

## Feature Story

**BLM Proposes Significant Rule on Fracking on Federal and Indian Lands with No Monetized Benefits**

The Bureau of Land Management published a \$20 million [proposed rule](#) setting 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 due on June 24<sup>th</sup>.

## Opinion

- If The IRS Bothers You, So Should The FSOC and CFPB
- The Hidden Agenda Behind The FDA's New Avandia Hearings
- Yes, Regulation Can Make Government Better
- The GOP doesn't oppose Richard Cordray. It opposes his whole agency.
- The rise of the fourth branch of government
- Regulator for the World
- Thank an oil company employee
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- Too-Big-to-Fail Myths, Goldman Sachs Edition
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## Marketplace of Ideas

## American Action Forum

- Health Care Implementation: A “Train

## In the News

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[After 37 years, U.S. chemical-safety laws may finally get an overhaul](#), *Washington Post*

[Environmental Defense Fund scolded by other green organizations on ‘fracking’](#), *Washington Post*

[Richard Cordray fights financial ‘scams and frauds’](#), *Washington Post*

[Volcker: Multiple Bank Regulators Is ‘Recipe for Getting Nothing Done’](#), *Wall Street Journal*

[OSHA moves to delay new crane operator rules](#), *The Hill*

[Regulatory loopholes create profit for scammers](#), *The Hill*

[EPA proposes pulp mill rules](#), *The Hill*

[Fracking Role for Environmental Defense Fund Splits Green Groups](#), *Bloomberg*

[Fight Over Obama's Fannie Mae Pick Watt Risks Housing Deal](#), *Bloomberg*

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[Obama Picks Two U.S. Senate Aides as Next SEC Commissioners](#), *Bloomberg*

[U.S. revises meat-labeling rules to satisfy WTO ruling](#), *Reuters*

[Eleventh-hour ‘slaughtered in the U.S.A.’ rule seeks to avert painful sanctions](#), *The Hill*

[Wall Street Seeks Dodd-Frank Changes Through Trade Talks](#), *Bloomberg*



Wreck” Looming?, *Sam Batkins*

- The Week in Regulation: May 13-17, *Sam Batkins*

### American Enterprise Institute

- Compounding a crisis at FDA, *Scott Gottlieb*
- Examining Drug Compounding: Testimony before the House Energy & Commerce Committee Subcommittee on Health, *Scott Gottlieb*

### Center for Progressive Reform

- What the White House Taketh Away, It Can Also Giveth: An Agenda for 'Regulatory Czar' Howard Shelanski's First 30 Days, *Rena Steinzor*

### Competitive Enterprise Institute

- CEI's Battered Business Bureau: The Week in Regulation, *Ryan Young*

### Federal Regulations Advisor

- Monday Morning Regulatory Review – 5/27/13, *Leland Beck*

### Federalist Society

- Inappropriations and the HHS, *Peggy Little*

### The George Washington University Regulatory Studies Center

- EPA's Guidance on Environmental Justice Gives Little Weight to Regulatory Costs, *Sofie Miller*

### The Mercatus Center

- Reclaiming Federal Spectrum: Proposals and Recommendations, *Brent Skorup*

### Penn Program on Regulation

- CFPB Seeks to Increase Oversight of Nonbank Student Loan Servicers, *Lauren-Kelly Devine*
- The Regulatory Week in Review: May 24, 2013, *Christina Reichert*
- Despite Recent Safety Record, FAA May Lack Key Data, *Sean Moloney*
- We Live in an Interagency World, *Jason Marisam*
- Agencies Act to Address Risks from Sun Exposure, *Kara Cheever*

[Tighter U.S. Rule on Imported Meat May Cost \\$192 Million](#), *Bloomberg*  
[Obama Commerce Pick Seen Pressed on Bank Role, Trusts](#), *Bloomberg*  
[Google faces new FTC probe over display ads](#), *Washington Post*  
[New meat labels go into effect, telling consumers where animals were born, raised, slaughtered](#), *Washington Post*  
[Canada threatens 'retaliatory measures' over new US meat labeling regulations](#), *Washington Post*  
[Businesses share ObamaCare wellness program worries with White House](#), *The Hill*  
[Regulators looking at escape bunkers in coal mines](#), *The Hill*  
[Chamber to argue case against Obama's recess appointments at Supreme Court](#), *The Hill*  
[Facing deadline, 'slaughtered in the U.S.A.' rule finalized](#), *The Hill*  
[Bank's Lobbyists Help in Drafting Financial Bills](#), *New York Times*  
[Bipartisan bill would overhaul regulatory system, target 'mega-rules'](#), *The Hill*  
[Fed Study Rebutts Banks on Swipe Fees](#), *Wall Street Journal*

