

## Feature Story

**OSHA Announces Long-Delayed \$637 Million Proposed Rule Limiting Worker Exposure to Crystalline Silica**

The Occupational Safety and Health Administration [announced](#) its forthcoming [proposed rule](#) limiting occupational exposure to respirable crystalline silica, which had been under review at the Office of Information and Regulatory Affairs (OIRA) for 922 days (since February 14, 2011). Crystalline silica has a wide variety of uses in industry (for example, the sand and gravel used in road building and concrete construction). At current exposure levels, “employees

exposed to respirable crystalline silica face a significant risk to their health” which will be reduced by the proposed standards. “As shown, the proposed rule is estimated to prevent 688 fatalities and 1,585 silica-related illnesses annually once it is fully effective, and the estimated cost of the rule is \$637 million annually. Also as shown in Table SI-1, the discounted monetized benefits of the proposed rule are estimated to be \$5.3 billion annually, and the proposed rule is estimated to generate net benefits of \$4.6 billion annually. These estimates are for informational purposes only and have not been used by OSHA as the basis for its decision concerning the choice of a PEL or of other ancillary requirements for this proposed silica rule. The courts have ruled that OSHA may not use benefit-cost analysis or a criterion of maximizing net benefits as a basis for setting OSHA health standards.” Public comments will be due 90 days after publication in the Federal Register.

## Opinion

- Bedeviled by Dodd-Frank details
- The threat from antibiotic use on the farm
- Regulatory backlog threatens health and the environment
- Why Regulators Should Embrace Bitcoin
- EPA must recognize economic consequences
- Bankers Haven't Gone Rogue—Regulators Have
- An Economy Buried by Regulations
- The D.C. Circuit Goes Nuclear
- It's Time To Ask If Dodd-Frank Will Help, or Hinder?
- 'Regulatory Overkill' Lets Bureaucrats (Literally) Get Away With Murder

## Marketplace of Ideas

## American Action Forum

- Week in Regulation, *Sam Batkins*
- Regulation Review: Crystalline Silica Exposure, *Sam Batkins*

## American Enterprise Institute

- Will Washington politics kill the US energy revival and shale gas revolution?, *Jon Entine*

## Center for American Progress

- Sequestration Delays The Implementation Of Important Regulations, *Bryce Covert*

## In the News

## Congress &amp; Regulatory Reform

- [Tougher oversight needed for appliance standards program, internal watchdog says](#), *The Hill*
- [U.S. Held Back by Policy, Regulations, Fisher Says](#), *Bloomberg TV*
- [SEC to Expand Ban on Employees Lobbying Agency After Departure](#), *Bloomberg*
- [REGULATION NATION: Obama pins climate hopes on bypassing Congress](#), *The Hill*
- [Obama pushes back against regulation criticism](#), *The Hill*

## Energy &amp; Environment

- [Obama's climate plan could cut power-plant emissions 26 percent. Or just 1 percent](#), *Washington Post*
- [Thousands weigh in on proposed fracking rule](#), *The Hill*
- [Fight Over Proposed Federal Fracking Rules Flares Up](#), *Wall Street Journal*
- [Feds change endangered species law rules despite GOP protest](#), *The Hill*
- [Energy secretary defends 'social cost of carbon' boost](#), *The Hill*

## Financial Markets

- [Summers vs. Yellen for the Fed: Why not choose both?](#), *Washington Post*
- [CFPB says mortgage servicing still riddled with problems](#), *Washington Post*
- [Normally behind-the-scenes process to determine Fed chairman](#)



## Center for Effective Government

- A Misleading Report Obscures Sequestration's Impact on Regulators' Budgets, *Nick Schwellenbach*
- Impacted Citizens and Environmental Leaders Speak Out On BLM Fracking Rules

## Center for Progressive Reform

- OSHA Announces Proposed Silica Rule – Let's Keep it Rolling, *Thomas McGarity*
- Competitive Chemical Regulation: A Greener Alternative, *Wendy Wagner*
- Analysts Mislead in Their Push to Weaken FDA's Produce Rule, *Michael Patoka*

## Competitive Enterprise Institute

- CEI's Battered Business Bureau: The Week in Regulation, *Ryan Young*
- The EPA Doesn't Have to Tell Anyone Anything, Or Does It?, *Lawson Bader*

## Federal Regulations Advisor

- Monday Morning Regulatory Review – 8/26/13: Recess Appointments; Food Safety; Sewage Sludge Incinerators; Crystalline Silica & H-2B Wage Methodology, *Leland Beck*

## The George Washington University Regulatory Studies Center

- Regulatory Reform in the 113th Congress, *Cassidy B. West*

## Heritage Foundation

- The Most Effective Obamacare Delay Is Full Defunding, *Chris Jacobs*
- Morning Bell: Should We Delay or Defund Obamacare?, *Marguerite Higgins*
- Labor Department's Persuader Rule Undermines Employers' Rights and Threatens the Attorney-Client Relationship, *John Malcolm*

