Feature Story

EPA Proposes Formaldehyde Emissions Rule with $79 Million in Annual Net Costs

The Environmental Protection Agency published a proposed rule setting standards for the manufacture, storage, and distribution of some composite wood products and accompanying formaldehyde emissions. The rule, which affects nearly 879,000 small businesses, would “implement emissions standards established by TSCA Title VI for composite wood products sold, supplied, offered for sale, or manufactured in the United States… these regulations apply to hardwood plywood, medium-density fiberboard, and particleboard.” The proposal is estimated to result in quantified net costs of $24 million to $60 million per year using a 3% discount rate, and $57 million to $79 million per year using a 7% discount rate. However, “There are additional unquantified benefits due to respiratory and other avoided health effects. EPA considers health benefits from avoided health effects to be potentially important non-monetized impacts that contribute to the overall net benefits of this proposed rule.” Comments are due on August 9th.

Opinion

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• Study: Government regulations waste $46 billion in duplicative paperwork every year
• Regulations come with high costs
• An obscure new rule on microwaves can tell us a lot about Obama’s climate policies
• Congress already controls rulemaking
• Air polluters like to send their emissions across state lines
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• Twenty Years of Non-Stop Regulation
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Marketplace of Ideas

American Action Forum

• House Committee Considers Bill to Prevent Billions In Potential Regulatory Costs, Catrina Rorke
• The Week in Regulation: June 3-7, Sam Batkins
• The Week Ahead in Regulations: June 10–14, Dan Goldbeck

In the News

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Dems push for quicker White House approval of pending regulations, The Hill
Senate panel to consider Obama’s regulatory czar pick, The Hill
SEC considering tougher requirements for money-market mutual funds, Washington Post
SEC proposes changes to money-market fund rules, Washington Post
FCC to consider rules for protecting data on mobile devices, Washington Post
EPA, Chesapeake Bay Foundation announce agreement to limit cattle, poultry pollution into bay, Washington Post
Fed unveils “swaps pushout” regulations, The Hill
Democrat sees ‘Koch brothers’ fingerprints’ on regulations bill, The Hill
SEC Proposes Floating-Share Price for Riskiest Money Funds, Bloomberg
SEC Unites Opponents on Money Fund Rule With Floating-Share Plan, Bloomberg
U.S. money fund reform may hit retail investors with higher fees, Reuters

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Fed’s Raskin Seeks to Clarify Bank Rules by Hastening Basel III, Bloomberg
Ex-Interior secretary Ken Salazar to work for international law firm in Denver, Washington Post
FDA advisers favor easing safety restrictions on diabetes pill Avandia,
The Unintended Consequences of Safety Regulation

The Administrative Conference of the United States, Counting Regulations: A New CRS Report

Oh what a tangled web… If the law doesn’t work, regulate until it does, James Goodwin

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White House Recognizes Higher Cost of Greenhouse Gas Emissions, Katie Greenlaw

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Competitive Enterprise Institute

CIE’s Battered Business Bureau: The Week in Regulation, Ryan Young

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Oh what a tangled web… If the law doesn’t work, regulate until it does, Eileen O’Connor

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Regulatory Studies Center

Counting Regulations: A New CRS Report, Susan E. Dudley

The Administrative Conference of the United States, 58th Plenary Session, Cassidy West

Government Accountability Office

An Agencywide Strategy May Help EPA Address Unmet Needs for Integrated Risk Information System Assessments, Jose Gomez

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The Unintended Consequences of Safety Regulation, Sam Batkins

in light of new info, Washington Post

Interior Department adds 60 days to comment on drilling rule, Washington Post

Industry slams draft beef regulation, The Hill

House GOP adds pressure on EPA over FOIA fees, The Hill

CFTC chief defends Dodd-Frank progress, presses cross-border regulation, The Hill

Agriculture Department rolls out new regulations for tenderized beef, The Hill

Industry groups support regulatory overhaul bill, The Hill

Interior pumps brakes on fracking regs, The Hill

Fed’s Plosser favors More Capital for Too-Big-to-Fail Risk, Bloomberg

Needle-Tenderized Steaks to Require New Labels in U.S., Bloomberg

Banks turn to tech to cut cost of new regulation, Reuters

Fed’s Plosser backs convertible debt for too-big U.S. banks, Reuters

Tailoring FINRA rules to suit smaller firms, Reuters

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Canada releases list of US products that could face tariffs due to meat-labeling dispute, Washington Post

