use reductions and to achieve further cuts.

Sources: <http://www.tobaccofreekids.org/research/factsheets/pdf/0045.pdf> & <http://www.tobaccofreekids.org/research/factsheets/pdf/0270.pdf>

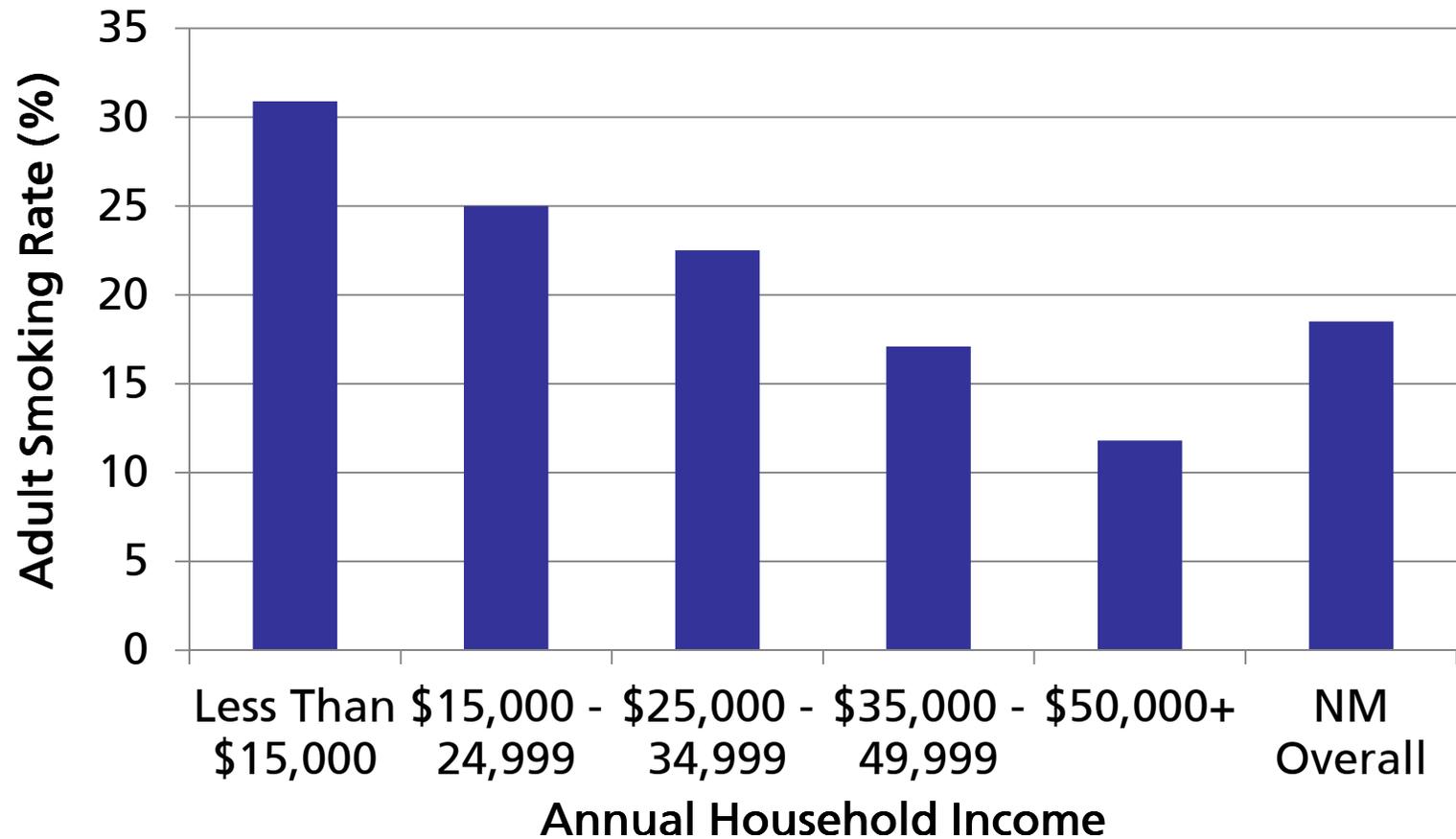
# Progress in New Mexico – Adult Smoking, 2001- 2012