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[iPhone Urinalysis Draws First FDA Inquiry of Medical Apps](#), *Bloomberg*  
[U.S. meat labels to detail animal's origin; Canada, Mexico raise concern](#), *Washington Post*  
[Republicans accuse Obama administration of 'regulatory hide and seek'](#), *The Hill*  
[Weinstein Says Big-Bank Job Allure Fading on Rules](#), *Bloomberg TV*  
[German Regulator Urges U.S. to Ease New Rules on Foreign Banks](#), *Wall Street Journal*

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[Regulators issue sweeping new rules to help disabled use television technology](#), *The Hill*  
[Sebelius on hot seat amid rising angst over ObamaCare rollout](#), *The Hill*

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[EPA extends comment period on controversial gasoline rule](#), *The Hill*  
[Former EPA chief Lisa Jackson heads to Apple](#), *Politico*  
[Jiminy Christmas: Confronting Regulators on Compliance's Toll](#), *American Banker*  
[Regulators probing banks' debt collection practices](#), *Washington Post*  
[German watchdogs warn U.S. on go-it-alone bank rules](#), *Reuters*  
[CEOs put their stamp of approval on regulations bill](#), *The Hill*  
[Regulators poised to lift ban on swaps trading by credit unions](#), *The Hill*  
[FCC publishes 911 texting rule](#), *The Hill*  
[Pompeo Joins Environmentalists to Press EPA on Chemicals](#), *Bloomberg*  
[Apple hires former EPA Administrator Jackson](#), *The Hill*

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[Nominees could tip regs court](#), *The Hill*  
[Payday Lenders Evading Rules Pivot to Installment Loans](#), *Bloomberg*

## Rulemaking

### Securities and Exchange Commission

#### SEC Proposes 315-page Rule and Interpretive Guidance on Cross-Border Security-Based Swaps

The Securities and Exchange Commission published a 315-page [proposed rule and interpretive guidance](#) addressing cross-border security-based swap activities. “Our proposed rules and interpretive guidance address the application of Subtitle B of Title VII of the Dodd-Frank Act with respect to each of the major registration categories covered by Title VII relating to market intermediaries, participants, and infrastructures for security-



based swaps, and certain transaction-related requirements under Title VII in connection with reporting and dissemination, clearing, and trade execution for security-based swaps. In this connection, we are re-proposing Regulation SBSR and certain rules and forms relating to the registration of security-based swap dealers and major security-based swap participants. The proposal also contains a proposed rule providing an exception from the aggregation requirement, in the context of the security-based swap dealer definition, for affiliated groups with a registered security-based swap dealer. Moreover, the proposal addresses the sharing of information and preservation of confidentiality with respect to data collected and maintained by SDRs. In addition, the Commission is proposing rules and interpretive guidance addressing the policy and procedural framework under which the Commission would consider permitting compliance with comparable regulatory requirements in a foreign jurisdiction to substitute for compliance with requirements of the Exchange Act, and the rules and regulations thereunder, relating to security-based swaps (i.e., “substituted compliance”).” [Comments](#) are due on August 21<sup>st</sup>.

### **SEC Extends Comment Period for 11 Proposed Rules & Policy Statements on Security-Based Swaps**

The Securities and Exchange Commission [announced](#) the extension of comment periods for eleven different outstanding rulemaking releases and statements of general policy pursuant to security-based (SB) swaps. “The reopening of these comment periods is intended to allow interested persons additional time to analyze and comment upon the Proposed Rules and the Policy Statement in light of the Commission’s proposal of substantially all of the rules required to be adopted by Title VII of the Dodd-Frank Act, its proposal of rules and interpretations addressing the application of the SB swap provisions of Title VII of the Dodd-Frank Act to cross-border SB swap transactions and non-U.S. persons that act in capacities regulated under the Dodd-Frank Act (the “Cross-Border Proposed Rules”), and the Commodity Futures Trading Commission’s (the “CFTC”) adoption of substantially all of the rulemakings establishing the new regulatory framework for swaps. All comments received to date on the Proposed Rules and the Policy Statement will be considered and need not be resubmitted.” [Comments](#) are now due on July 21<sup>st</sup>.