FHA may stop charging interest on mortgages that have been paid off, Washington Post

Regulators shutter bank in Tennessee; brings this year’s US bank failures to 16, Washington Post

Obama: Administration favors 'light touch' regarding regulations, The Hill

Pharmacies say Harkin bill would give FDA unprecedented powers, The Hill

Interior Department proposes removing gray wolf from endangered list, The Hill

Bloomberg Suit Over Swap Collateral Rules Is Dismissed, Bloomberg

SEC Improves Regulatory Costs Assessment, Watchdog Says, Bloomberg

Hedge Funds Win Collateral Reprieve in SEC Dodd-Frank Shift, Bloomberg

Tobacco Chief to Start Ruling on Product Backlog at FDA, Bloomberg

Judge asks U.S. SEC why it can’t scale back payment disclosure rule, Reuters

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Federal judge dismisses Bloomberg’s challenge to new federal regulations on swaps trading, Washington Post

Move to end gray wolf recovery efforts would lift protections across most of Lower 48, Washington Post

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IRS makes ObamaCare tanning tax permanent, The Hill

Obama’s nominees to head Commerce, Transportation win Senate committee approval, Washington Post

Lifesaving protections vanishing down regulatory ‘rabbit hole,’ study says, The Hill

House will vote to boost international 'swap data' sharing, The Hill

Surveillance revelations highlight long-neglected privacy board, The Hill

BNP could merge U.S. units to cope with reform-report, Reuters
Department of the Interior
BLM Extends Comment Period for Proposed Fracking Rule

The Bureau of Land Management published a proposed rule announcing that the Bureau is extending the public comment period for its proposed rule, *Oil and Gas; Hydraulic Fracturing on Federal and Indian Lands*. The $20 million proposed rule would set standards for the 90 percent of wells on Federal and Indian lands that are subject to hydraulic fracturing, or ‘fracking’. “The BLM has analyzed the costs and the benefits of this proposed action in an accompanying Regulatory Impact Analysis available in the rulemaking docket. The estimated costs range from $12 million to $20 million per year. The range reflects uncertainty about the generalization of costs across all hydraulic fracturing operations. The potential benefits of the rule are more challenging to monetize than the costs, but that does not mean that the rule is without benefits. The rule creates a consistent, predictable regulatory framework, in accordance with the BLM’s stewardship responsibilities under the Federal Land Policy and Management Act and other statutes, for hydraulic fracturing involving BLM-administered lands. The rule is designed to reduce the environmental and health risk that can be posed by hydraulic fracturing operations, particularly in the way the rule addresses flowback fluids, well construction, and hydraulic fracture design.” Although the rule will not have an annual effect of $100 million or greater on the economy, OMB has determined that this proposed rule is significant because it “may raise novel policy issues because of the requirement that operators provide to the BLM information regarding hydraulic fracturing operations that they are not currently providing to the BLM.”

Comments are now due on August 23rd.
FWS Proposes to List All Chimpanzees as Endangered Species, Limiting Use as Pets and for Entertainment
The Fish and Wildlife Service published a proposed rule that would list all chimpanzees, even those in captivity, as an endangered species. FWS is taking this action in response to a petition requesting that FWS list all chimpanzees as endangered. “This proposal constitutes our 12-month finding on the petition and announces our finding that listing all chimpanzees as endangered is warranted. This document also serves as our 5-year review of the species. If we finalize this rule as proposed, we would eliminate the separate classification of captive and wild chimpanzees under the Act and extend the Act’s protections to captive chimpanzees in the United States. In addition, we propose to amend the special rule for primates to remove chimpanzees from the rule. If the listing of all chimpanzees as endangered is finalized, the provisions of the special rule can no longer be applied to captive chimpanzees.” Chimpanzees that are held in captivity are often sold as pets or used in the entertainment industry, both of which activities would be curbed following finalization of this rule. Comments are due on August 12th.