Source: Behavioral Risk Factor Surveillance System (2001-2012), [www.cdc.gov/brfss](http://www.cdc.gov/brfss)

## *New Mexicans with Lowest Income Have Highest Smoking Rate*

**NM Adult Smoking Rate  
by Household Income (2008-2010)**



Source: Behavioral Risk Factor Surveillance System, [www.cdc.gov/brfss](http://www.cdc.gov/brfss)

# *NM Specific Cost Estimates*

---

## Medicaid Costs in NM

- Annual State Government Smoking-Related Medicaid Costs: \$56.6 million
- Annual Federal Smoking-Related Medicaid Costs in NM: \$127.3 million

## Overall Costs in NM

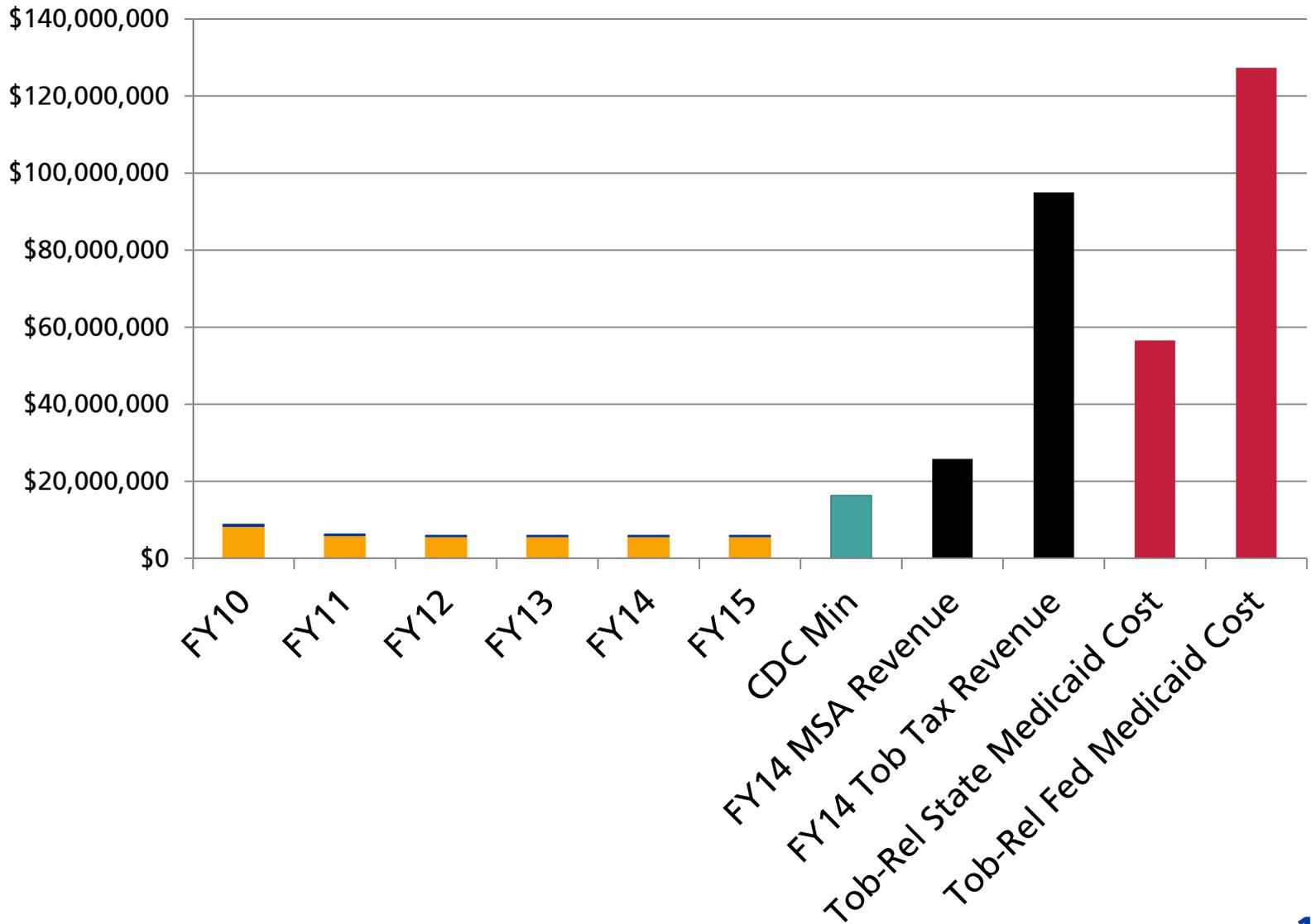
- Total annual smoking-related costs in NM: \$954 million
  - \$461 million in direct medical costs
  - \$493 million in lost productivity

