

Regulation Digest Weekly

March 20th, 2013

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Feature Story

FDA Opens Public Docket for Tobacco Product Good Manufacturing Practices

The Food and Drug Administration published a [proposed rule](#) announcing the availability of a public docket to receive input on recommendations for regulations on good manufacturing practice for tobacco products. The 2009 Family Smoking Prevention and Tobacco Control Act gave FDA authority to regulate tobacco product manufacturing practices for the protection of public health. Specifically, FDA is permitted to "prescribe regulations (which may differ based on the type of tobacco product involved) requiring that the methods used in, and the facilities and controls used for, the manufacture, preproduction design validation (including a process to assess the performance of a tobacco product), packing, and storage of a tobacco product conform to current good manufacturing practice, or hazard analysis and critical control point methodology." In response to this, a group of 13 tobacco companies submitted to FDA recommendations for good manufacturing practice regulations, on which the Agency is now seeking comment. "FDA is establishing this docket to provide an opportunity for all interested parties to comment on the tobacco companies' recommendations and to share information that will improve FDA's understanding of the tobacco industry and its manufacturing operations." [Comments](#) are due on May 20th.

In the News

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- [Insurers warn of sticker shock due to health care law's taxes, requirements as it expands](#), *Washington Post*
- [Lawsuit charges Ed Department with violating student privacy rights](#), *Washington Post*
- [Career official takes over as Obama's acting regulatory czar](#), *The Hill*
- [Treasury Official Defends Risk Council Approach on Transparency](#), *Bloomberg*
- [Paul Volcker on Banking Regulations, Fed Policy](#), *Bloomberg TV*

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- [Should Insurance Regulators Handle Derivatives?](#), *Bloomberg TV*
- [Stress Tests-Banker Pay, Google, FX Debates: Compliance](#), *Bloomberg*
- [Improved Truck Trailers Still Capable of Killing Drivers](#), *Bloomberg*
- [No spin: Regulators eye new rules for ceiling fans](#), *The Hill*
- [Don't expect quick action on painkillers, FDA tells lawmakers](#), *The Hill*
- [Senate probe finds JPMorgan hid losses, risks of trading operation that lost \\$6.2B](#), *Washington Post*
- [Government watchdog under fire for allegedly backing corporate interests](#), *Washington Post*
- [Senator accuses EPA of using 'secret data' to write regulations](#), *The Hill*
- [New community bankers leader vows fight against onerous regs](#), *The Hill*
- [Consumer bureau sets sights on student loan servicers](#), *The Hill*



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Competitive Enterprise Institute

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▪ SEC Charges Illinois With Securities Fraud And Lets It Off With A Warning, *Ivan Osorio*

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▪ The EPA's Implausible Return on its Fine Particulate Standard, *Susan E. Dudley*

Government Accountability Office

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Heritage Foundation

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▪ Obamacare: Projected Premium Increases by State, *Alyene Senger*

▪ From Chemical Security to Cyber: Regulation Still Not the Answer, *Jessica Zuckerman & David Inserra*

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▪ The Employment Costs of Regulation, *Keith Hall*

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Penn Program on Regulation

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▪ The Regulatory Week in Review: March 15, 2013, *RegBlog Staff*

▪ Start-up Companies Await SEC Guidance on Equity Crowdfunding, *Lauren-Kelly Devine*

[Small-business office confronts critics: 'We do not block rules'](#), *The Hill*

[Employers Blast Fees From New Health Law](#), *Wall Street Journal*

[OCC Failed to Properly Investigate JPMorgan: Report](#), *Bloomberg TV*

[Why Derivatives Are Still Not Regulated](#), *Bloomberg TV*

[Dimon Misled Investors, Dodged Regulators: Report](#), *Bloomberg TV*

[Treasury's Lew on U.S. Manufacturing, Dodd-Frank](#), *Bloomberg TV*

[JPMorgan Boosts Payout More Than Expected After Fed Approval](#), *Bloomberg*

[Goldman Sachs Corrected Error in Stress Test Submission to Fed](#), *Bloomberg*

[Ally Financial's Capital Plan Rejected by Fed After Stress Tests](#), *Bloomberg*