Environmental Protection Agency
EPA Proposes Rule Strengthening Discharge Controls at Steam Electric Power Generating Point Sources
The Environmental Protection Agency published a proposed rule that would “strengthen the controls on discharges from certain steam electric power plants by revising technology-based effluent limitations guidelines and standards for the steam electric power generating point source category. Steam electric power plants alone contribute 50-60 percent of all toxic pollutants discharged to surface waters by all industrial categories currently regulated in the United States under the Clean Water Act. Furthermore, power plant discharges to surface waters are expected to increase as pollutants are increasingly captured by air pollution controls and transferred to wastewater discharges. This proposal, if implemented, would reduce the amount of toxic metals and other pollutants discharged to surface waters from power plants. EPA is considering several regulatory options in this rulemaking and has identified four preferred alternatives for regulation of discharges from existing sources. These four preferred alternatives differ with respect to the scope of requirements that would be applicable to existing discharges of pollutants found in two wastestreams generated at power plants. EPA estimates that the preferred options for this proposed rule would annually reduce pollutant discharges by 0.47 billion to 2.62 billion pounds, reduce water use by 50 billion to 103 billion gallons, cost $185 million to $954 million, and would be economically achievable.” Comments are due on August 6th.

Internal Revenue Service
IRS, HHS, EBSA Rule Spells out Wellness Program Guidelines for Group Health Insurance
The Internal Revenue Service, Employee Benefits Service Administration, and the Department of Health and Human Services published a final rule clarifying the requirements for insurance wellness programs. The regulations “set forth criteria for a program of health promotion or disease prevention offered or provided by a group health plan or group health insurance issuer that must be satisfied in order for the plan or issuer to qualify for an exception to the prohibition on discrimination based on health status... Two important elements of these final regulations are (1) the standard that the reward under a health-contingent wellness program be available to all similarly situated individuals and (2) the standard that a program be reasonably designed to promote health or prevent disease.” The regulations also incorporate an increase in the maximum permissible reward for participating in a wellness program from 20% to 30% of the cost of coverage.

Department of Health and Human Services
HHS Finalizes Changes to Administration of Small Business Health Options Program
The Department of Health and Human Services published a final rule implementing portions of the Patient Protection and Affordable Care Act (PPACA) related to the Small Business Health Options Program (SHOP). PPACA requires states that establish exchanges to also establish a SHOP that assists small businesses to provide health care options for their employees. HHS previously published a rule, Patient Protection and Affordable Care Act; Establishment of Exchanges and Qualified Health Plans; Exchange Standards for Employers (Exchange Establishment Rule), establishing standards for the administration of SHOP exchanges. This final rule amends the previous rule by reducing the special enrollment period from 60 to 30 days following a triggering event, and would include the loss of eligibility for Medicare or Medicaid as a triggering event (with a 60-day special enrollment period).
Federal Deposit Insurance Company
FDIC Finalizes Definition of “Activities That Are Financial In Nature or Incidental Thereto”
The Federal Deposit Insurance Company published a final rule establishing criteria to determine whether a company is predominantly engaged in “activities that are financial in nature or incidental thereto” pursuant to the Dodd-Frank Act. “A company that is predominantly engaged in such activities is a “financial company” for purposes of Title II of the Act (“Title II”) unless it is one of the few entities specifically excepted by the Act. A financial company, other than an insured depository institution, may be subject to Title II's orderly liquidation authority if, among other things, it is determined that the failure of the company and its resolution under otherwise applicable law would have serious adverse effects on financial stability in the United States.”

Commodity Futures Trading Commission
CFTC Publishes 130-Page Final Rule Establishing Standards for Operation of Swap Execution Facilities
The Commodity Futures Trading Commission published a final rule establishing standards for “the registration and operation of a new type of regulated entity named a swap execution facility (“SEF”)… In addition to facilitating greater transparency and trading of swaps on SEFs, Title VII of the Dodd-Frank Act establishes a comprehensive regulatory framework, including registration, operation, and compliance requirements for SEFs… Section 733 of the Dodd-Frank Act provided that to be registered and maintain registration, a SEF must comply with fifteen enumerated core principles and any requirement that the Commission may impose by rule or regulation.” The final rule includes standards for the registration of SEFs, minimum trading functionality requirements, and the categorization of certain swaps transactions.

