

Regulation Digest Weekly

June 27th, 2012

Vol 1. No 16

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- The EPA's War on Virginia
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Marketplace of Ideas

Administrative Conference of the United States

- Administrative Conference Recommendation: Regulatory Analysis Requirements
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- Administrative Conference Recommendation: Paperwork Reduction Act

American Action Forum

- The Week in Regulation: June 18-22, *Sam Batkins*

American Heart Association

- Controlled Exposure of Healthy Young Volunteers to Ozone Causes Cardiovascular Effects, *Kelly E. Duncan, Ph.D.; Melanie Jardim, Ph.D.; Michael T. Schmitt, M.S.P.H.; Ana R. Rappold, Ph.D; and David Diaz-Sanchez, Ph.D*
- New Evidence Links Ozone Exposure to Potential Heart Attacks, *News Release*

American Legislative Exchange Council

- ALEC Weighs in on EPA's Proposed Carbon Dioxide Standard, *Todd Wynn & Bryan Weynand*

Centre For Economic Policy Research

- Lender regulation and the mortgage crisis, *Jihad Dagher & Ning Fu*

Feature Story

OMB Memo Gives Agencies Guidelines for Implementing EO 13610

The Office of Management and Budget released a [memo](#) on Friday giving guidance to agencies on how to implement President Obama's [Executive Order 13610](#), *Identifying and Reducing Regulatory Burdens*. The memo, *Reducing Reporting and Paperwork Burdens*, outlines nine recommendations for regulatory agencies pertaining to paperwork and reporting burdens; included in the recommendations are paperwork exemptions for small entities, elimination of redundant paperwork collections, reduction of some record retention requirements, and simplification of federal application processes.

By September 10th, agencies are required to report on their efforts to streamline, improve, and eliminate regulatory requirements. In the September report, agencies are asked in this memo to list at least three new initiatives that will produce significant reductions in paperwork and reporting burdens. "It is understood that what counts as "significant quantified reductions [in paperwork burdens]" will vary with context. Agencies that impose unusually high paperwork burdens will have correspondingly larger opportunities for reducing burdens. Agencies that now impose high paperwork burdens should attempt to identify at least one initiative, or combination of initiatives, that would eliminate two million hours or more in annual burden. All agencies should attempt to identify at least one initiative, or combination of initiatives, that would eliminate at least 50,000 hours in annual burden."

In the News

6/20/12

- [Senate rejects GOP bid to lift EPA coal plant regulations](#), *Los Angeles Times*
- [Relief in Every Window, but Global Worry Too](#), *New York Times*
- [Regulators Back Off Tougher Curbs on Oil](#), *Wall Street Journal*
- [Financial Regulators' New BFF – Quants?](#), *WSJ Blog | MarketBeat*

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- [SEC Builds Money Fund Case](#), *Wall Street Journal*
- [T&T fighting FCC over special access](#), *Politico*
- [Agency Takes Aim at FDA in Whistleblowing Guidance](#), *Regulatory Focus*
- [Revised FDA Enforcement Report Stresses Clarity, Data Accessibility](#), *Regulatory Focus*
- [Supreme Court Rules Against FCC in Indecency Case](#), *Wall Street Journal*
- [Supreme Court: FCC's indecency rules too vague](#), *Washington Post*

6/22/12

- [Final FDA Rule Sets Application Requirements for Manufacturers of Pacemakers](#), *Regulatory Focus*

Federal Regulations Advisor

- Monday Morning Regulatory Review – 6/25/12, *Leland Beck*
- OMB Requests Paperwork Reduction Reporting, More Needed to Reduce Burden, *Leland Beck*

The George Washington University Regulatory Studies Center

- The Value of Human Dignity: An Analysis of DOJ's Prison Rape Rule, *Sofie Miller*

Government Accountability Office

- HHS Has Issued Health Privacy and Security Regulations but Needs to Improve Guidance and Oversight, *Gregory C. Wilshusen*

The Mercatus Center

- Baselines: A Fundamental Element of Regulatory Analysis, *Jerry Ellig & James Broughel*
- Beware the Surge: "Midnight Regulations", *Antony Davies, Jerry Brito, Veronique de Rugy, Patrick McLaughlin, Jerry Ellig*

OMB Watch

- New Federal Agency Hits the Ground Running with Proactive Standards for the Release of Information, *Gavin Baker*