[U.S. lawmakers want more transparency on financial risk council](#), *Reuters*

[Judge rules U.S. SEC can withhold FINRA records from the public](#), *Reuters*

[Regulator Sides With Big Banks on Avoiding Break-Up Votes](#), *New York Times*

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[Cantor: Need to Focus on Smart, Fair Regulations](#), *Bloomberg TV*

[EPA likely to delay climate rules for new power plants](#), *Washington Post*

[Insider-trading fine reaches record \\$600 million](#), *The Hill*

[Court steps into turf war between regulators](#), *The Hill*

[FDA weighs tobacco company proposals](#), *The Hill*

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[SAC Criminal Probe May Speed Up With SEC Allegations](#), *Bloomberg*

[Fed's Fisher Says Too-Big-to-Fail Banks Should Be Shrunk](#), *Bloomberg*

[Senate JPMorgan Report Gives SEC Road Map for Potential Lawsuit](#), *Bloomberg*

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[Obama to nominate Justice Department's Thomas Perez as labor secretary](#), *Washington Post*

[U.S. regulators probing high-speed traders for 'wash trades'](#), *Reuters*

[Divided Views of SAC Capital Settlement](#), *New York Times*

[High-Frequency Firms' Wash Trades Need U.S. Review, Chilton Says](#), *Bloomberg*

[U.S. seeks closer oversight of student loan firms](#), *USA Today*

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[Obama Chooses Perez as Labor Secretary to Replace Solis](#), *Bloomberg*

[FERC Power Limited, JPM Hearings, SAC Capital: Compliance](#), *Bloomberg*

[Senator places hold on EPA nominee](#), *The Hill*

[Why the EPA might delay its carbon rules for power plants](#), *Washington Post*

[Biographical information for Labor Secretary nominee Thomas Perez](#), *Washington Post*

[Warning alerts on quiet cars must be 'pleasant,' automakers tell NHTSA](#), *Washington Post*

[EPA wants lawsuit by W.Va. chicken grower dismissed; farm bureaus say issues must be heard](#), *Washington Post*

[New regulations limit waiting periods for employer health plans](#), *The Hill*

[Coal state Dems press Obama to scale back EPA emissions rules](#), *The Hill*

[Agency: IRS failed to tally paperwork burden from healthcare mandate](#), *The Hill*

[HHS touts Obama health law's free preventive care](#), *The Hill*

[Unions hope Labor pick will spur action on worker rules](#), *The Hill*

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[White Has Bipartisan Support for SEC as Panel Nears Vote](#), *Bloomberg*

[SEC, consumer banking picks clear committee](#), *Washington Times*

[US won't appeal ruling blocking graphic cigarette warnings, FDA to revise labels](#), *Washington Post*

[US safety regulators open probe into fuel leaks in about 250,000 E-Class Mercedes cars](#), *Washington Post*

[Panel approves consumer watchdog nominee, but confirmation fight wages on](#), *Washington Post*



THE GEORGE WASHINGTON UNIVERSITY

WASHINGTON, DC
REGULATORY STUDIES CENTER

[Manufacturers sue EPA over soot rule](#), *The Hill*

[Banks Need Room to Breathe in Regulations: Shore](#), *Bloomberg TV*

[Dougan: Fighting Bank Regulation Is Futile Exercise](#), *Bloomberg TV*

[Cigarette Warning-Label Ruling Won't Be Appealed by U.S.](#), *Bloomberg*

[Dodd-Frank Swap Data Fails to Catch JPMorgan Whale, O'Malia Says](#),

Bloomberg

[EPA Emissions Plan Faces Possible Revamp](#), *Wall Street Journal*

[Regulator Delays Nuclear-Plant Rule](#), *Wall Street Journal*

[Internet Providers Persuade FCC Panel Against Cybersecurity Recommendations](#),

Wall Street Journal

[Gas prices might soar because of EPA renewable fuels mandate, Congress warns](#),

Washington Times

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[Wall Street May Win Swap-Rule Reprieve in U.S. House Legislation](#), *Bloomberg*