Consumer Financial Protection Bureau
CFPB Finalizes Amendments Exempting Some Parties from the Ability-to-Repay Rule (Regulation Z)
The Consumer Financial Protection Bureau published a final rule amending the final Regulation Z rule, which was simultaneously published in the Federal Register and implements the Truth in Lending Act (TILA). This final rule would incorporate amendments to TILA that were included in the Dodd-Frank Act: “Among other things, the Dodd-Frank Act requires creditors to make a reasonable, good faith determination of a consumer’s ability to repay any consumer credit transaction secured by a dwelling (excluding an open-end credit plan, timeshare plan, reverse mortgage, or temporary loan) and establishes certain protections from liability under this requirement for “qualified mortgages.” The Bureau is finalizing certain amendments to the final rule implementing these requirements, including exemptions for certain nonprofit creditors and certain homeownership stabilization programs and an additional definition of a qualified mortgage for certain loans made and held in portfolio by small creditors.

Federal Reserve System
Fed Board Seeks Comment on Interim Final Rule on the Prohibition of Federal Assistance to Swaps Entities
The Federal Reserve Board published an interim final rule that “treats an uninsured U.S. branch or agency of a foreign bank as an insured depository institution for purposes of section 716 of the Dodd-Frank Act and establishes a process by which a state member bank or uninsured state branch or agency of a foreign bank may request a transition period to conform its swaps activities to the requirements of section 716.” Section 716 prohibits federal assistance to any “swaps entity”, with federal assistance being defined as “advances from any Federal Reserve credit facility or discount window that is not part of a program or facility with broad-based eligibility under section 13(3)(A) of the Federal Reserve Act” and Federal Deposit Insurance Corporation (“FDIC”) insurance or guarantees. However, section 706 specifically excludes any insured depository institution that is a major swap participant or major security-based swap participant. Comments are due on August 4th.

Department of Energy
DOE Proposes to Consider Energy Efficiency Standards for Refrigerated Vending Machines
The Department of Energy published a proposed rule announcing that it “is considering amending energy conservation standards for refrigerated beverage vending machines. To inform interested parties and to facilitate this process, DOE has prepared a Framework document that... explains the relevant issues, analyses, and processes DOE anticipates using to determine whether to amend the standards, and, if so, for the development of such amended standards.” DOE is hosting a public meeting on Thursday, June 20 to “solicit comments, data, and information from participants and other interested parties.” Comments on the framework document are due by June 19th.
Department of the Treasury
TTB Final Rule Loosens Restrictions for Wine Label Requirements
The Alcohol and Tobacco Tax and Trade Bureau (TTB) published a final rule amending the requirements for the mandatory contents of wine labels. “The regulatory change permits alcohol content to appear on other labels affixed to the container rather than requiring it to appear on the brand label. This regulatory change provides greater flexibility in wine labeling, and will conform the TTB wine labeling regulations to the agreement reached by members of the World Wine Trade Group regarding the presentation of certain information on wine labels.”

Nuclear Regulatory Commission
NRC Seeks Feedback on Potential Residual Radioactivity Remediation Requirement
The Nuclear Regulatory Commission published a proposed rule requesting input on a potential rule that would require remediation of residual radioactivity “during the operational phase of licensed material sites and nuclear reactors.” The NRC wants to “make further improvements to the decommissioning planning process... with the objective of avoiding complex decommissioning challenges that can lead to legacy sites.” Comments are due on August 2nd.

Department of Agriculture
FSIS Proposes Labeling Requirements for Mechanically Tenderized Beef Products
The Food Safety and Inspection Service published a proposed rule amending the labeling requirements for raw or partially-cooked beef products that have been mechanically tenderized. “FSIS is proposing that the product name for such beef products include the descriptive designation “mechanically tenderized” and an accurate description of the beef component. By including this descriptive designation consumers will be informed that this product is non-intact. Non-intact products need to be fully cooked in order to be rendered free of pathogenic bacteria because bacteria may become translocated from the surface of the meat during mechanical tenderization... Based on the scientific evidence that indicates that mechanically tenderized beef products need to be cooked more thoroughly than intact beef products, FSIS is proposing these amendments to the regulations.” Although FSIS states that the benefits of introducing this information into the market cannot be quantified, FSIS maintains that providing customers with market information will promote better competition among beef producers. Comments are due on August 9th.