### **SEC Extends Comment Period for Proposed Rule Setting Standards for Automated Trading Systems**

The Securities and Exchange Commission [extended](#) the deadline for comments submitted on its [proposed rule](#), *Regulation Systems Compliance and Integrity (Regulation SCI)*. The proposed rule would codify regulatory systems compliance and integrity for self-regulatory organizations (including registered clearing agencies), alternative trading systems, and plan processors. These standards are intended to address issues resulting from automated systems for conducting trades, which were previously addressed by the Commission’s ARP inspections program. “In the Commission’s view, the convergence of several developments—the evolution of the markets to become significantly more dependent upon sophisticated automated systems, the limitations of the existing ARP Inspection Program, and the lessons of recent events—highlight the need to consider an updated and formalized regulatory framework for ensuring that the U.S. securities trading markets develop and maintain systems with adequate capacity, integrity, resiliency, availability, and security, and reinforce the requirement that such systems operate in compliance with the Exchange Act. The Commission is proposing new Regulation SCI because the Commission preliminarily believes that it would further the goals of the national market system and reinforce Exchange Act obligations to require entities important to the functioning of the U.S. securities markets to carefully design, develop, test, maintain, and surveil systems integral to their operations.” [Comments](#) are due on July 8<sup>th</sup>.

## **Department of Agriculture**

### **AMS Finalizes Country-of-Origin Labeling Regulation for Meat, Seafood, Nuts**

The Agricultural Marketing Service published a [final rule](#) amending the country-of-origin labeling (COOL) requirements for beef, pork, lamb, chicken, goat meat, wild and farm-raised fish and shellfish, and other food items. “Under this final rule, origin designations for muscle cut covered commodities derived from animals slaughtered in the United States are required to specify the production steps of birth, raising, and slaughter of the animal from which the meat is derived that took place in each country listed on the origin designation. In addition, this rule eliminates the allowance for commingling of muscle cut covered commodities of different origins. These changes will provide consumers with more specific information about the origin of muscle cut covered commodities... The costs of implementing these requirements will be incurred by intermediaries (primarily packers and processors of muscle cut covered commodities) and retailers subject to requirements of mandatory COOL. The Agency considers that the total cost of the rule is driven by the cost to firms of changing the labels and the cost some firms will incur to adjust to the loss of the flexibility afforded by commingling.”



## **National Credit Union Administration**

### **NCUA Proposes to Allow Credit Unions to Engage in Derivatives Activities to Hedge Interest Rate Risk**

The National Credit Union Administration published a [proposed rule](#) that would allow credit unions to “engage in limited derivatives activities for the purpose of mitigating interest rate risk.” NCUA is proposing this rule to allow credit unions to appropriately manage interest rate risk (IRR); currently, derivatives activities are specifically prohibited by NCUA rules because of the potential for risk posed to credit unions. “This proposed authority does not, however, allow credit unions to offer derivatives. This proposed rule applies to all federal credit unions (FCUs) and all federally insured state- chartered credit unions (FISCU) that are expressly permitted by applicable state law to engage in derivatives transactions. The Board believes this proposed rule allows eligible credit unions to utilize an additional tool to mitigate IRR, while also reducing risk to the National Credit Union Share Insurance Fund (NCUSIF). The rule requires eligible credit unions to apply to NCUA or, in the case of a FISCU, NCUA and the applicable state supervisory authority (SSA), for either Level I or Level II derivatives authority. As discussed in greater detail below, Level I and Level II authority differ on the permissible levels of transactions as well as the application, expertise, and systems requirements.” [Comments](#) are due on July 29<sup>th</sup>.

## **Federal Housing Finance Agency**

### **FHFA Proposes Rule Removing References to Credit Ratings Agencies in Existing Rules**

The Federal Housing Finance Agency published a [proposed rule](#) removing references to credit ratings agencies in its existing rules. “Section 939A of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) requires Federal agencies to review regulations that require the use of an assessment of the credit-worthiness of a security or money market instrument and any references to, or requirements in, such regulations regarding credit ratings issued by credit rating organizations registered with the Securities and Exchange Commission (SEC) as nationally recognized statistical rating organizations (NRSROs), and to remove such references or requirements. To implement this provision, the Federal Housing Finance Agency (FHFA) is proposing to remove a number of references and requirements in certain safety and soundness regulations affecting the Federal Home Loan Banks (Banks) and to adopt new provisions that would require the Banks to apply internal analytic standards and criteria to determine the credit quality of a security or obligation, subject to FHFA oversight and review through the examination and supervisory process. FHFA will undertake separate rulemakings to remove NRSRO references and requirements contained in the capital regulations applicable to the Banks and in the regulations governing the Banks' acquired member asset (AMA) programs.” [Comments](#) are due on July 22<sup>nd</sup>.