[Top Doctors Tell FDA to Limit Caffeine in Energy Drinks](#), *Bloomberg*

[Green Groups Press EPA for Climate Rule Industry Loathes](#), *Bloomberg*

[Bill to give Congress veto power over regulations advances in House](#), *The Hill*

Rulemaking

Department of Agriculture

USDA Finalizes Weekly Export Sales Reporting Requirements for Pork, but not Dried Grain

The Department of Agriculture published a [final rule](#) finalizing many components of USDA's June 25, 2012 [proposed rule](#), *Export Sales Reporting Requirements*, requiring weekly reporting of all export sales for pork to the Foreign Agricultural Service (FAS). "Exporters provide information on the quantity of the sale transaction, the type and class of commodity, the marketing year of shipment, the export amount, and the destination. They also report any change of previously reported information, such as cancellations and changes in destination. A weekly summary of the export sales activity is published every Thursday at 8:30 a.m. eastern time, unless a change of time is announced. The "U.S. Export Sales" report does not provide data on individual firms, only a compilation of activity by commodity. Any person (exporter) who knowingly fails to make a report could be fined up to \$25,000, imprisoned for not more than one year, or both." The proposed rule extended export sales reporting requirements to pork and dried grain to make the market more transparent, and to provide the public with the same level of information on futures markets as members of industry. However, dried grain is not being subject to reporting requirements in the final rule in response to two adverse public comments, and USDA will give this topic further review and solicit additional public input before moving forward with a reporting requirement for dried grain.

Department of Energy

DOE Initiates Rulemaking Process for Ceiling Fan Energy Efficiency Standards

The Department of Energy published a [proposed rule](#) announcing that the Department is initiating the rulemaking process for amending the energy standards applicable to ceiling fans and ceiling fan light kits. The Department has also prepared a [framework document](#) on potential new energy standards, on which it is currently seeking public comment. "This Framework Document also includes DOE's preliminary review of relevant industry test procedures and testing methods used to characterize the performance of ceiling fans and ceiling fan light kits in all modes of operation. DOE has also included in this Framework Document a detailed summary of key issues that DOE is considering in developing its own test procedures and for use in developing energy conservation standards for ceiling fans and ceiling fan light kits. In addition, DOE has identified issues regarding the testing of ceiling fans and ceiling fan light kits on which it is seeking comment. DOE will consider the feedback received in response to this Framework Document in developing proposed test procedures for ceiling fans and ceiling fan light kits." [Comments](#) are due on April 29th.

Consumer Product Safety Commission

CPSC Seeks Comment on Upholstered Furniture Fire Safety Technologies

The Consumer Product Safety Commission published a [proposed rule](#) announcing the Commission's intent to hold a meeting on upholstered furniture fire safety technologies on April 25th from 9:00am – 4:00pm. "In general, the meeting will focus on current and anticipated progress on fire barrier technologies and other options to reduce the



fire hazard posed by residential furniture.” Topics being considered for discussion at the meeting are as follows: Fire Barriers, Commercial Furniture Fire Safety Technologies, and Application of Other Fire Safety Technologies to Residential Furniture. Members of the public can RSVP [here](#).

The Commission is also seeking comments on this topic. “We request comments on the possibility of moving from a regulatory approach that primarily addresses fire deaths caused by smoldering ignition sources using bench scale models to one that relies on the use of fire barriers to address fires started by multiple types of ignition sources (including smoking materials) by limiting fire growth similar to the performance requirements in 16 CFR 1633. Staff has encountered problems with controlling standard materials (foam, fabric, barriers) when used in bench scale tests with a smoldering ignition source.” [Comments](#) are due on July 1st.

Environmental Protection Agency

EPA Finalizes Amendments to NAAQS Nitrogen Dioxide Monitoring Requirements

The Environmental Protection Agency published a [final rule](#) revising the deadlines established in the national ambient air quality standard (NAAQS) for nitrogen dioxide (NO₂) for the near-road component of the NO₂ monitoring network to implement a phased deployment approach. “This rulemaking will result in the following actions: (1) A change to the dates by which required near-road NO₂ monitors will need to be identified in state Annual Monitoring Network Plans; (2) a change to the dates by which required near-road NO₂ monitors shall be operational; and (3) a shift in the authority to approve NO₂ monitoring plans from the EPA Administrator to the EPA Regional Administrators.” This phased implementation approach is being applied in order to give states more time to establish the required near-road NO₂ monitors; “No changes are being made with regard to the implementation timing requirements for area-wide monitoring and for monitoring to characterize NO₂ exposures for susceptible and vulnerable populations.”

