

# Regulation Digest Weekly

June 13<sup>th</sup>, 2012

Vol 1. No 14

## Opinion

- ‘Ten Thousand Commandments’ and growing
- FCC Special Access: Communications Obsolescence vs. Modernism
- Republicans Against Reform
- The Small Business Tax: Government Regulations
- Reconciling *Brown v. Gardner* and *Chevron*
- Big Costs, Illusory Benefits: Why Congress Should Nix The Utility MACT

## Marketplace of Ideas

### American Action Forum

- American Energy Companies Report Over Three Times Higher Utility MACT Compliance Costs than EPA Projected, *Sam Batkins*

### American Enterprise Institute

- Beyond Repeal and Replace: Ideas for Real Health Reform, *Barak Richman*

### Business Roundtable

- OMB Comment Request on Employment Effects of Regulation, *John Engler*

### Chamber of Commerce

- Comments on OMB Draft 2012 Report to Congress on the Benefits and Costs of Federal Regulations, *William Kovacs*

### Competitive Enterprise Institute

- Battered Business Bureau: The Week in Regulation, *Ryan Young*
- All Pain and No Gain: The Illusory Benefits of the Utility MACT, *Marlo Lewis, William Yeatman, & David Bier*

### Federal Deposit Insurance Corporation

- Supervisory Insights: Devoted to Advancing the Practice of Bank Supervision, *Vol. 9, Issue 1*

### The George Washington University Regulatory Studies Center

- Setting the Wrong Standard: DOE’s Latest Appliance Efficiency Rules, *Sofie Miller*

### Government Accountability Office

- Responsibility for Inspecting Catfish Should Not Be Assigned to USDA, *Lisa Shames*

## Feature Story

### Fed Board Announces Three Proposed Rules Implementing Basel III Capital Requirements for Banks

The Federal Reserve Board [announced](#) three separate proposed rulemakings that would strengthen capital requirements for banks, which the Board maintains will allow banks to continue extending credit to creditworthy institutions in the face of severe unforeseen losses. The three proposed rules would implement Basel III regulatory capital reforms in the United States, as well as incorporate regulatory changes necessitated by the Dodd-Frank Act. Depository institutions and bank holding companies with \$500 million or more in total consolidated assets and savings and loan holding companies would be subject to new, more stringent reserve ratio requirements, to be enforced with limits on capital distributions and discretionary bonuses for banking organizations that do not meet the new capital requirements.

The Board also seeks to change the definition of *capital* “to improve the ability of regulatory capital instruments to absorb losses.” Internationally-active banking organizations will be subject to a supplementary leverage ratio. These proposed rules will be open for public comment following publication in the Federal Register.

## In the News

6/6/12

[City Bites Into Carts](#), *Wall Street Journal*

[Officials Grilled on J.P. Morgan](#), *Wall Street Journal*

6/7/12

[‘Cranberry Caucus’ Wants Regulators To Go Easy On Cranberry Juice](#), *Huffington Post*

[Vicodin-Type Pain Pills May Face Stricter U.S. Regulation](#), *Bloomberg*

[Fed proposes stricter capital rules for banks](#), *Associated Press*

[SEC Plans New Guidance on Proxy Advisers](#), *Wall Street Journal Blog*

[For Safety, Ballet Between Human and Killer Whale Loses Some Intimacy](#), *New York Times*

[Terry: Net Neutrality Supporters Hypocritical on International Net Regulation](#), *National Journal*

[EPA sued over wildlife exposure to lead from spent ammunition](#), *Chicago Tribune*

6/8/12

[FDA Plans Major Overhaul of Recall Reporting](#), *Regulatory Focus*

[FDA Looks to Reassess Hydrocodone Products](#), *Regulatory Focus*

[FDA approves Perjeta for type of late-stage breast cancer](#), *FDA News Release*

6/9/12

## The Mercatus Center

▪ Comment on OMB's Draft 2012 Report to Congress on the Benefits and Costs of Federal Regulations, *Richard Williams*

## OMB Watch

▪ Can We Employ Evidence in the Battle over Regulations?, *June 12<sup>th</sup>, 2012*

## Penn Program on Regulation

▪ The Regulatory Week in Review: June 8, 2012, *Mima Mohammed*

## Contact Us

www.regulatorystudies.gwu.edu

Twitter: @RegStudies

Email: regulatorystudies@gwu.edu

[Studies Show J&J Diabetes Drug Cuts Blood Sugar](#), *Wall Street Journal*

6/11/12

[FDA Extends Review of Gilead Sciences' Controversial HIV PrEP Drug Truvada](#), *Regulatory Focus*