Penn Program on Regulation

- The Regulatory Week in Review: June 22, 2012, *Mima Mohammed*

Resources for the Future

- Public Interest Comment on The Office of Management and Budget's Draft 2012 Report to Congress on the Benefits and Costs of Federal Regulations, *Joe Aldy, Art Fraas, & Randy Lutter*

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[Pharma Execs Continue Looking For Growth Opportunities In Spite Of Increasing Regulatory Challenges: KPMG Survey](#), *MarketWatch*

6/24/12

[Regulators surge in numbers while overseers shrink](#), *Washington Post*
[White House Orders Agencies to Find New Ways of Cutting Red Tape](#), *Bloomberg News*

6/25/12

[Top Obama energy aide: 'Fracking' rules coming by year's end](#), *The Hill*
[FDA delays decision on Pfizer, Bristol-Myers drug](#), *Wall Street Journal*
[FDA delays decision again on Pfizer, Bristol-Myers anticlotting drug with information request](#), *Washington Post*
[Airline Crash Deaths Too Few to Make New Safety Rules Pay](#), *Bloomberg News*
[New Regulatory Data Standards Partnership Formed to Accelerate Research](#), *Regulatory Focus*
[Banks Preparing for the End](#), *Wall Street Journal*
[Timber industry hopes Supreme Court will find EPA can't regulate mud runoff from logging roads](#), *Washington Post*
[FCC favorably views Verizon, T-Mobile deal](#), *Washington Post Tech Blog*
[FDA bill no model for bipartisanship](#), *Politico*

6/26/12

[D.C. appeals court upholds EPA regulations to fight global warming](#), *Washington Post*
[Court Backs EPA on Warming](#), *Wall Street Journal*
[Greens, automakers hail greenhouse gas ruling](#), *Politico*
[FTC files lawsuit against Wyndham in data breach](#), *Reuters*
[UPDATED: FDA Withdraws Final Rule After Receiving 'Significant Adverse Comment'](#), *Regulatory Focus*
[J.P. Morgan Boosts Its Own Fund](#), *Wall Street Journal*
[REPORT: Nuclear Safety Chief Bullied Workers](#), *Associated Press*
[EPA, Dems cheer climate ruling](#), *The Hill*
[SEC and Falcone Set for Showdown](#), *Wall Street Journal*
[FDA's New Sunscreen Regulations Hope To Provide More Clarity](#), *CBS Baltimore*

6/27/12

[Senate Passes FDA User Fee Legislation, Bill Now Moves to White House](#), *Regulatory Focus*
[US Regulators Move Ahead With Planned Study on DTC Marketing](#), *Regulatory Focus*
[Barclays settles charges it conspired to manipulate interest rates](#), *The Hill*

Rulemaking

Federal Energy Regulatory Commission

FERC Approves Final Rule Setting Rates for Variable Energy Sources

The Federal Energy Regulatory Commission approved a [final rule](#) this week promoting the integration of variable energy sources into the transmission system. The unpublished rule requires transmission operators to offer customers scheduling in 15-minute intervals instead of the 30-minute or hourly intervals that currently exist. This will allow variable energy generators to better match production with the transmission schedule. In order to help transmission operators manage the resource variability, the energy generators must provide data about forced outages and meteorology. The rule also aims to benefit consumers “by ensuring that services are provided at just and reasonable rates.”

Federal Deposit Insurance Corporation

FDIC Rule Sets Maximum Obligation Limits for “Orderly Liquidation” of Banks

The Federal Deposit Insurance Corporation released a [final rule](#) establishing maximum obligation limits (MOLs) on the aggregate amount of outstanding obligations that FDIC “may issue or incur in connection with the orderly liquidation of a covered financial company.” Orderly Liquidation Authority (OLA) was established in Title II of the Dodd-Frank Act, allowing the FDIC to act on its own initiative as a receiver of a large, interconnected financial company “upon a determination that its failure and resolution under otherwise applicable law would have serious adverse effects on financial stability in the United States and the use of OLA would avoid or mitigate such adverse effects.” In undertaking these responsibilities, FDIC is expected to incur costs; this rule “limits the aggregate amount of outstanding obligations that the FDIC may issue or incur in connection with the orderly liquidation of a covered financial company,” defining key terms and establishing how FDIC will calculate MOL in the process of exercising its orderly liquidation authority.

