

## Feature Story

## EPA Finalizes Belated 2013 Percentage Standards for Biofuel Below Statutory Applicable Volume



The Environmental Protection Agency published a [final rule](#) setting the annual percentage standards for cellulosic biofuel, biomass-based diesel, advanced biofuel, and renewable fuels applicable to gasoline and diesel produced and imported in 2013. “In general the standards are designed to ensure that the applicable national volumes of renewable fuel specified in the statute are used. For cellulosic biofuel, the statute specifies that EPA is to project the volume of production and must base the cellulosic biofuel standard on that projected volume if it is less than the applicable volume set forth in the Act. Today EPA is finalizing a cellulosic biofuel volume for 2013 that is below the applicable volume specified in the Act. EPA is also leaving the applicable volumes of advanced biofuel and total renewable fuel at the statutory levels for 2013 based on its assessment of the availability of renewable fuel for compliance purposes.”

EPA argues that publishing a rule establishing 2013 standards after the year 2013 is more than halfway expired will stand up to scrutiny because this decision will not require capital investments for compliance, but instead requires companies to purchase RINs from producers or blenders of renewable fuel: “the parties have adequate lead time to comply with the 2013 RFS standards notwithstanding EPA’s delay in issuing the rule. Because compliance is achieved by obligated parties purchasing an appropriate number of RINs from producers or blenders of the renewable fuel, obligated parties do not need lead time for construction or investment purposes. They are not changing the way they produce gasoline or diesel, do not need to design or install new equipment, or take other actions that require longer lead time. Obtaining the appropriate amount of RINs involves contractual or other arrangements with renewable fuel producers or other holders of RINs.”

## Opinion

- Setting the ‘nudge squad’ on unruly consumers
- Don’t blame the CFPB for tight credit
- Why the EPA and FAA Are Killing Musk’s Better Idea
- Still Waiting for Wall Street Reform
- U.S. needs deregulatory stimulus

## Marketplace of Ideas

## American Action Forum

- The Week in Regulation, *Sam Batkins*
- Can a Regulatory Budget Trim Red Tape?, *Sam Batkins*
- A Regulatory Budget For The Federal Government Could Save \$3.1 Billion

## American Enterprise Institute

- How Lisa Jackson skirted Obama’s good-government pledge, *Timothy P. Carney*

## Competitive Enterprise Institute

- CEI’s Battered Business Bureau: The Week in

## In the News

## Congress &amp; Regulatory Reform

- [Regulation nation: Obama expands the regulatory state](#), *The Hill*
- [Obama, Reid Aides Said to Discuss Fed Selection Process](#), *Bloomberg*
- [Study: Put regulators on a budget](#), *Daily Caller*
- [REGULATION NATION: Obama enlists new lieutenants in second-term push](#), *The Hill*

## Financial Markets

- [Fed faces aggressive deadline to fix caps on swipe fees](#), *The Hill*
- [JPMorgan Said to Expect Multiple Fines for Whale Loss](#), *Bloomberg*
- [Fed Given Week by Judge to Respond on New Swipe-Fee Rules](#), *Bloomberg*
- [Yellen Beats Summers as Most Likely Fed Chair in Poll](#), *Bloomberg*
- [JPMorgan Trading Charges Said to Be Announced Today](#), *Bloomberg*
- [Financial regulator tells lenders how they’ll be judged on new mortgage rules](#), *The Hill*
- [SEC approves proposed \\$8B sale of New York Stock Exchange parent to IntercontinentalExchange](#), *Washington Post*
- [Obama to meet with financial regulators at White House Monday](#), *The Hill*
- [Wall Street lobbyists rout groups pressing for new tight regulations](#), *The Hill*
- [Fed gives big banks \\$440M tab to cover increased regulations](#), *The Hill*



Regulation, *Ryan Young*

### Federal Regulations Advisor

- Monday Morning Regulatory Review – 8/19/13, *Leland Beck*

### Federalist Society

- Nuclear Regulatory Commission Dealt Blow in Court of Appeals Ruling, *Bradley Clanton*

### The George Washington University Regulatory Studies Center

- Reducing the Regulatory Burden: Recommendations for FDA's Proposed Food Safety Rule, *Sofie E. Miller & Cassidy B. West*
- EVENT: Retrospective Review of Risk-Based Regulations, September 27, 8:30am - 3:30 pm

### Heritage Foundation

- Food Safety Rules: Rushed Deadlines Will Lead to Disaster, *Daren Bakst*
- Tales of the Red Tape #41: The FDA's Latest Mission Creep(iness), *Diane Katz*