Agencies

Environmental Protection Agency
EPA Announces Availability of $99 Million to Fund Advanced Biofuels Production
The Environmental Protection Agency published a notice announcing the availability of $98.6 million to fund the production of eligible advanced biofuels. $68.6 million of this total is available for fiscal year 2013, with the additional $30 million available for production in prior fiscal years. “The purpose of this program is to support and ensure an expanding production of advanced biofuels by providing payments to eligible advanced biofuel producers. Implementing this program not only promotes the Agency's mission of promoting sustainable economic development in rural America, but is an important part of achieving the Administration's goals for increased biofuel production and use by providing economic incentives for the production of advanced biofuels.”

EPA Announces June 25th Public Hearing for Proposed State Implementation Plan Requirements for Ozone
The Environmental Protection Agency published a proposed rule announcing a public meeting on June 25th to discuss the EPA’s recently published proposed rule, Implementation of the 2008 National Ambient Air Quality Standards for Ozone: State Implementation Plan Requirements. “The June 6, 2013, notice of proposed rulemaking proposes to implement the 2008 ozone national ambient air quality standards (NAAQS) (the “2008 ozone NAAQS”) that were promulgated on March 12, 2008. The proposed rule addresses a range of state implementation plan requirements for the 2008 ozone NAAQS, including requirements pertaining to attainment demonstrations, reasonable further progress, reasonably available control technology, reasonably available control measures, new source review requirements in nonattainment areas, emission inventories, and the timing of state implementation plan (SIP) submissions and of compliance with emission control measures in the SIP. Other issues also addressed in the proposed rule are the revocation of the 1997 ozone NAAQS and anti-backsliding requirements that would apply when the 1997 ozone NAAQS is revoked.” Members of the public must RSVP no later than June 24th.
Department of Agriculture
USDA Proposes Rescinding Statement of Policy Requiring Public Comment When Not Mandated by APA
The Department of Agriculture published a notice revoking an earlier statement of policy governing the Agency’s rulemaking procedures and requiring the USDA to seek public comments in rulemakings even when exempt from the requirements of the Administrative Procedure Act (APA). The APA, which governs all agency rulemaking procedures, requires agencies to seek comment from the public on proposed rules except in specified circumstances. USDA’s current statement of policy “requires agencies in USDA to follow the Administrative Procedure Act’s (APA) notice-and-comment rulemaking procedures even in situations where the APA does not require it. The Statement of Policy implemented a 1969 recommendation by the Administrative Conference of the United States (ACUS), which urged Congress to amend the APA to remove the exemption from the notice-and-comment requirement for rulemakings relating to “public property, loans, grants, benefits, or contracts,” adding that agencies should follow the notice-and-comment procedures pending amendment of the APA.”

“In proposing to rescind the Statement of Policy, USDA notes that in the more than 40 years since ACUS made its recommendation, Congress has not amended the APA to implement it. Moreover, USDA has determined in this time that the advantages of implementing the ACUS recommendation do not outweigh the disadvantages, such as increased costs and delayed implementation imposed on USDA programs. The proposed change would not result in USDA forgoing notice-and-comment rulemaking for all regulatory actions relating to public property, loans, grants, benefits, or contracts, rather the proposed change would grant USDA agencies the discretion to determine the appropriateness of notice-and-comment rulemaking for this class of rulemakings.” Comments are due on July 3rd.

Export-Import Bank
Ex-Im Bank Receives Application for $100+ Million to Support Boeing Exports to Australia
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 support the export of commercial Boeing aircraft to Australia. These exports would be used for long-haul passenger service from Australia to other countries. Comments are due on June 28th.

Ex-Im Bank Receives Application for $99 Million Loan Guarantee Supporting Exports to China
The Export-Import Bank published a notice announcing the receipt of an application for a $99 million comprehensive loan guarantee “to support the export of approximately $110.4 million worth of aluminum beverage cans and ends manufacturing equipment to China. The U.S. exports will enable the Chinese company to produce approximately 2.8 billion aluminum cans per year. In addition, the foreign buyer will expand its existing annual ends production capacities by 2.6 billion ends for 2-piece cans, and by 1.3 billion ends for 3-piece cans.” Comments are due on June 24th.

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