

Feature Story

EPA Releases Reduced 2014 Standards For The Renewable Fuel Standard Program

The Environmental Protection Agency released a [pre-publication draft](#) of its upcoming proposed rule setting biofuel blending targets for the Renewable Fuel Standard (RFS) program, which would reduce biofuel blending targets for the first time. This reduction would return blending targets to 2012 levels, well below the statutory volume requirements pursuant to the Clean Air Act (CAA), as amended by the Energy Independence and Security Act of 2007. EPA's downward adjustment of RFS targets is intended to "put the program on a manageable trajectory while supporting growth in renewable fuels over time," particularly due to the constraints posed by the 'blendwall' and industry inability to produce requisite amounts of cellulosic biofuel.

"Our proposed framework for addressing both availability of qualifying renewable fuels and constraints on their consumption would make use of a combination of the cellulosic waiver authority at [CAA]211(o)(7)(D)(i) and the general waiver authority at [CAA]211(o)(7)(A)...[W]e interpret the term "inadequate domestic supply" as it is used under the general waiver authority to include consideration of factors that affect consumption of renewable fuel. We believe the framework being proposed today best approximates the multiple goals that Congress intended in the RFS program, and we would intend this framework to apply not just to 2014, but to later years as well. However, we are soliciting comment on alternative approaches as well." In addition to the new standards, EPA is rescinding its 2011 cellulosic biofuel blending requirements. Comments are due 60 days after publication in the Federal Register.



Opinion

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Marketplace of Ideas

American Action Forum

- Week in Regulation, *Sam Batkins*
- VIDEO: The Affordable Care Act's 32% Error Rate, *Sam Batkins*
- The Forty-Five Billion Hour Question, *Sam Batkins*
- Cumulative Impact of Regulation and Employment, *Sam Batkins & Ben Gitis*

In the News

Congress & Regulatory Reform

- [GOP to White House: Stop 'federal takeover'](#), *The Hill*
- [CBO: Fees to cover regulations could raise \\$21 billion](#), *The Hill*
- [EPA, Manchin spar over power plant climate bill](#), *The Hill*
- [House readies vote to thwart 'fracking' regs](#), *The Hill*
- [Rep. Smith targets EPA use of 'secret science'](#), *The Hill*
- [Study: Anti-regulation claims 'outlandish'](#), *The Hill*
- [Lawmakers to target regulations facing colleges](#), *The Hill*
- [Plain writing in government: Agencies, plainly speaking, aren't there yet](#), *Washington Post*
- [Government agencies flunk plain-writing test](#), *The Hill*

Energy & Environment

- [The U.S. may be hitting its ethanol limit. So EPA wants to relax its biofuels goals](#), *Washington Post*
- [AP Investigation: Obama's green energy drive comes with an unadvertised environmental cost](#), *Washington Post*
- [Sen. Stabenow criticizes proposed EPA fuel mandate](#), *The Hill*
- [EPA retreats on ethanol mandate](#), *The Hill*
- [EPA assailed on power plant regulations](#), *The Hill*
- [EPA to Propose Renewable Fuel Quota of Up to 15.52 Bln Gallons](#),



- The 43 Billion Hour Correction, *Sam Batkins*
- Seven Unanswered Questions Regarding EPA's Ethanol Rule, *Catrina Rorke*

Center for Effective Government

- Coal Ash Waste Standards Inch Forward, But Industry Opposition Strong, *Katie Greenhaw*

Center for Progressive Reform

- PUBLIC COMMENT: Current Good Manufacturing Practice and Hazard Analysis and Risk-Based Preventive Controls for Human Food, *Lisa Heinzerling, Thomas O. McGarity, Sidney Shapiro, Rena Steinzor & Michael Patoka*
- FDA's preventive controls rule: hollowed out by OIRA, and less costly than the agency suggests, *Thomas McGarity & Michael Patoka*
- Deeply flawed economic analysis exaggerates the cost of FDA's produce rule, *Lisa Heinzerling*
- Benefits of food safety rules much greater than even the FDA suggests, *Michael Patoka*

Competitive Enterprise Institute

- The Federal Register Is about to Top 70,000 Pages — And it's Not Even December, *Wayne Crews*
- CEI's Battered Business Bureau: The Week in Regulation, *Ryan Young*
- We Didn't Regulate Credit Cards, We Regulated People, *Ryan Young*

Federal Regulations Advisor

- Monday Morning Regulatory Review – 11/18/13, *Leland E. Beck*

The George Washington University Regulatory Studies Center

- DOE's Proposed Commercial Refrigeration Rule Claims to Save Retailers Money by Reducing their Choices, *Sofie E. Miller*