### The Mercatus Center

- How to Fix Our Broken Proxy Advisory System, *James K. Glassman, J. W. Verret*

### Penn Program on Regulation

- States Incorporate Changing Federal Regulation for Car Seats, *Viren Doshi*
- Does Regulation Work?, *Ralph S. Tyler*
- Cost-Benefit Analysis: A Tool for Good Governance in Financial Regulation, *Paul Rose & Christopher J. Walker*
- Adjusting the Social Cost of Carbon: A Commonsense Revision, *Jeffrey J. Cook & Sara R. Rinfret*

### Resources for the Future

- Hydraulic Fracturing on Federal and Indian Lands: An Analysis of the Bureau of Land Management's Revised Proposed Rule, *Madeline Gottlieb, Alan J. Krupnick, Nathan Richardson*

### Small Business for Sensible Regulations

- The Hill: "President Obama has overseen a dramatic expansion of the regulatory state"

[Fed Finds 18 Large Banks Weak in at Least One Capital Area](#), *Bloomberg*  
[Obama to Meet Financial Regulators on Dodd-Frank Implementation](#), *Bloomberg*

[Regulators willing to risk repo damage](#), *Reuters*

[Obama urges renewed push for Wall Street overhaul, 3 years after passage of rules update](#), *Washington Post*

[Fannie, Freddie masking losses, FHFA watchdog report says](#), *Washington Post*

[Fed says big banks need to do a better job of accounting for risks in annual stress tests](#), *Washington Post*

[Agencies hand off mortgage duties to consumer watchdog](#), *The Hill*

[President urges swift action at meeting on Wall Street rules](#), *The Hill*

[Obama feels 'urgency' about finishing Dodd-Frank rules -W. House](#), *Reuters*

[Fed Sets New Fees on Big Banks](#), *Wall Street Journal*

[Regulators Fine Chicago Exchange](#), *Wall Street Journal*

[Pawlenty: Regulators Risk Limiting Credit for Consumers](#), *Wall Street Journal*

[Fed to face judge over new rules for 'swipe' fees](#), *Washington Post*

[Consumer watchdog sues debt relief company for illegal fees](#), *The Hill*

[Analysis: In choice of next Fed chair, a focus on regulatory views](#), *Reuters*

### Energy & Environment

[Fireplace manufacturer asks EPA for new rules](#), *The Hill*

[Interior names new offshore drilling safety chief](#), *The Hill*

[Judge: EPA's personal email accounts may have aimed at skirting Freedom of Information law](#), *Washington Post*

[Conservatives seek to block microwave oven rule over 'social cost of carbon'](#), *The Hill*

[EPA turns to pesticides to protect bees from colony decline](#), *The Hill*

[GOP lawmakers press for exemption from proposed fracking rule](#), *The Hill*

[GAO to review how administration developed 'social cost' of carbon](#), *The Hill*

### Health & Safety

[US safety agency requiring automakers to let people check data for unrepaired recalls](#), *Washington Post*

[Public health advocates seeing red over delay in sunscreen products](#), *The Hill*

[Norquist Says Obama to Take Health Delays, Avoid Shutdown](#), *Bloomberg*

[HHS Offering Prizes For Videos Promoting Obamacare](#), *Washington Post*

[Study: Employer mandate delay to have minor effect on ObamaCare](#), *The Hill*

### Business

[Thomas Perez to push tougher labor regulations, observers say](#), *Washington Post*

## Rulemaking

### Department of Energy

#### DOE Seeks Comment on Whether to Reconsider Microwave Rule, Use of New SCC Without Public Comment

The Department of Energy is [seeking comments](#) on whether it should reconsider its recently-published rule, *Energy Conservation Standards for Standby Mode and Off Mode for Microwave Ovens*, which uses a new value for the social cost of carbon (SCC) to justify setting energy efficiency standards for microwaves. DOE received a petition from the Landmark Legal Foundation requesting that DOE reconsider its rule because the new SCC value did not undergo public comment prior to finalization. "Landmark petitions DOE to reconsider the Rule on the grounds that this change in the values used in estimating the economic benefits of the Rule should have been subject to a prior



opportunity for public comment because the 2013 SCC values were not the “logical outgrowth” of the 2010 SCC values. Further, Landmark asserts that without reconsideration of the Rule, DOE might now rely on its prior use of the 2013 SCC values in the Rule when it endeavors to enact new energy conservation standards in the future. In promulgating this petition for public comment, DOE seeks public comment on whether to undertake the reconsideration suggested in the petition.” [Comments](#) on this request are due September 16<sup>th</sup>.