## **Federal Communications Commission**

### **FCC Rule Requires Bounce-Back Messages for Emergency Texts to 911 Where Service Not Available**

The Federal Communications Commission published a [final rule](#) requiring providers of interconnected text messaging services to provide automated bounce-back messages for emergency texts to the number 911 in areas where text-to-911 is not available. “The rules are adopted with the goal of reducing the risk of individuals sending text messages to 911 during an emergency and mistakenly believing that 911 authorities had received it, particularly during the transition to Next Generation 911 (NG911), when text-to-911 will be available in some areas sooner than others and may be supported by certain service providers but not by others.”

## **Department of Health and Human Services**

### **CMS Finalizes Rule Implementing New Medical Loss Ratio Requirements for Medicare Part C and D**

The Centers for Medicare and Medicaid Services (CMS) published a [final rule](#) implementing the new medical loss ratio (MLR) requirements for two Medicare programs: the Medicare Advantage (MA) Program, and the Medicare Prescription Drug Benefit Program, which was enacted pursuant to the Patient Protection and Affordable Care Act (the “Act”). “The new minimum MLR requirement in section 1857(e)(4) of the Act is intended to create incentives for MA organizations and Part D sponsors to reduce administrative costs such as marketing costs, profits, and other uses of the funds earned by MA organizations and Part D sponsors and to help ensure that taxpayers and enrolled beneficiaries receive value from Medicare health plans. Under this final rule, an MLR will be determined based on the percentage of Medicare contract revenue spent on clinical services, prescription drugs, quality improving activities, and direct benefits to beneficiaries in the form of reduced Part B premiums. The higher the MLR, the more the MA organization or Part D sponsor is spending on claims and quality improving activities and the less they are spending on other things... If an MA organization or Part D sponsor fails to meet MLR requirements for



more than 3 consecutive years, they will also be subject to enrollment sanctions and, after 5 consecutive years, to contract termination.”

## Agencies

### Federal Trade Commission

#### FTC Announces Availability of Modified Ten-Year Regulatory Review Schedule

The Federal Trade Commission published a [proposed rule](#) announcing the availability of the Commission’s modified [ten-year regulatory review schedule](#). “To ensure that its rules and industry guides remain relevant and are not unduly burdensome, the Commission reviews them on a ten-year schedule. Each year the Commission publishes its review schedule, with adjustments made in response to public input, changes in the marketplace, and resource demands... The Commission is currently reviewing 22 of the 65 rules and guides within its jurisdiction.”

### Council on Environmental Quality

#### CEQ Extends Comment Period for Guidelines and Principles for Water and Related Land Resources

The Council on Environmental Quality published a [notice](#) announcing the CEQ is extending the comment period for the Council’s revised *Economic and Environmental Principles and Guidelines for Water and Related Land Resources Implementation Studies*. “The revised Principles and Guidelines consist of three key components: (1) The Principles and Requirements (formerly called Principles and Standards), setting out broad policy and principles that guide investments; (2) the Interagency Guidelines, providing guidance to Federal agencies for determining the applicability of the Principles and Guidelines and for developing agency-specific implementing procedures for formulating, evaluating, and comparing water resources projects, programs, activities, and related actions; and (3) the Agency Specific Procedures, outlining agency-specific procedures for incorporating the Principles and Requirements into agency missions and programs.” [Comments](#) are due on June 27<sup>th</sup>.

### Export-Import Bank

#### Ex-Im Bank Receives Application for \$650 Million to Support Export of Mining Equipment to Australia

The Export-Import Bank published a [notice](#) announcing the receipt of an application for a long-term financial guarantee or direct loan for \$650 million to support the export of \$522 million worth of mining equipment to Australia. “The repayment term of the guarantee or direct loan is 8.5 years. The U.S. exports will enable the Australian mining company to establish a maximum production capacity of 55 million metric tons of iron ore per year. Available information indicates that the iron ore will be consumed in Asian Markets including: China, Japan, Korea, and Taiwan.” [Comments](#) are due on June 6<sup>th</sup>.

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