Heritage Foundation

- Regulation D Rule Would Harm Entrepreneurs and Economic Growth, *David Burton*
- Yellen Hearing Exposes Fed's Regulatory Fault Lines, *Diane Katz*
- Protecting the States' Ability to Regulate Fracking, *Nicolas Loris*

The Mercatus Center

- Regulating Automobiles: The Consequences for Consumers, *Colleen Haight & Derek Thieme*

Penn Program on Regulation

- ACUS Examines Time it Takes the White House to Review Rules, *Jessica Bassett*
- New Thoughts on Nudges, *Maxwell Blum*
- FDA Moves to Address Drug Shortages, *Pooja Agarwal*

Bloomberg

[Cities Raise Alarms Over EPA's Surprise Hydrant Lead Rule](#), *Bloomberg*
[As climate regs loom, coal stocks plummet](#), *The Hill*

Financial Markets & Housing

[Volcker rule expected next month](#), *The Hill*
[With Treasury official Massad named as CFTC chairman, advocates hoping for his independence](#), *Washington Post*
[Obama nominee a mystery man on Hill](#), *The Hill*
[Swap guidance draws GOP rebuke](#), *The Hill*
[Finance watchdog warns about auto lending discrimination](#), *The Hill*
[U.S. Agencies to Say Bitcoins Offer Legitimate Benefits](#), *Bloomberg*
[The Battle Over Regulating Bitcoin](#), *Bloomberg TV*
[CFTC Passes Collateral Rule to Backstop Treasuries in Swap Trade](#), *Bloomberg*
[White Says SEC Ready for More Trials Prompted by Admissions Push](#), *Bloomberg*
[Credit-Card Rewards Programs Examined by U.S. Consumer Bureau](#), *Bloomberg*
[Wall Street Bid on Cross-Border Swaps Quashed by U.S. Regulator](#), *Bloomberg*
[Yellen Says Fed to Tailor Oversight of Non-Bank Financial Firms](#), *Bloomberg*
[Treasuries Not Good Enough as Swaps Collateral in CFTC Rule](#), *Bloomberg*
[No. 2 official at Justice Dept says bankers have failed to ensure compliance with the law](#), *Washington Post*
[What the SEC Has At Stake In the Steinberg Trial](#), *Wall Street Journal*
[SEC Weighs Altering Rule on Private Deals](#), *Wall Street Journal*
[SEC Whistleblower Tips Rise 8%](#), *Wall Street Journal*
[Arthur Levitt: SEC Should Use Data Feeds to Track Employee Trades](#), *Wall Street Journal*
[Fed Official Says Big Banks Need Higher Capital Levels](#), *Wall Street Journal*
[Yellen Takes Tough Stance on Regulating Big Banks](#), *Wall Street Journal*
[Wall Street Pushes Back on CFTC's Advisory for Overseas Swaps](#), *Bloomberg*
[New Mortgage Form Said Required of Large and Small Banks](#), *Bloomberg*
[SEC worker is charged with making false statements about his financial holdings](#), *Washington Post*

Health & Safety

[Magnet company cofounder sues safety commission](#), *The Hill*
[FDA pushes to fight drug-resistant germs](#), *The Hill*
[Tester pushes back against poultry rule](#), *The Hill*
[FDA 'frustrated' by sunscreen delay](#), *The Hill*
[Feds issue health insurance test framework](#), *The Hill*
[Obama Tells Insurers Consumers Must Understand Options Under Law](#), *Bloomberg*
[Congress brings specialty pharmacies under more federal scrutiny after meningitis outbreak](#), *Washington Post*
[Meet the bureaucrats now deciding Obamacare's fate](#), *Washington Post*
[Nuclear agency says it will work to complete review of proposed Yucca Mountain nuclear dump](#), *Washington Post*
[U.S. Regulator Opens Probe of Fire in Tesla Electric Cars](#), *Bloomberg*



Public Citizen

▪ It's an Outrage: Regulations Are Entirely to Blame for Unemployment and a Leading Cause of Death in the United States, According to Industry and Its Allies, *Taylor Lincoln*

Resources for the Future

▪ The Rebound Effect for Passenger Vehicles, *Joshua Linn*

Business

[Meatpackers take another swing at labeling regs](#), *The Hill*

[Gas Station Owners Tell Washington: Hands Off Our Hot Dogs](#), *Wall Street Journal*

Technology

[Everyone agrees this cellphone rule is dumb. So why haven't we done anything about it?](#), *Washington Post*