Department of Agriculture

USDA Proposes Rule Mandating Reporting of All Pork & Grain Exports

The Department of Agriculture issued a [proposed rule](#) that would require weekly reporting of all export sales for pork and dried grain to the Foreign Agricultural Service (FAS). Export sales reporting requirements are being extended 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. “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.”

Agencies

Environmental Protection Agency

EPA Seeks Input for Incorporating Environmental Justice Considerations into Permit Application Process

The Environmental Protection Agency is [seeking public input](#) “on actions that EPA regional offices can take when issuing EPA permits to promote greater participation in the permitting process by communities that have historically been underrepresented in that process.” This action is prompted in part by Executive Order 12898, which instructs every regulatory agency to “make achieving environmental justice part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities.” EPA looks to increase public participation in the permitting process from “overburdened” communities who suffer disproportionately from risks posed by certain environmental hazards. According to the notice, the Agency “believes it is especially important to make special efforts to provide enhanced public participation opportunities to overburdened communities, particularly minority, low-income, and indigenous communities” because of these cumulative burdens. [Comments](#) are due by August 27th.

EPA Announces Public Meeting on Proposed NESHAPs Rule for Internal Combustion Engines

In a proposed rule, the Environmental Protection Agency [announced](#) a public meeting on Tuesday, July 10th, from 10:00am – 4:00pm to discuss the Agency’s June 7th [proposed rule](#), *National Emission Standards for Hazardous Air Pollutants for Reciprocating Internal Combustion Engines; New Source Performance Standards for Stationary Internal Combustion Engines*. “The public hearing will provide interested parties the opportunity to present oral comments regarding the EPA’s proposed standards, including data, views or arguments concerning the proposal. The EPA may ask clarifying questions during the oral presentations, but will not respond to the presentations at that time. Written statements and supporting information submitted during the comment period will be considered with the same weight as any oral comments and supporting information presented at the public hearing.” In addition, EPA announced an extension of the comment period for this proposed rule until August 9th. Members of the public can register to deliver oral remarks during the public meeting; the public hearing schedule and list of speakers can be found on EPA’s [website](#).

Treasury Department

Treasury Seeks Comment on Global Reinsurance Market for Report to Congress

The Treasury Department is [soliciting](#) public input on the scope of the global reinsurance market, as well as the role the market plays in domestic insurance markets, for the FIO's Report to Congress on the U.S. and Global Reinsurance Market. The Dodd-Frank Act requires the Treasury's Federal Insurance Office to conduct a study on the breadth and scope of the global reinsurance market; Treasury is looking for public input on: 1) the purpose of reinsurance; 2) the effect of domestic and international regulation on reinsurance in the United States; 3) the role and impact of government reinsurance programs; and 4) the role that the global reinsurance market plays in supporting insurance in the United States.

Department of Labor

DOL Announces \$1.8 Million in Grants to Support Women in Non-traditional Occupations

The Department of Labor [announced](#) \$1.8 million in awards to recipients in six states through the Women in Apprenticeship and Nontraditional Occupations program. "The grants will support innovative projects that improve the recruitment, hiring, training, employment and retention of women in apprenticeships in industries such as advanced manufacturing, transportation and construction. Within these industries, the grants will fund activities focused on three occupational areas: existing occupations expected to experience primarily an increase in employment demand, existing occupations with significant changes to work and worker requirements, and new and emerging green occupations."

Department of Energy

DOE Announces \$102 Million in Funding for Small Business Green Energy Development

The Department of Energy [announced](#) \$102 million in grants to be awarded to 104 separate small businesses projects for developing energy across the United States. "The 104 awards are going to developing technologies in areas ranging from large wind turbine towers to particle accelerators with medical applications, from more energy-efficient data centers to advanced imaging and X-ray technologies. View details [about the 104 projects announced today](#)."

Department of Health and Human Services

HHS Looks for Input on Designing Qualified Health Plan Satisfaction Surveys

The Department of Health and Human Services is [seeking input](#) from the public on how to construct a survey to measure enrollee satisfaction with qualified healthcare plans offered through the exchanges established in the Patient Protection and Affordable Care Act. "HHS is considering how the scope of the enrollee satisfaction survey may also include the experience of the consumer interacting with the health care system as well as the experience of the consumer interacting with the Exchange (for example, enrollment and customer service). CMS is soliciting the submission of publicly-available domains, instruments and measures for assessing this experience as well. On both issues, CMS is interested in instruments and items which can measure quality of care from the consumer's perspective and track changes over time." Interested participants can send information via [email](#) to HHS and CMS.