

## Feature Story

**OPM Proposes Rule Limiting Congressional Staff to Purchasing Healthcare via Affordable Care Act Exchanges**

The Office of Personnel Management [proposed a rule](#) that would amend the Federal Employees Health Benefits (FEHB) Program regulations regarding coverage for Congress members and their staff pursuant to the provisions of the Affordable Care Act (ACA). The ACA states that “the only health plans that the Federal Government may make available to Members of Congress and congressional staff with respect to their service as a Member of Congress or congressional staff shall be health plans that are—(I) created under this Act (or an amendment made by this Act); or (II) offered through an Exchange established under this Act (or an amendment made by this Act).” Currently, these members of Congress are eligible for the FEHB

program through OPM; however, these health benefit plans were not created under the Affordable Care Act or offered through the exchanges. This rule implements these ACA provisions by excluding members of Congress and their staff from purchasing the health benefits plans contracted under the Office of Personnel Management. [Comments](#) are due September 9<sup>th</sup>.



## Opinion

- The Federal Reserve System is nuts. Here's how we could remake it.
- The SEC Shows Why Bitcoin Is Doomed
- When 'Nudge' Comes to Shove
- Regulations are hindrance to new business creation
- 6 Ways To Save U.S. Startups And Jobs From Death By Regulation
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- Consumers still not charged up about electric vehicles
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## Marketplace of Ideas

## American Action Forum

- Week in Regulation, *Sam Batkins*
- The ACA is Running Behind Schedule, *Chris Holt*

## American Enterprise Institute

- Former officials cash in on their reputations, *Timothy P. Carney*

## Center for American Progress

- New Energy Star Rules Raise The Question Of How To Make Energy Efficiency Accessible To All, *Joanna Foster*

## In the News

## Congress &amp; Regulatory Reform

[Regs czar touts eased trucker rule as success in 'lookback' effort](#), *The Hill*  
[New regulatory czar Shelanski dives into rules controversies](#), *United Press International*

[Progressives worry that new OIRA head will focus only on cutting rules](#), *Greenwire*

[NLRB at full strength as four Obama appointees are sworn in Monday](#), *The Hill*

[New regulations czar enters fray, promises to pare red tape](#), *The Hill*

## Financial Markets

[Q&A with departing SEC Commissioner Elisse Walter](#), *Washington Post*  
[SEC seeks admission of wrongdoing from JPMorgan in 'London Whale' case](#), *Washington Post*

[Fannie Mae to pay Treasury \\$10.2 billion as home prices rise](#), *Washington Post*

[JPMorgan discloses federal criminal investigation over sale of mortgage-backed securities](#), *Washington Post*

[JPMorgan said to be near SEC settlement on 'London Whale' loss](#), *Washington Post*

[U.S. Regulators Squeeze Banks to Cut Ties to Some Online Lenders](#), *Bloomberg*

[Bernanke Successor Seen as No Obstacle to Tarullo Banking Rules](#), *Bloomberg*

[Regulators seize bank in Wisconsin; brings this year's US bank failures to 18](#), *Washington Post*

[U.S. Regulator Issues Bitcoin-Related Subpoenas: WSJ Reports](#), *Bloomberg*  
[Radian Says Unit May Need Capital as U.S. Mulls Standards](#), *Bloomberg*



## Center for Effective Government

- [Product Safety Law Gets the Lead \(and Other Things\) Out](#), *Katie Greenhaw*
- [House Subpoenas Personal Medical Information in Continued Assault on Clean Air Policies](#), *Sam Abbott*

## Center for Progressive Reform

- [The Regulatory Czar's Recent Blog on Truck Driver Paperwork and the West, Texas, Tragedy](#), *James Goodwin*
- [Do you want overworked inspectors in charge of your meat's safety?](#), *Celeste Monforton*

## Competitive Enterprise Institute

- [CEI's Battered Business Bureau: The Week in Regulation](#), *Ryan Young*

## Federal Regulations Advisor

- [Economically Significant: A Threshold Snapshot of OMB's Regulatory Docket](#), *Leland Beck*
- [Monday Morning Regulatory Review – 8/12/13](#), *Leland Beck*
- [Pre-Enforcement Judicial Review of Regulations: Dates, Eggs, Bells, and Other Things to Consider](#), *Leland Beck*