## *NM Specific Revenue Estimates*

---

- Estimated FY14 State Tobacco Tax Revenues: \$95.0 million
- Estimated FY14 State Tobacco Settlement Revenues: \$25.8 million

# *Tobacco Control Funding, Tobacco Revenue and Medicaid Costs in NM*



## *Tobacco's Toll in NM*

---

- About 2,100 New Mexicans die annually from smoking; about 42,000 New Mexicans suffer with at least one serious illness from smoking
- 1,060 New Mexicans will be diagnosed with lung cancer in 2014
- Smoking accounts for at least 87% of lung cancer deaths among men and 70% of lung cancer deaths among women
- Smokeless tobacco products cause oral, esophageal, and pancreatic cancers, precancerous lesions of the mouth, gum recession, & bone loss around the teeth.

**Sources:** <http://www.tobaccofreekids.org/research/factsheets/pdf/0178.pdf> and American Cancer Society. *Cancer Facts & Figures 2014*. Atlanta: American Cancer Society; 2014.

# *The Good News: Cessation Coverage through Medicaid*

---

- Federal government guidance on Affordable Care Act (ACA) implementation
- May 2014: Defined comprehensive quit smoking benefit:
  1. All medications approved by the FDA as safe and effective for smoking cessation (including both prescription and over-the-counter medications)
  2. Individual, group and phone cessation counseling
  3. Quit smoking benefits should be offered at least twice a year to smokers, recognizing not everyone quits on their first try
  4. Plans should not require prior authorization for these benefits

The ACA also requires that these benefits be provided at no cost to the patient – so no copays, coinsurance or deductibles should be charged.

## *Moving Forward*

---

- Restore funding to tobacco control programming to realize cost savings in Medicaid and other areas
- Return to saving 50% of MSA payments in the permanent fund

## *US Food & Drug Administration and e-cigarettes: “Deeming”*

---

- In April 2014, US Food & Drug Administration (FDA) proposed deeming other tobacco products under its authority
- Under this proposed rule, FDA is proposing to bring all other categories of tobacco products under its authority, including:
  - certain dissolvables,
  - gels,
  - hookah tobacco,
  - electronic cigarettes,
  - cigars, and
  - pipe tobacco.

## *US Food & Drug Administration and e-cigarettes: Specific Provisions*

---

- In addition to “deeming,” FDA is proposing three specific provisions be applied to newly deemed tobacco products. They are:
  1. Prohibiting retailers from selling newly deemed tobacco products to persons under the age of 18 and requiring photo identification;
  2. Prohibiting the sale of newly deemed tobacco products from being sold in vending machines, except in adult-only facilities; and
  3. Requirements for warning statements on products and advertisements.
- These provisions already apply to cigarettes, roll-your-own-tobacco, and smokeless tobacco under the Tobacco Control Act.

# *US Food & Drug Administration and e-cigarettes: Other Provisions*

---

- Examples of other provisions of Tobacco Control Act that would apply to e-cigarettes in the final rule
  - Prohibit use of terms such as “light” or “mild” and prohibit claims that one product is less harmful than another product, unless FDA issues an order permitting such a claim
  - Prohibition of free samples (same as for cigarettes)
  - Premarket review requirements
- The proposed rule does not address the marketing or advertising of these proposed deemed tobacco products, or flavorings in these products.

# *US Food & Drug Administration and e-cigarettes: Next Steps*

---

- 75-day public comment period
- FDA reviews comments, develops the Final Rule for publication in the Federal Register
- Phase in of final rules

# *Questions?*



[sandra.adondakis@cancer.org](mailto:sandra.adondakis@cancer.org)