[FCC loosens TV, radio ownership rules](#), *The Hill*

[Unlock Phones or Face Rules, FCC Chief Tells Carriers](#), *Bloomberg*

[FCC Chairman Presses Carriers on Unlocking Phones](#), *Wall Street Journal*

[Regulators back push for self-driving cars](#), *The Hill*

Rulemaking

Commodity Futures Trading Commission

CFTC Finalizes Rule Enhancing Consumer Protections, Risk Management Programs, Liquidity Standards

The Commodity Futures Trading Commission published a [final rule](#) “to require enhanced customer protections, risk management programs, internal monitoring and controls, capital and liquidity standards, customer disclosures, and auditing and examination programs for futures commission merchants (“FCMs”). The regulations also address certain related issues concerning derivatives clearing organizations (“DCOs”) and chief compliance officers (“CCOs”). The final rules will afford greater assurances to market participants that: Customer segregated funds, secured amount funds, and cleared swaps funds are protected; customers are provided with appropriate notice of the risks of futures trading and of the FCMs with which they may choose to do business; FCMs are monitoring and managing risks in a robust manner; the capital and liquidity of FCMs are strengthened to safeguard their continued operations; and the auditing and examination programs of the Commission and the self-regulatory organizations (“SROs”) are monitoring the activities of FCMs in a prudent and thorough manner.”

Food and Drug Administration

FDA Extends Comment Period for Proposed Food Good Practices Rule Due to Regulations.gov Glitches

The Food and Drug Administration [announced](#) it is extending the comment deadline for its [proposed rule](#) *Current Good Manufacturing Practice and Hazard Analysis and Risk-Based Preventive Controls for Human Food* due to glitches in the website used to submit public comments. The good manufacturing practices, last updated in 1986, are being changed to implement hazard analysis and risk-based preventive controls for international and domestic producers. “These preventive controls would include requirements for covered facilities to maintain a food safety plan, perform a hazard analysis, and institute preventive controls for the mitigation of those hazards. Facilities would also be required to monitor their controls, verify that they were effective, take any appropriate corrective actions, and maintain records documenting these actions.” FDA estimates that these requirements will cost between \$319 million – \$475 million annually for covered entities. However, the Agency was unable to estimate any benefits, and instead relies on a breakeven percentage point at which the benefits of the rule will justify the costs. By this measure, the rule must prevent between 16 and 24 percent of covered food product illnesses annually. [Comments](#) are now due on November 22nd.

FDA Extends Comment Period for Proposed Food Safety Rule Due to Regulations.gov Technical Difficulties

The Food and Drug Administration [announced](#) it is extending the comment deadline for its [proposed rule](#) *Standards for the Growing, Harvesting, Packing, and Holding of Produce for Human Consumption* due to glitches in the website used to submit public comments. The rule would establish minimum standards for growing, harvesting, and packaging of fruits and vegetables in order to minimize the risk of death or illness from the consumption of contaminated produce. Among other things, the rule would require standards for worker health and hygiene, water intended for agricultural uses, domesticated animals on produce plots, equipment, tools, buildings, and the documentation of the treatment of beans and seeds for sprouting. FDA estimates that these requirements will incur \$630 million in costs annually for covered producers, both domestically and abroad. Additionally, FDA estimates that the benefits resulting from reducing illness and death associated with contaminated food will be \$1.04 billion, representing 65 percent of all U.S. illnesses and deaths caused by the consumption of covered produce. In clarifying the scope of the rule, FDA specifies that the requirements “would not apply to produce that is rarely consumed raw, produce for personal or on-farm consumption, or produce that is not a raw agricultural



commodity.” The rule, if finalized, will be effective 60 days after publication; however, small businesses are granted an additional three years for compliance. [Comments](#) are now due on November 22nd. (*Read our public comment [here](#).*)

FDA Extends Comment Period for \$547 Million Rule to Verify Safety of Imported Foods

The Food and Drug Administration [announced](#) it is extending the comment period for its [proposed rule](#), *Foreign Supplier Verification Programs for Importers of Food for Humans and Animals*. The proposed rule would require food importers to “perform risk-based foreign supplier verification activities... to verify that food imported into the United States is as safe as food produced and sold within the United States...The proposed [Foreign Supplier Verification Program] regulations are intended to work in tandem with other provisions of [the Food Safety Modernization Act] and the [Food, Drug, and Cosmetic] Act to ... [provide] appropriate layers of protection for U.S. consumers.” Under the regulation, importers would have to conduct on-site audits or other verification methods for most foreign suppliers, with different requirements for very small suppliers and importers, importers of dietary supplements, and suppliers in countries “whose food safety system FDA has officially recognized as ‘comparable’ ...[or] equivalent to that of the United States.” Estimated cost of the rule is between \$529 million and \$547 million per year. Because the proposed rule “would not itself establish safety requirements for food manufacturing and processing, [but] would benefit the public health by helping to ensure that imported food is produced in compliance with other applicable food safety regulations,” the public health benefits are accounted for in “the preventive controls, produce safety, and other applicable food safety regulations instead of in this rule.” Comments are now due on January 27th, 2014.

