



PUBLIC HEALTH LAW CENTER

at Mitchell Hamline School of Law



Navigating the New Tobacco “Normal”

Implications of the HUD and FDA Rules for Local Public Health

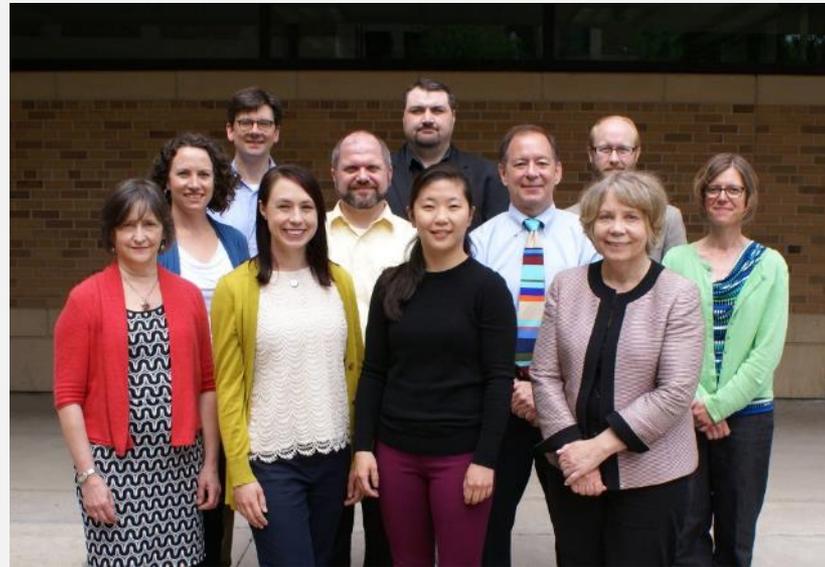
2016 SHIP Annual Meeting
July 27, 2016

Any legal information provided in this presentation does not constitute legal advice or legal representation.

The Public Health Law Center



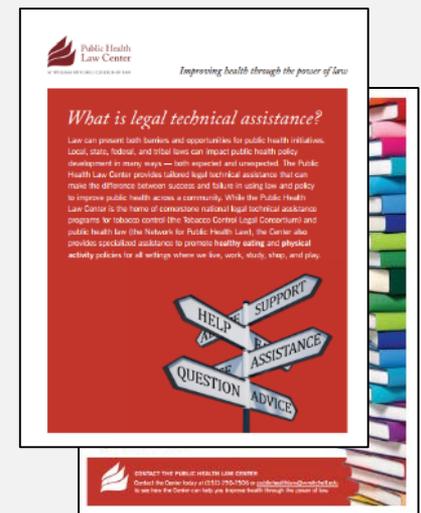
Tobacco Control Legal Consortium



Attorneys supporting tobacco control policy change.

Legal Technical Assistance

- ✓ Legal Research
- ✓ Policy Development
- ✓ Publications
- ✓ Trainings
- ✗ Direct Representation
- ✗ Lobby



Session Overview

- **FDA Deeming Rule**
- **HUD's Proposed Smoke-Free Housing Rule**
- **Local Implications & Opportunities**
- **Questions & Discussion**
- **Resources**





FDA Deeming Rule



FEDERAL REGISTER

Vol. 81 Tuesday,
No. 90 May 10, 2016

Part III

Department of Health and Human Services

Food and Drug Administration

21 CFR Parts 1100, 1140, and 1143
Deeming Tobacco Products To Be Subject to the Federal Food, Drug, and
Cosmetic Act, as Amended by the Family Smoking Prevention and
Tobacco Control Act; Restrictions on the Sale and Distribution of Tobacco

Family Smoking Prevention & Tobacco Control Act of 2009

- Cigarettes & Smokeless Tobacco
- State & Local Authority
- “Deeming”



