



The Daily Dish

October 27th Edition

DOUGLAS HOLTZ-EAKIN | OCTOBER 27, 2014

The administration is promising no more “blue screens of death” for consumers visiting online health care exchanges, but part of the website is still under construction. It may not be immediately evident to purchasers on the site, but according to the [New York Times](#), the “‘back end’ of the federal system, where insurers receive applications and bill the government for subsidy payments, is not completed.”

The [FCC will delay](#) an airwave license auction nearly a year. This is due to a lawsuit against the agency by local television stations who will be potentially forced to pay millions to upgrade their systems. The auction would allow cell phone companies to purchase airwaves from these stations and repurpose them to create faster cell networks. Don’t expect your phone network to be too much faster until after the 2016 auction.

Eakinomics: Waters of the United States Generates Controversy

Twenty five U.S. Senators have [accused](#) the administration of hiding the scope of the impact of a forthcoming Environmental Protection Agency (EPA) (and Army Corps of Engineers) rule that would define the so-called “waters of the United States” (WOTUS) that it would regulate under the Clean Water Act of 1972. WOTUS follows a series of Supreme Court rulings that require the EPA to develop a scientific basis for deciding what water bodies are within its jurisdiction.

Unfortunately, one of the most contentious provisions would provide little scientific clarity; the power to decide on a case-by-case basis whether to regulate waters that are not directly connected to streams and rivers but which have “a significant nexus to a traditional navigable water, interstate water, or the territorial seas.” Put simply, the controversy is about ditches that may be empty most of the time, but fill and run off periodically during the year.

For the Farm Bureau, the rule is a clear and massive expansion of regulatory power, leading it to put up a website urging to “[Ditch the Rule](#).” The EPA has countered that there is no expansion of waterways under regulation and has countered with its site to “[Ditch the Myth](#).” Clearly, the Senators side with the Farm Bureau. And there is no controversy over the fact that it is costly: EPA estimates it will impose [costs](#) of about \$166 million on local governments.

Stepping back, it seems clear the rule should be re-worked to genuinely generate the clarity that the Supreme Court rulings demand. If new waters will be regulated, it should be apparent from a plain reading of the rule.

From the Forum

[Week in Regulation](#) by Sam Batkins, AAF Director of Regulatory Policy