[EPA chief says agency rules not to blame for problems facing coal industry](#), *The Hill*

[Lawmakers: Reform 'Indefensible' Blood Donation Policy](#), *Regulatory Focus*

[FDA Approves New Breast Cancer Drug Despite Manufacturing Concerns](#), *Regulatory Focus*

['Screaming headlines' vs. reasonable people: A talk with the EPA's Lisa Jackson](#), *Grist*

6/12/12

[FCC Seeks Comments on Proposed Rules for Public Safety Do-Not-Call List](#), *RegBlog*

[Cable cheers FCC vote to kill 'viewability rule'](#), *The Hill*

[New York, LA, Houston mayors back EPA coal rule ahead of Senate vote](#), *The Hill*

[Regulators approve political donations via text message](#), *Chicago Tribune*

6/13/12

[Obama to streamline approval of Internet networks](#), *The Hill*

[Hydrokinetics: Generating Power from Water](#), *RegBlog*

[Energy Dept. to rescue cash-strapped uranium enrichment project](#), *Washington Post*

## Rulemaking

### Office of the Comptroller of the Currency

#### OCC Rule Removes Regulatory Reliance on Credit Ratings

The Comptroller of the Currency issued a [final rule](#) implementing provisions of the Dodd-Frank Act requiring agencies to remove both references to and regulations' reliance on credit ratings issued by nationally recognized statistical rating organizations, substituting instead an agency-determined measure for creditworthiness. Statutory language requires that the alternative standards of creditworthiness determined by individual agencies should be at least somewhat uniform, while acknowledging that different agencies will have differing needs regarding creditworthiness standards. As an alternative standard, OCC will instead "generally require national banks and Federal savings associations to make assessments of a security's creditworthiness, similar to the assessments currently required for the purchase of unrated securities." OCC simultaneously released a [guidance document](#) clarifying for banks what regulatory expectations will regarding portfolio due diligence processes.

### Environmental Protection Agency

#### EPA Finalizes Revisions to CSAPR Regional Haze Program

The Environmental Protection Agency issued a [final rule](#) implementing the [Cross-State Air Pollution Rule](#) (CSAPR), a regional cap and trade program designed to reduce power plant emissions in the eastern half of the United States. The final rule allows states to use an emissions trading program instead of the Best Available Retrofit Technology (BART), which compelled power plants to implement control technologies. CSAPR will replace the Clean Air Interstate Rule (CAIR) after "a December 2008 court decision... directed EPA to issue a new rule to implement Clean Air Act requirements concerning the transport of air pollution across state boundaries." In the final rule, the EPA also issued limited disapproval of the implementation plans used by many states that relied on CAIR to develop their haze reduction programs.

#### EPA Direct Final Rule Exempts Emergency Vehicles from EPA Emission Control Systems

The Environmental Protection Agency issued a [direct final rule](#) that amends the Heavy-Duty Highway Program to ensure that emergency vehicles, such as ambulances and fire trucks, are not forced to compromise their life-saving duties in order to comply with EPA's emissions controls. Heavy-duty diesel emergency vehicle manufacturers will be able to request EPA approval of "modifications to emission control systems on emergency vehicles so they do

not interfere with the vehicles' missions.” The EPA also plans to offer temporary relief from emissions control testing to vehicles that provide emergency services in order to prevent engine malfunction as a result of emissions control. The EPA estimates that the [Heavy-Duty Highway Program](#), implemented in 2001, will reduce emissions from heavy-duty vehicles by over 90 percent, and this revision is not expected to affect the cost or benefit of the initial regulation. The comment period is open until July 27. Submit comments on the notice [here](#).

## **Federal Communications Commission**

### **FCC Rule Requires Telemarketers to Obtain Express Written Consent for Robocalls**

The Federal Communications Commission finalized a [rule](#) limiting the avenues of communication telemarketers can have with consumers. The final rule requires “express” written consent for telemarketing calls to cell phones and rerecorded calls to residential phone lines, and requires “all prerecorded telemarketing calls to allow consumers to opt out of future prerecorded telemarketing calls using an interactive, automated opt-out mechanism; and [limits] permissible abandoned calls on a per-calling campaign basis, in order to discourage intrusive calling campaigns.”

## **Agencies**

### **Department of Energy**

#### **DOE Announces \$54 Million Investment in Manufacturing Technologies**

The Department of Energy [awarded](#) \$54 million to “support American leadership and global competitiveness in manufacturing.” This money was used to fund 13 projects nationwide focused on improving energy efficiency for manufacturers and reducing attendant costs. “These projects will develop cutting-edge manufacturing tools, techniques, and processes that will be able to save companies money by reducing the energy needed to power their facilities.”