## Federalist Society

- [Developments at the Consumer Financial Protection Bureau: July 9, 2013 – August 13, 2013](#), *Julius Loeser*

## The George Washington University Regulatory Studies Center

- [Public Interest Comment on the Food and Drug Administration's Proposed Rule: Standards for the Growing, Harvesting, Packing, and Holding of Produce for Human Consumption](#), *Sofie E. Miller & Cassidy B. West*
- [Advances in eRulemaking Open Avenues for Public Participation](#), *Jonathan Schwab*

## Heritage Foundation

- [Congress Should Scale Back the Renewable Fuel Standard—to Zero](#), *Nicolas Loris*

## Mercatus

- [A Framework for Benefit-Cost Analysis in Digital Privacy Debates](#), *Adam Thierer*

## Penn Program on Regulation

- [The Clean Water Act Needs Positive Reform](#), *William L. Andreen*
- [Former FDIC Head Offers Prescriptions for Fixing Wall Street](#), *Christina Reichert*
- [FDA Clarifies the Orphan Drug Act](#), *Kara Cheever*

[New CFTC rule streamlines registration regulations](#), *The Hill*  
[U.S. Regulator Subpoenas Banks Over Long Warehouse Queues](#), *Bloomberg*  
[GOP chairman: Dodd-Frank smothering housing market](#), *The Hill*  
[Softer U.S. Mortgage Rule Said to Be Proposed at End of August](#), *Bloomberg*  
[U.S. regulator opposes fast-track CFTC markets policing](#), *Reuters*  
[U.S. watchdog to unveil plan to overhaul audit reports](#), *Reuters*  
[Probe Turns Up Heat on Banks](#), *Wall Street Journal*  
[Fed's Yellen Says Stance on Banks Hardened](#), *Wall Street Journal*  
[Divining the Regulatory Goals of Fed Rivals](#), *New York Times*

## Energy & Environment

[White House regs chief meets with GE on carbon rule](#), *The Hill*  
[Interior Dept. proposes changes to royalties, land restrictions for coal mines](#), *The Hill*  
[Coal lobbyists bend White House ear on carbon rule](#), *The Hill*  
[Bid to Repeal Ethanol Mandate Seen Diluted by EPA Change](#), *Bloomberg*  
[Ethanol's Discount to Gasoline Tightens on Below-Average Supplies](#), *Bloomberg*  
[In his second term, Obama becomes bolder on the environment](#), *Washington Post*  
[Electric co-ops come out swinging against Obama greenhouse gas plan](#), *The Hill*  
[Federal appeals court orders Obama admin to move forward on Yucca Mountain nuclear dump](#), *Washington Post*  
[Petroleum groups ask EPA for relief from biofuel mandate](#), *The Hill*  
[Pennsylvania Residents Ask EPA to Reopen Fracking Probe](#), *Bloomberg*  
[BP Sues EPA to Get New Contracts](#), *Wall Street Journal*

## Health & Safety

[Small businesses consider cutting family insurance coverage when health care law takes effect](#), *Washington Post*  
[Prognosis uncertain for Obama plan to fix health law glitch that impacts coverage for Congress](#), *Washington Post*  
[More delays for food safety overhaul](#), *The Hill*  
[Regulators Limit Obamacare Break as Critics Predict Fraud: Taxes](#), *Bloomberg*  
[Obama: Partisanship to blame for executive action on employer mandate delay](#), *The Hill*  
[A Limit on Consumer Costs Is Delayed in Health Care Law](#), *New York Times*  
[Consumer Cost Protection in Obama Health Plan Is Delayed](#), *Bloomberg*  
[Government Must Continue Review of Nevada Nuclear Waste Site, Court Says](#), *New York Times*  
[Health-Law Delays Starting to Pile Up](#), *Wall Street Journal*  
[A Limit on Consumer Costs Is Delayed in Health Care Law](#), *New York Times*