Agencies

Department of Health and Human Services

HHS Publishes Notice Establishing Framework for Rating Qualified Health Plans on Exchanges

The Department of Health and Human Services published a [notice](#) establishing a framework for rating Qualified Health Plans (QHPs) offered through a healthcare Exchange, pursuant to the Patient Protection and Affordable Care Act. The rating framework is termed the Qualified Rating System, or the QRS. “The Affordable Care Act and applicable Exchange regulations establish that health plans offered through an Exchange must meet specific standards to be certified as QHPs and to offer coverage in an Exchange beginning in January 2014... We believe that the overarching goal of the QRS is based on two fundamental tenets: (1) Providing comparable and useful information regarding the quality of QHPs offered through the Exchanges to inform consumer and employer choice; and (2) facilitating regulatory oversight of QHPs with regard to the quality standards set forth in the Affordable Care Act. Consequently, we believe that the QRS should provide QHP ratings based on health care quality and outcomes, consumer experience, and cost.” Comments are due on January 21st, 2014.

Environmental Protection Agency

EPA Announces Public Hearing on Upcoming Proposed 2014 Renewable Fuel Standards

The Environmental Protection Agency [announced](#) a public hearing on its upcoming [proposed rule](#), *2014 Standards For The Renewable Fuel Standard Program*, on December 5th. EPA’s proposed rule for the first time reduces biofuel blending targets, bringing the Renewable Fuel Standard (RFS) back to 2012 levels. EPA is proposing this change to address supply concerns associated with the “blendwall”, defined as “Limitations in the volume of ethanol that can be consumed in gasoline given practical constraints on the supply of higher ethanol blends to the vehicles that can use them and other limits on ethanol blend levels in gasoline.”

Occupational Safety and Health Administration

OSHA Announces Public Meeting on Proposed Rule Requiring Reporting of Worker Injury & Illness Records

The Occupational Safety and Health Administration [announced](#) a public meeting on January 9th, 2014, to solicit comments from the public on its recent [proposed rule](#), *Improve Tracking of Workplace Injuries and Illnesses*. The proposed rule would require employers to electronically report to OSHA the injury and illness information that employers are already required to record. This rule adds three new electronic reporting requirements to OSHA’s annual injury and illness survey. The rule doesn’t require any new recordkeeping actions by employers, but it changes employers’ obligation to report the records to OSHA. “OSHA anticipates that establishments’ electronic submission of establishment-specific injury/illness data will improve OSHA’s ability to identify, target, and remove



safety and health hazards, thereby preventing workplace injuries, illnesses, and deaths. In addition, OSHA believes that the data submission requirements of the proposed rule will improve the quality of the information and lead employers to increase workplace safety. Finally, the Agency plans to make the injury and illness data public, as encouraged by President Obama's Open Government Initiative. Online access to these data will allow the public, including employees and potential employees, researchers, employers, and workplace safety consultants, to use and benefit from the data.” Attendees are required to RSVP by December 13th.

Administrative Conference of the United States

ACUS Announces 59th Plenary Session on December 5th and 6th to Discuss Three Proposed Recommendations

The Administrative Conference of the United States [announced](#) public meetings on Thursday, December 5th and Friday, December 6th at its 59th Plenary Session to discuss three proposed recommendations and one proposed statement. The proposed recommendations to be discussed are on improving the timeliness of OIRA review, the use of social media in rulemaking, and the judicial remedy of remand without vacatur on review of agency action. ACUS is an independent federal agency that provides recommendations to the federal government for improving the administrative process.

Export-Import Bank

Ex-Im Bank Receives Application for \$100+ Million to Fund Export of Business Jet Aircraft to China

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 fund the export of U.S.-manufactured business jet aircraft to China. These exports would be used for executive air transportation. [Comments](#) are due on December 16th.

Ex-Im Bank Receives Application for \$100+ Million to Fund Export of GE Equipment to Saudi Arabia

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 fund the export of U.S.-manufactured cogeneration power plant equipment to Saudi Arabia. This equipment would be used to construct three cogeneration power plants to produce reliable electricity and steam. [Comments](#) are due on December 10th.

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