### **DOE Proposes Energy Efficiency Standards for Metal Halide Lamp Fixtures**

The Department of Energy published a [proposed rule](#) establishing energy efficiency standards for metal halide lamp fixtures pursuant to the Energy Policy and Conservation Act (EPCA). The EPCA prescribes energy conservation standards for various consumer products and certain commercial and industrial equipment, including metal halide lamp fixtures. “DOE’s analyses indicate that the proposed standards would save a significant amount of energy. The lifetime savings for metal halide lamp fixtures purchased in a 30-year period (2016-2045) amount to 0.80-1.1 quads. The cumulative national net present value (NPV) of total customer costs and savings of the proposed standards in 2012\$ ranges from \$0.95 billion (at a 7-percent discount rate) to \$3.2 billion (at a 3-percent discount rate) for metal halide lamp fixtures. This NPV expresses the estimated total value of future operating-cost savings minus the estimated increased equipment costs for equipment purchased in 2016-2045, discounted to 2013.” Under the proposed standards, DOE also expects ballast manufacturers to lose up to 25.0 percent of their industry net present value, “which is approximately \$25.9 million, in the low shipment,-preservation of operating profit markup scenario.” [Comments](#) are due on October 21<sup>st</sup>.

### **Federal Deposit Insurance Corporation**

#### **FDIC, Fed, OCC Propose Rule Strengthening Leverage Ratios for Large Banks**

The Federal Deposit Insurance Corporation, in conjunction with the Office of the Comptroller of the Currency and the Federal Reserve Board, published a [proposed rule](#) that would strengthen the agencies’ leverage ratio requirements for certain large U.S. banks. “The proposal would apply to any U.S. top-tier bank holding company (BHC) with at least \$700 billion in total consolidated assets or at least \$10 trillion in assets under custody (covered BHC) and any insured depository institution (IDI) subsidiary of these BHCs. In the revised capital approaches adopted by the agencies in July, 2013 (2013 revised capital approaches), the agencies established a minimum supplementary leverage ratio of 3 percent (supplementary leverage ratio), consistent with the minimum leverage ratio adopted by the Basel Committee on Banking Supervision (BCBS), for banking organizations subject to the advanced approaches risk-based capital rules. In this notice of proposed rulemaking (proposal or proposed rule), the agencies are proposing to establish a “well capitalized” threshold of 6 percent for the supplementary leverage ratio for any IDI that is a subsidiary of a covered BHC, under the agencies’ prompt corrective action (PCA) framework. The Board also proposes to establish a new leverage buffer for covered BHCs above the minimum supplementary leverage ratio requirement of 3 percent (leverage buffer). The leverage buffer would function like the capital conservation buffer for the risk-based capital ratios in the 2013 revised capital approaches. A covered BHC that maintains a leverage buffer of tier 1 capital in an amount greater than 2 percent of its total leverage exposure would not be subject to limitations on distributions and discretionary bonus payments.” [Comments](#) are due on October 21<sup>st</sup>.

### **Food and Drug Administration**

#### **FDA Seeks Comment on Environmental Impact Statement for Proposed Food Safety Rule**

The Food and Drug Administration [announced](#) its intent to prepare an Environmental Impact Statement (EIS) to evaluate the potential effects of its [proposed food safety rule](#), *Standards for Growing, Harvesting, Packing, and Holding of Produce for Human Consumption*. “The purpose of the public scoping process for the EIS is to determine relevant issues that will influence the scope of the environmental analysis, including potential alternatives, and the extent to which those issues and impacts will be analyzed in the EIS... FDA has previously sought comment on potential environmental effects as part of the public comment period for the proposed rule, including specific questions regarding agricultural water, biological soil amendments of animal origin, and wildlife. FDA believes that these questions are still relevant to the environmental analysis and will consider comments received. FDA encourages additional comments, as part of this scoping process, on what specific issues, alternatives, mitigation measures, or other information FDA should include for further analysis in the EIS for the produce safety rule.” [Comments](#) are due on November 15<sup>th</sup>.