## Business

[Livestock companies look for trucking rule exemption](#), *The Hill*  
[Study: Stronger regs needed to protect against 'seafood fraud'](#), *The Hill*  
[Flurry of new regulations expected from Labor Department to help disabled, vets, labor unions](#), *Washington Post*  
[Likely Labor regs would aid vets, disabled, unions](#), *The Examiner*  
[Small Businesses Not Finding Much to Smile About](#), *Fox Business*  
[Officials Tighten Crude-Shipping Standards](#), *Wall Street Journal*  
[Safety Proposal Aims to Address Child Car Seats and Weight](#), *Wall Street Journal*  
[EEOC Suffers Setback on Use of Criminal-Background Checks in Hiring](#), *Wall Street Journal*



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[NLRB Gears Up With New Members](#), *Wall Street Journal*

### Technology

[FCC votes 2-1 on decade-old petition to limit charges for inmate phone calls](#), *Washington Post*

[Lawmakers to FCC: Allow trains to be run automatically](#), *The Hill*

[Consumer groups want stricter rules for 'Obama phone' program](#), *The Hill*

[U.S. slowly opening up commercial drone industry](#), *Reuters*

[FCC votes to cap, slash prison phone rates](#), *The Examiner*

[Agency Caps Inmates' Phone Rates](#), *Wall Street Journal*

## Rulemaking

### Food and Drug Administration

#### FDA Extends Comment Period for Proposed Rule Governing Human Food Manufacturing Good Practices

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*. 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 15<sup>th</sup>.

#### FDA Extends Comment Period for Proposed Rule Setting Farm Standards to Prevent Food Contamination

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*. 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 and additional three years for compliance. [Comments](#) are now due on November 15<sup>th</sup>. (*Read our public comment [here](#).*)

### Environmental Protection Agency

#### EPA Denies Petition Requesting Reconsideration of 2013 Biodiesel Standards with \$425 in Net Costs

The Environmental Protection Agency [announced](#) that it is denying a petition requesting a reconsideration of its October 3<sup>rd</sup> [final rule](#), *Regulation of Fuels and Fuel Additives: 2013 Biomass-Based Diesel Renewable Fuel Volume*. This final rule set a 1.28 billion gallon volume requirement for biomass diesel fuels applicable to petroleum refineries, ethyl alcohol manufacturers, petroleum bulk stations and terminals, and wholesalers in calendar year 2013. This regulation increased the volume requirement by 28% over the statutory baseline of 1 billion gallons. The primary benefit of this rule is an increase in energy security by reducing U.S. petroleum imports and increasing the diversity of U.S. liquid fuel supplies, which the Agency values at \$41.2 million. Interestingly enough, the Agency estimates that this standard will cause up to \$52 million in environmental *disbenefits* by reducing air quality, despite the fact that the enabling statute is the Clean Air Act: “Quantified estimates of benefits include \$41 million in energy security benefits and \$19-52 million in air quality disbenefits. Other benefits include GHG emissions reduction benefits and both direct and indirect employment benefits in rural



areas due to increased biodiesel production. Impacts on water quality, water use, wetlands, ecosystems and wildlife habitats are expected to be directionally negative but modest due to both the small impact on crop acres planted necessary to supply sufficient soy oil feedstock and due to the relatively small impact on these measures of soybean production compared to other potential crops...we estimate that soybean prices could increase up to 3 cents per pound in 2013 if all of the 280 million gallon increment above the 2012 standard is met through increased demand for soy oil. Using these assumptions, we estimate the cost of producing this increment in biomass-based diesel would range from \$253 to \$381 million in 2013. Adding the estimate of 2013 costs to the total 2013 fuel pool would suggest a diesel fuel cost increase of less than 1 cent per gallon.”