## The Mercatus Center

- CFTC's Distaste for the Administrative Procedure Act, *Hester Peirce*
- Behavioral Economics, Consumer Choice, and Regulatory Agencies, *Christopher Koopman & Nita Ghei*

## Penn Program on Regulation

- Recommendations for Improving Informal Rulemaking, *Kara Cheever*
- Can Agencies Legally Use Social Media for Rulemaking?, *Christina Reichert*
- Bill Moves Forward to Amend the Regulatory Process, *Christina Reichert*
- Regulatory Cooperation in the TTIP, *Adam C. Schlosser & Reeve T. Bull*
- Can a Regulatory Budget Trim Red Tape?, *Sam Batkins*

## Small Businesses for Sensible Regulations

- Pennsylvania NFIB Members Meet with Rep. Lou Barletta (R-PA) to Discuss Red Tape Impacting Job Creation – Call for Sensible Regulation Reform

[nominee suddenly not so quiet](#), *Washington Post*

[CFTC Moves to Rein In High-Speed Traders](#), *Wall Street Journal*

[Businesses concerned about SEC international swaps proposal](#), *The Hill*

[Summers as Obama Voice of Authority Rides Car Rescue in Fed Race](#), *Bloomberg*

[Fed Tells Judge Swipe-Fee Rule Rejection Will Be Appealed](#), *Bloomberg*

[SEC's White Vows Technology Safeguards Following Nasdaq Failure](#), *Bloomberg*

[CFTC Said Near Releasing Plans for Regulating High-Speed Trading](#), *Bloomberg*

[FDIC waging legal battle against hundreds of former bank leaders](#), *Washington Post*

[Regulators close small banks in Tennessee, Arizona; puts this year's US bank failures at 20](#), *Washington Post*

[SEC vows to push for new market safeguards after Nasdaq failure](#), *The Hill*

[OTC Derivatives Rules' Benefits Outweigh Costs, Basel Group Says](#), *Bloomberg*

[Fed Asks Judge to Leave Swipe Fee Rules During Appeal](#), *Bloomberg*

[Inside the Bitcoin advocates' closed-door meeting with federal regulators](#), *Washington Post*

[New U.S. rules to cut mortgage risk, improve underwriting practices](#), *Reuters*

[Former bank official heads to consumer finance watchdog](#), *The Hill*

[Regulator on Bitcoin: Same Rules Apply](#), *Wall Street Journal*

[Eased Mortgage-Risk Rule to Be Proposed by U.S. Agencies](#), *Bloomberg*

### Health & Safety

[House GOP keeps up pressure on administration over employer mandate delay](#), *The Hill*

[Rule to curb miners' 'black lung' risks advances](#), *The Hill*

[Gov't regulators seek new limits on workplace exposure to dangerous silica dust](#), *Washington Post*

[Unions applaud as OSHA releases long-stalled worker safety rule](#), *The Hill*

[U.S. Seeks to Reduce Worker Exposure to Silica Dust](#), *Wall Street Journal*

[FDA Discusses Banning Online Sales of E-Cigarettes](#), *Wall Street Journal*

[Administration Releases New Rules To Implement Health Law's Individual Mandate](#), *Washington Post*

[IRS finalizes penalty for ObamaCare mandate](#), *The Hill*

### Business

[Farmers, consumer groups seek to defend meat labeling rules in court fight](#), *The Hill*

[Chamber's Donohue derides Dodd-Frank, ObamaCare regulations](#), *The Hill*

[Labor rules aim to boost employment for veterans, disabled workers](#), *Washington Post*



## Rulemaking

### Internal Revenue Service

#### IRS Proposes Rule Establishing Guidance on Applicability of PPACA Tax Credit for Small Employers

The Internal Revenue Service published a [proposed rule](#) providing guidance on “the tax credit available to certain small employers that offer health insurance coverage to their employees under section 45R of the Internal Revenue Code (Code), enacted by the Patient Protection and Affordable Care Act.” Pursuant to the PPACA, this tax credit is available both to certain taxable and certain tax-exempt small employers. IRS and the Treasury Department have previously published two notices that address the applicability of section 45R, both of which are incorporated into this proposed rule. “As in Notices 2010-44 and 2010-82, these proposed regulations use the term “qualifying arrangement” to describe an arrangement under which an eligible small employer pays premiums for each employee enrolled in health insurance coverage offered by the employer in an amount equal to a uniform percentage (not less than 50 percent) of the premium cost of the coverage. Section 45R(d)(4) and these proposed regulations require that, for tax years beginning during or after 2014, the health insurance coverage described in a qualifying arrangement be a QHP offered by an employer to its employees through a SHOP Exchange.” [Comments](#) are due on November 25<sup>th</sup>.