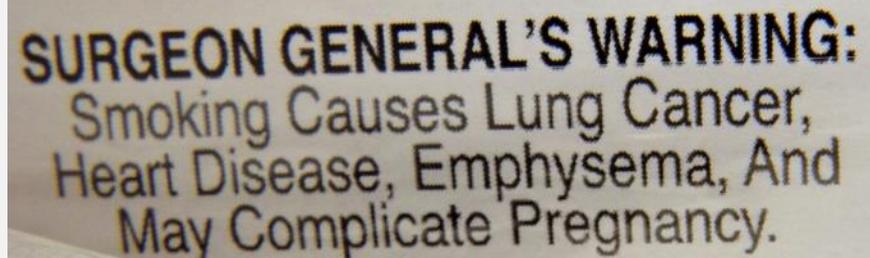
“Newly Deemed” Tobacco Products

- Cigars
- Pipe Tobacco
- Hookah/Shisha
- Gels
- Dissolvables
- Electronic Cigarettes*
- All future tobacco products



Applying the “Old” to the “Newly Deemed”

- Manufacturer Registration
- Ingredient Reporting
- Premarket Review – “New” Tobacco Products
- Health Warnings
- Modified Risk Claims Prohibited
 - “Light,” “Low” or “Mild”



SURGEON GENERAL'S WARNING:
Smoking Causes Lung Cancer,
Heart Disease, Emphysema, And
May Complicate Pregnancy.

Youth Access (Federal Law)

- **Minimum Sales Age**
 - 18 Years Old
 - All Tobacco Products
- **Age Verification**
 - Under 27
 - All Tobacco Products
- **Vending Machine Sales**
 - Adult-only Facilities
 - All Tobacco Products
- **Self Service Displays**
 - Cigars & Smokeless: Adult-only Facilities
 - E-Cigarettes & OTPs: No Restrictions



Free Samples

- **Cigarettes** – Prohibited
- **Smokeless Tobacco** – Limited to “Qualified Adult-Only Facilities”
- **Cigars** – Prohibited
- **Other Tobacco Products (OTPs)** – Prohibited
- **E-Cigarettes & E-Liquids** – Prohibited*



HUD's Proposed Smoke-Free Public Housing Rule



Proposed Rule

- Published November 17, 2015
- “Instituting Smoke-Free Public Housing”
- Comment period ended January 19, 2016



Requirements

- Each public housing agency (PHA) must implement a smoke-free policy for indoor areas and 25 feet from buildings
- Policy must start no later than 18 months from the effective date of the rule
- No grandfathering



Public Housing Authorities

- Low-income housing & all necessary appurtenances (e.g., community facilities, public housing offices, day care centers, and laundry rooms) thereto, assisted under the U.S. Housing Act of 1937 (the 1937 Act)
- “Section 8” and mixed-financed housing not covered



Location, Location, Location

- All living units, **indoor** common areas in public housing, and in PHA administrative office buildings
- All outdoor areas within 25 feet of the housing and administrative office buildings
- PHAs may:
 - Designate smoking areas
 - Make the entire grounds smoke-free