Federal Communications Commission

FCC Seeks Comment on Determinations of Unsubsidized Competitors

The Federal Communications Commission published a [proposed rule](#) seeking comment from the public on how best to determine which entities are unsubsidized competitors for the implementation of Connect America Phase II. “In this document, the Federal Communications Commission seeks comment on how it will determine which census blocks are served by an unsubsidized competitor, how price cap carriers will demonstrate they are meeting the Commission’s requirements for reasonable comparability, and what other providers will need to demonstrate to be deemed unsubsidized competitors.” [Comments](#) are due on March 28th.

National Credit Union Administration

NCUA Proposes Rule for Federal Credit Union Ownership of Fixed Assets

The National Credit Union Administration published a [proposed rule](#) to clarify its existing rules governing federal credit union (FCU) ownership of fixed assets. “NCUA’s fixed assets rule: (1) Limits FCU investments in fixed assets; (2) establishes occupancy, planning, and disposal requirements for acquired and abandoned premises; and (3) prohibits certain transactions. For purposes of the rule, fixed assets are premises, furniture, fixtures, and equipment, including any office, branch office, suboffice, service center, parking lot, facility, real estate where a credit union transacts or will transact business, office furnishings, office machines, computer hardware and software, automated terminals, and heating and cooling equipment.” The proposed amendments to this rule do not make any substantive changes to the regulatory requirements, but are intended to clarify existing requirements for easier comprehension and implementation. [Comments](#) are due on May 20th.

Agencies

Department of Justice

BOP Increases Cost of Incarceration Fee to \$28,893.40

The Bureau of Prisons published a [notice](#) announcing the fee levied on some inmates to cover the average cost of incarceration is being increased from \$28,284 to \$28,893.40. This fee is enabled through [28 CFR part 505](#), which allows for the assessment and collection of a fee to cover the average cost of incarceration for Federal inmates. This [incarceration fee](#) applies to inmates “convicted in U.S. District Courts, committed to Bureau custody, and serving a period of incarceration which began on or after January 1, 1995.” The Bureau of Prisons annually revisits the average annual cost of incarceration, and adjusts the fee to more accurately reflect that cost.



Export-Import Bank

Ex-Im Bank Receives Application for \$100+ Million to Fund Export of Mining Equipment to Mongolia

The Export-Import Bank published a [notice](#) announcing the receipt of an application for a long-term loan or financial guarantee in excess of \$100 million to fund the export of mining equipment and services to Mongolia. The exports would be used to develop and operate a copper and gold mine in Mongolia; [comments](#) are due on April 9th.

Ex-Im Bank Receives Application for \$100+ Million to Fund Boeing 777 Exports to Kuwait

The Export-Import Bank published a [notice](#) announcing the receipt of an application for a long-term loan or financial guarantee in excess of \$100 million to fund the export of commercial Boeing 777 aircraft to Kuwait. The exports would be used for long-haul passenger service between Indonesia and destinations in Europe, Asia and the Middle East. [Comments](#) are due on April 12th.

Ex-Im Bank Receives Application for \$100+ Million to Fund GE Turbine Exports to United Arab Emirates

The Export-Import Bank published a [notice](#) announcing the receipt of an application for a long-term loan or financial guarantee in excess of \$100 million to fund the export of General Electric (GE) turbines to the United Arab Emirates. These exports would be used expand a power plant to support an expansion of an aluminum smelter. [Comments](#) are due on April 12th.

Ex-Im Bank Receives Application for \$100+ Million to Fund Boeing 777 Exports to China

The Export-Import Bank published a [notice](#) announcing the receipt of an application for a long-term loan or financial guarantee in excess of \$100 million to fund the export of commercial Boeing 777 aircraft to China. These exports would be used to provide long-haul airline service between China and various international destinations. [Comments](#) are due on April 15th.