### Environmental Protection Agency

#### EPA Final Rule Requires Electronic Reporting of Toxic Release Inventory Forms

The Environmental Protection Agency published a [final rule](#) requiring facilities to electronically report non-trade-secret Toxic Release Inventory (TRI) forms to EPA. “Electronic reporting of TRI forms provides numerous benefits, including making it easier for facilities to report accurate information, expediting form completion due to the pre-population of many form elements, decreasing the cost to EPA of processing forms, and providing TRI information more quickly to the public. The only exception to this electronic reporting requirement is for the few facilities that submit trade secret TRI information, which will continue to submit their trade secret reporting forms and substantiation forms in hard copy.”

### Commodity Futures and Trading Commission

#### CFTC Final Rule Provides Clearing Exemptions for Certain Swaps Entered Into by Cooperatives

The Commodity Futures Trading Commission published a [final rule](#) “allowing cooperatives meeting certain conditions to elect not to submit for clearing certain swaps that such cooperatives would otherwise be required to submit for clearing in accordance with section 2(h)(1) of the CEA.” The Commodity Exchange Act (CEA) “establishes a comprehensive new regulatory framework for swaps. The CEA requires a swap: (1) To be submitted for clearing through a derivatives clearing organization (“DCO”) if the Commission has determined that the swap is required to be cleared, unless an exception or exemption to the clearing requirement applies; (2) to be reported to a swap data repository (“SDR”) or the Commission; and (3) if such swap is subject to a clearing requirement, to be executed on a designated contract market (“DCM”) or swap execution facility (“SEF”), unless no DCM or SEF has made the swap available to trade.” Pursuant to this final rule, a cooperative is exempt from this clearing requirements as long as it “is a “financial entity” solely as defined in section 2(h)(7)(C)(i)(VIII) of the CEA for which each member of the cooperative is either (1) a non-financial entity, (2) a financial institution to which the small financial institution exemption applies, or (3) itself a cooperative each of whose members fall into either of the first two categories.” The rule is effective September 23<sup>rd</sup>.

#### CFTC Harmonizes Requirements for Commodity Pool Operators, Registered Investment Companies

The Commodity Futures Trading Commission published a [final rule](#) “with respect to certain compliance obligations for commodity pool operators (“CPOs”) of investment companies registered under the Investment Company Act of 1940 (“registered investment companies” or “RICs”) that are required to register due to the recent amendments to its regulations. The Commission is also adopting amendments to certain provisions of part 4 of the Commission’s regulations that are applicable to all CPOs and Commodity Trading Advisors (“CTAs”)... Accordingly, except for those CPOs of RICs who commit no more than a de minimis portion of their assets to the trading of commodity interests that do not fall within the definition of bona fide hedging and who do not market themselves as a commodity pool or other commodity investment, an operator of a RIC that meets the definition of “commodity pool operator” under § 4.10(d) of the Commission’s regulations and § 1a(11) of the CEA must register as such with the Commission.”



## Department of the Interior

### Interior Proposes Updating Requirements for Outer Continental Shelf Oil, Sulfur, and Gas Production

The Department of the Interior published a [proposed rule](#) amending and updating the regulations regarding oil and natural gas production on the Outer Continental Shelf (OCS) and addressing issues including safety and pollution prevention equipment lifecycle analysis, production safety systems, subsurface safety devices, and safety device testing. “This proposed rule would amend and update the Subpart H, Oil and Gas Production Safety Systems regulations. Subpart H has not had a major revision since it was first published in 1988. Since that time, much of the oil and gas production on the OCS has moved into deeper waters and the regulations have not kept pace with the technological advancements. These regulations address issues such as production safety systems, subsurface safety devices, and safety device testing. These systems play a critical role in protecting workers and the environment.” [Comments](#) are due on October 21<sup>st</sup>.

## Department of Transportation

### FAA Finalizes Policy Statement Regarding Occupational Safety and Health of Aircraft Cabin Crew

The Federal Aviation Administration published a [final rule](#) announcing the availability of a new policy statement “regarding the regulation of some occupational safety and health conditions affecting cabin crewmembers on aircraft by the Occupational Safety and Health Administration. This policy statement will enhance occupational safety and health in the aircraft cabin by establishing the extent to which the Occupational Safety and Health Administration requirements may apply to the working conditions of aircraft cabin crew while they are onboard aircraft in operation.” The FAA policy statement outlines the ways in which OSHA regulations are applicable to the cabin crew of aircraft. As finalized in the new policy statement, “OSHA remains preempted from enforcing its standards on aircraft in operation, other than the standards specifically addressed in the new FAA policy statement.”

## Agencies

### Export-Import Bank

#### Ex-Im Bank Receives Application for +\$100 Million to Fund Boeing Exports to Hong Kong

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 commercial Boeing aircraft to Hong Kong for the provision of global air service. [Comments](#) are due on September 23<sup>rd</sup>.

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