## Consumer Product Safety Commission

### CPSC Finalizes “Catastrophic Failure” Rule for Infant Bassinets

The Consumer Product Safety Commission published a [final rule](#) enacting new manufacturing requirements for infant bassinets that are accessories to play yards, which the CPSC also regulates. When the bassinet accessories are incorrectly assembled by consumers, the bassinet is more likely to tip, increasing the risk of accidental suffocation for the infant. In response to these misassembly concerns, which were raised by a commenter, CPSC is requiring bassinets to fail “catastrophically” if any structural element is missing. CPSC argues that, because some types of structural misassembly can be difficult for consumers to visually identify, products that are misassembled should catastrophically fail so that consumers will be alerted to any structural problems. “The requirement is meant to ensure that the omission of a key structural element is so visually obvious that the consumer will not use the product and place the child in danger inadvertently. It should be noted that in order to pass this test, the item must *fail catastrophically* when each key structural element is omitted.” CPSC defines catastrophic failure as either 1) total collapse of the product or 2) tilt of more than 30° when an infant dummy is placed in the bassinet; alternatively, manufacturers can permanently attach key structures in the bassinet and forego the catastrophic failure test.

## Environmental Protection Agency

### EPA Extends Comment Deadline for Controversial Proposed Formaldehyde Emissions Rule

The Environmental Protection Agency is again [extending](#) the comment period for its [proposed rule](#), *Formaldehyde Emissions Standards for Composite Wood Products*. The proposed rule sets 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 now due on October 9<sup>th</sup>.

## Commodity Futures Trading Commission

### CFTC Finalizes Enhanced Risk Management Standards for Systemically Important Clearing Organizations

The Commodity Futures Trading Commission published a [final rule](#) implementing “enhanced risk management standards for systemically important derivatives clearing organizations that include increased financial resources requirements for systemically important derivatives clearing organizations that are involved in activities with a more complex risk profile or that are systemically important in multiple jurisdictions, the prohibited use of assessments by systemically important derivatives clearing organizations in calculating their available default resources, and enhanced system safeguards for systemically important derivatives clearing organizations for business continuity and disaster recovery (“BC-DR”). This final rule also implements special enforcement authority over systemically important derivatives clearing organizations granted to the Commission under section 807(c) of the Dodd-Frank Wall Street Reform and Consumer Protection Act (“Dodd-Frank Act”).”

## Securities and Exchange Commission

### SEC Finalizes Rules Establishing Financial Responsibility & Reporting Requirements for Broker-Dealers

The Securities and Exchange Commission published a [final rule](#), *Financial Responsibility Rules for Broker-Dealers*, amending the requirements for net capital, customer protection, books and records, and notification for broker-dealers under the Securities and Exchange Act “These amendments are designed to address several areas of concern regarding the financial responsibility requirements for broker-dealers. The amendments also update certain financial responsibility requirements and make certain technical amendments.” SEC also published concurrently a second [final rule](#), *Broker-Dealer Reports*, amending certain broker-dealer annual reporting, audit, and notification requirements. “The amendments include a requirement that broker-dealer audits be conducted in accordance with standards of the Public Company Accounting Oversight Board (“PCAOB”) in light of explicit oversight authority provided to the PCAOB by the Dodd-Frank Wall Street Reform and Consumer Protection Act (“Dodd-Frank Act”) to oversee these audits. The amendments further require a broker-dealer that clears transactions or carries customer



accounts to agree to allow representatives of the Commission or the broker-dealer's designated examining authority (“DEA”) to review the documentation associated with certain reports of the broker-dealer's independent public accountant and to allow the accountant to discuss the findings relating to the reports of the accountant with those representatives when requested in connection with a regulatory examination of the broker-dealer. Finally, the amendments require a broker-dealer to file a new form with its DEA that elicits information about the broker-dealer's practices with respect to the custody of securities and funds of customers and non-customers.”

## Agencies

### Department of the Interior

#### USGS Announces Meeting of the Advisory Committee on Climate Change and Natural Resource Science

The United States Geological Survey published a [notice](#) announcing a public meeting of the Advisory Committee on Climate Change and Natural Resource Science (ACCCNRS) on September 18<sup>th</sup> and 19<sup>th</sup>. ACCCNRS “advises the Secretary of the Interior on the establishment and operations of the U.S. Geological Survey (USGS) National Climate Change and Wildlife Science Center (NCCWSC) and the Department of the Interior (DOI) Climate Science Centers (CSCs). ACCCNRS members represent federal agencies; tribal, state, and local governments; nongovernment organizations; academic institutions; and the private sector.” [RSVP](#) by September 11<sup>th</sup>.

### Export-Import Bank

#### Ex-Im Bank Receives Application for \$100+ Million to Fund Export of Oil Refinery Equipment to Turkey

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 equipment for a crude oil refinery in Turkey. [Comments](#) are due on September 13<sup>th</sup>.

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