## Department of the Interior

### ONRR Proposes Rule Establishing Schedule for Reporting and Payment of Federal Gas Lease Royalties

The Office of Natural Resources Revenue [proposed a rule](#) prescribing when a federal lessee must report and pay royalties on the volume of oil and gas it takes from a lease. This regulation would implement section 6(d) of the Royalty Simplification and Fairness Act (RSFA). The volume of oil and gas that a lessee must report and pay royalties on prescribed in the regulation differs for whether a lessee is a stand-alone agreement, 100-percent Federal agreement, or a mixed agreement. The reduction in reporting burden by this rule is estimated by the Office of Natural Resources Revenue (ONRR) to be approximately \$198,720 per year. ONRR also believes federal government can benefit “because (1) the reduced burden of reporting may extend the life on marginal properties, and (2) the diminished out-of-pocket expenses may enhance lease investment.” The compliance costs to the industry based off of labor and hour burden is \$842,098. [Comments](#) are due on October 7<sup>th</sup>.

## Department of Energy

### DOE Extends Comment Period for Determination of Computers as Covered by EPCA Requirements

The Department of Energy is [extending](#) the comment period for its [proposed determination](#) classifying computers as covered products under the Energy Policy and Conservation Act (EPCA). Computers have not been subject to any rulemaking concerning energy conservation standards by the Department of Energy (DOE) in the past. DOE has calculated that 87% of households currently own a computer and the average energy use for a computer—calculated as a weighted average between desktop and portable computers—is 130kWh/yr. DOE cites these two statistics to justify a new conservation of energy standard for computers, in accordance of carrying out the purposes of the EPCA. Furthermore, one of the key requirements for classification as a covered product under EPCA is that “the average annual per-household energy use by products of such type is likely to exceed 100 kilowatt-hours (kWh) per year.” Given that many households own more than one computer, the “DOE estimates the average annual per-household electricity usage to be approximately 291 kWh/yr.” [Comments](#) are now due on September 12<sup>th</sup>.

### DOE Extends Comment Period for Determination of Computer Servers as Covered by EPCA Requirements

The Department of Energy is [extending](#) the comment period for its [proposed determination](#) classifying computer servers as covered products under the Energy Policy and Conservation Act (EPCA). There is no existing energy efficiency standard for computer servers, nor is there an existing statutory definition of a “server.” Assuming that households would have no more than one server, “DOE estimated the average annual household energy use for households that use servers to be at least 1900 kWh/yr, and possibly much larger. Therefore, DOE tentatively determines that the average annual per-household energy use for servers is very likely to exceed 100 kWh/yr,” which satisfies the 100 kWh/yr threshold established in the EPCA. [Comments](#) are due on September 12<sup>th</sup>.

## Department of Health and Human Services

### HHS Extends Comment Period for Rule Setting Standards for Childcare Facilities Receiving Federal Funds

The Department of Health and Human Services [announced](#) it is extending the deadline for public comments on its [proposed rule](#), *Child Care and Development Fund (CCDF) Program*. The proposed rule amends the Child Care and Development Fund (CCDF) regulations to strengthen health and safety requirements for child care providers, reflect current State and local practices to improve the quality of child care, infuse new accountability for Federal tax dollars, and leverage the latest knowledge and research in the field of early care and education to better serve low-income children and families. “This proposed rule includes a set of provisions designed to provide greater transparency to parents so they can make more informed choices for their families and to facilitate quality improvement efforts by child care providers. It makes available, for both CCDF parents and the general public, clear, easy-to-understand information about the quality of child care providers in their communities. In addition, it



facilitates replication of best practices across the country by directing States, Territories, and Tribes toward making more purposeful investments in child care quality improvement and tracking the progress and success of those investments. Secondly, this proposed rule includes provisions to make the CCDF program more “family friendly” by reducing unnecessary administrative burdens on families (as well as State, Territory, and Tribal agencies administering the program), and by improving coordination with other programs serving low-income families.” [Comments](#) are now due on August 23<sup>rd</sup>.

## Department of Agriculture

### FSIS Extends Comment Period for Labeling Requirements for Mechanically Tenderized Beef Products

The Food Safety and Inspection Service [announced](#) it is extending the comment period for its [proposed rule](#), *Descriptive Designation for Needle- or Blade-Tenderized (Mechanically Tenderized) Beef Products*. This proposal would amend 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 now due on October 8<sup>th</sup>.

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