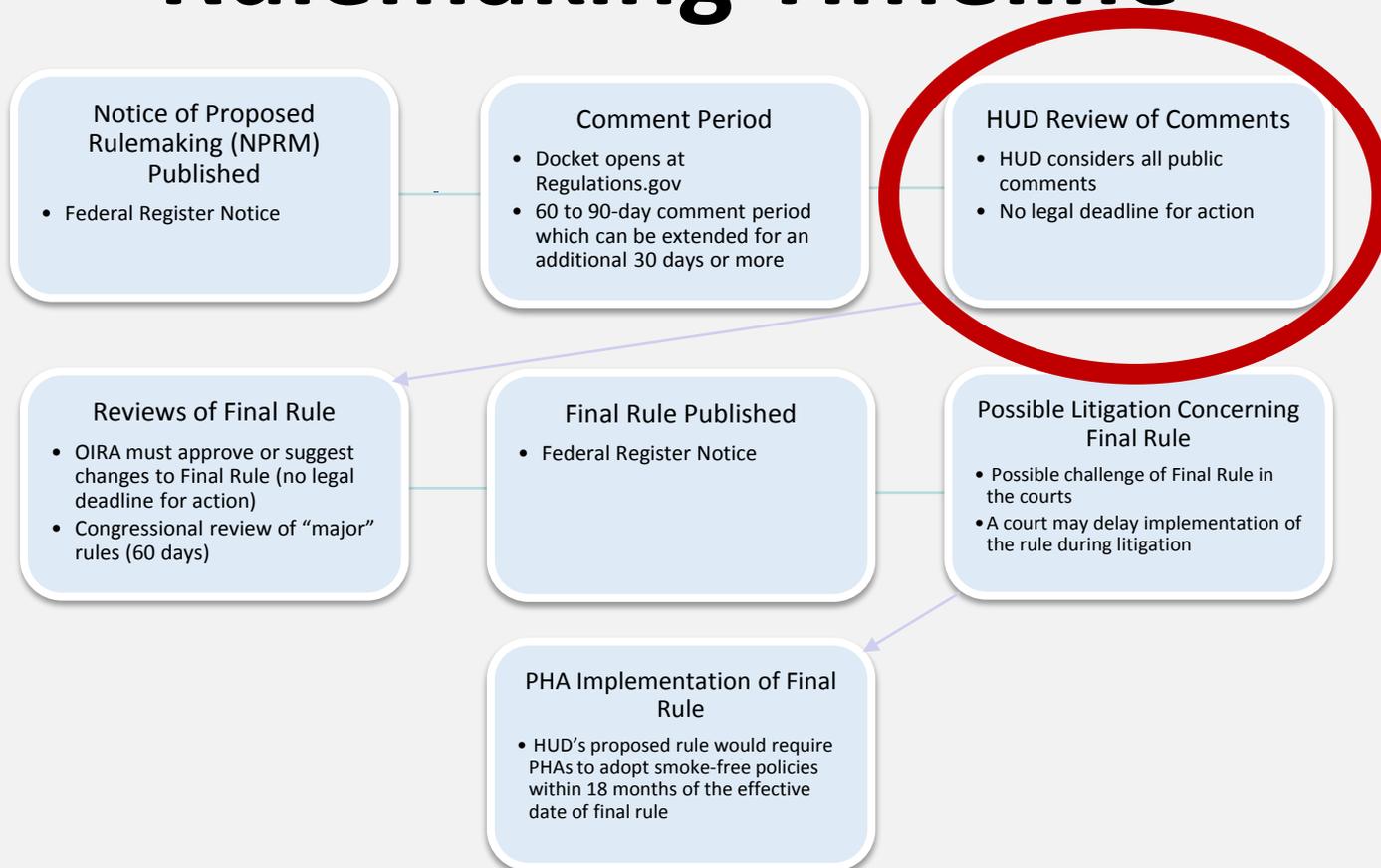
**No Smoking
within
25 feet of building**

Lit Tobacco Products

- Involve the **ignition & burning** of tobacco leaves
 - Cigarettes
 - Cigars
 - Pipes
- Water pipes and e-cigarettes excluded
- Marijuana use not covered
 - HUD Policy – may not admit new tenants who use marijuana



Rulemaking Timeline



Local Implications & Opportunities



Questions & Discussion





www.publichealthlawcenter.org



PUBLIC HEALTH
LAW CENTER
at Mitchell Hamline School of Law

f t E-newsletters

SEARCH: GO
Advanced Search

Helping public health leaders use the law to improve America's health.

Tobacco Control

Healthy Eating

Active Living

Other Public Health Law

About Us

Webinars



FEATURED POST

Deeming Regulation

The FDA finalizes rule to regulate e-cigarettes and cigars in addition to cigarettes and smokeless tobacco

Announcements

Complete Analysis of the New Deeming Regulation Now Available

On May 5, the U.S. Food & Drug Administration issued a final "deeming" regulation, which extends its authority over tobacco products to include e-cigarettes,

www.publichealthlawcenter.org



PUBLIC HEALTH
LAW CENTER
at Mitchell Hamline School of Law

   E-newsletters

SEARCH: **GO**
Advanced Search

Helping public health leaders use the law to improve America's health.

Tobacco Control

Healthy Eating

Active Living

Other Public Health Law

About Us

Webinars

[Home](#) » [Topics](#) » [Tobacco Control](#) » [Smoke Free Tobacco Free Places](#) » [Housing](#) » [Public Subsidized Housing](#)



Public & Subsidized Housing

Public housing authorities, also known as community development authorities or housing and redevelopment authorities, are leading the way in the adoption of smoke-free policies for multi-unit properties. Hundreds of public housing authorities across the country have adopted some form of smoking restricted policy. For information on the types of federally-subsidized housing, read more at the [U.S. Department of Housing and Urban Development \(HUD\)](#).

Due to the contribution of federal funds that make the rents affordable, these properties are subject to additional requirements for implementing and enforcing smoke-free policies when compared with completely market rent buildings. Generally, more review is required before implementation of a policy, and additional checks are in place if violations of property leases occur.

November 17, 2015: HUD Announces Smoke-Free Public Housing Rule

The U.S. Department of Housing and Urban Development (HUD) announced a [proposed rule](#) that would require much of the public housing under its authority to adopt a smoke-free policy within 18 months of the

Related Topics

[Smoke-free & Tobacco-free Places](#)

[Housing](#)

Related Publications

[Comments to HUD on Instituting Smoke-Free Public Housing \(2016\)](#)

[HUD's Proposed Rule to Restrict Smoking in Public Housing: Talking Points \(2015\)](#)

[Smoke-Free Public Housing: Template Comment for Proposed HUD Rule \(2016\)](#)



Tailored Assistance





**PUBLIC HEALTH
LAW CENTER**
at MITCHELL SCHOOL OF LAW

Improving health through the power of law

LEGAL RESEARCH
The attorneys at the Center provide expert legal research and analysis to help explain complex legal issues, including food safety, tobacco control, and environmental health. Our attorneys have spent years of experience helping communities and organizations understand and address evidence-based legal issues.

EDUCATIONAL PROGRAMS
The Public Health Law Center provides a wide range of educational programs, including seminars, webinars, and workshops. Our programs are designed to help public health professionals understand the legal issues that affect their work. For more information, visit our website at publichealthlawcenter.org.

POLICY DRAFTING
Every year, the Center helps state and local health departments analyze, critique, and draft policy proposals. Although the Center helps advocate for policy changes through public comment and other means, the Center also helps draft proposed amendments and craft comment letters.

TRAININGS
The Public Health Law Center provides a variety of training opportunities, including workshops, seminars, and lectures. Our trainings are designed to help public health professionals stay up-to-date on the latest legal issues affecting their work.

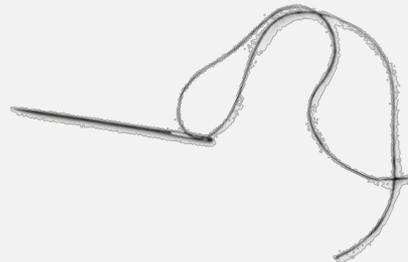
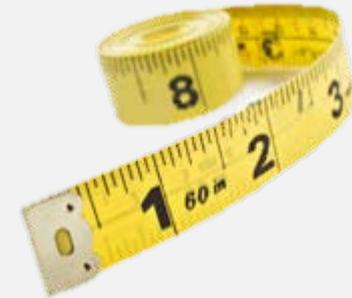
LITIGATION SUPPORT
Innovative and effective legal strategies are essential for defending public health. The Center's attorneys have provided litigation support to state and local health departments. The Center has also co-impacted cases to help address the significance of the issues.

What is legal technical assistance?

Law can present both barriers and opportunities for public health initiatives. Local, state, federal, and tribal laws can impact public health policy development in many ways — both expected and unexpected. The Public Health Law Center provides tailored legal technical assistance that can make the difference between success and failure in using law and policy to improve public health across a community. While the Public Health Law Center is the home of cornerstone national legal technical assistance programs for tobacco control (the Tobacco Control Legal Consortium) and public health law (the Network for Public Health Law), the Center also provides specialized assistance to promote healthy eating and physical activity policies for all settings where we live, work, study, shop, and play.



CONTACT THE PUBLIC HEALTH LAW CENTER
Contact the Center today at 651-252-7506 or publichealthlaw@umitchell.edu to see how the Center can help you improve health through the power of law.





<http://publichealthlawcenter.org/>

Scott M. Kelly

Staff Attorney

Public Health Law Center

(651) 695-7611

Scott.Kelly@mitchellhamline.edu

Darlene Huang

Staff Attorney

Public Health Law Center

(651) 695-7655

Darlene.Huang@mitchellhamline.edu

Improving health through the power of law