



Issue 47, 2018

## ● [Revised Definition of "Waters of the United States" - Proposed Rule](#)

*"The agencies' proposal is the second step in a two-step process to review and revise the definition of 'waters of the United States' consistent with the February 2017 Presidential Executive Order entitled 'Restoring the Rule of Law, Federalism, and Economic Growth by Reviewing the Waters of the United States Rule.'"*

**Why this is important:** According to EPA Acting Administrator Andrew Wheeler, the purpose of this proposed rule is to restore balance between federal and state regulation of the nation's waterways as well as to help "landowners understand whether a project on their property will require a federal permit or not without spending thousands of dollars on engineering fees and legal professionals." The proposed rule separates regulated waters into six categories: 1) traditional navigable waterways; 2) tributaries to traditional waterways; 3) ditches that function like traditional waterways or contribute flow to traditional waterways; 4) lakes and ponds; 5) Impoundments; and 6) adjacent wetlands.

--- [Nicholas S. Preservati](#)

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## ● [Over 90,000 Petitions Demanding Fracking Ban Delivered](#)

*"The petitions, collected by groups representing members in all four states that are part of the Delaware River Watershed, asks the Governors to vote at the Delaware River Basin Commission for a complete and permanent ban on fracking and its activities."*

**Why this is important:** The petitions of various groups to the Delaware River Basin Commission are striving to permanently ban fracturing that is essential to horizontal drilling in Northeastern Pennsylvania and the surrounding region. No credible studies exist to demonstrate proper fracturing operations threaten the water supplies of Delaware, Pennsylvania, New Jersey or New York, which together with the Army Corps of Engineers, form the membership of that Commission. This is just another roundabout attempt to prevent the responsible development and extraction of shale gas, which is both essential to our energy independence and beneficial to the reduction of greenhouse gas emissions. So let's make the objective clear. This effort is not about preventing pollution in the Delaware River Basin. It's an effort to prevent the production of clean burning natural gas that is necessary to our economic prosperity, energy independence and national security. --- [William M. Herlihy](#)

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## ● [U.S. DOE Issues RFP for Conceptual Designs that Advance Coal Plants of the Future](#)

*"This RFP is in support of the Coal FIRST (Flexible, Innovative, Resilient, Small, Transformative) initiative, which will develop the coal plants of the future needed to provide secure, stable, and reliable power."*

**Why this is important:** The Department of Energy has issued a Request for Proposals to design coal-fired power plants of the future. The Coal FIRST initiative proposal encourages architectural and engineering firms, along with equipment manufacturers, new technology developers and users to combine to design smaller plants to work with future electrical grids. Those selected can compete to receive research grants to develop proposals for the next generation plants that DOE believes will be smaller than

today's very large coal-fired electrical generation plants. --- [Mark E. Heath](#)

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## ● [Plaintiffs Alleging EQT Shortchanged on Gas Royalties Reach Tentative Settlement](#)

*"More than 10,000 individuals and businesses in West Virginia are estimated to be members of the class of plaintiffs. They allege that EQT, the state's second-largest gas producer, was illegally deducting various costs - such as for transporting and processing gas - from their royalty payments."*

**Why this is important:** The issue of the propriety of royalty deductions for transportation and production related expenses is hotly litigated (and legislated) in West Virginia. It appears one royalty deduction case, *The Kay Company et al. v. EQT Production Company et al.*, No. 13-cv-151, pending in the Northern District of West Virginia, may have settled after years of litigation. Importantly, the Kay Company case is a class action. Under the Federal Rules of Civil Procedure, most class action settlements require notice to be given to the class, which usually includes details about the terms of the settlement (so members of the class may opt out of the settlement if they desire). While it doesn't appear that notice has been provided yet, it will be highly anticipated because it may shed some light on acceptable compromise terms for an issue that creates wide-spread uncertainty in the industry. --- [Matthew P. Heiskell](#)

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## ● [Cyber Attack Targets Italian Oil-Services Firm Saipem](#)

*"Piasere said servers in the Emirates and Saudi Arabia were hit the most, with attackers seeking to obtain administrative data."*

**Why this is important:** An attack on energy infrastructure has the potential to jump from the cyber realm to the physical world resulting in an enormous operational failure of an energy asset such as a power plant or oil refinery. Centralized infrastructure is especially at risk due to the "domino effect" damage an attack on a nuclear, coal or oil refinery could cause. This threat is so significant that the U.S. Department of Energy has created an office to protect the nation's power grid and other infrastructure against cyber attacks. --- [Nicholas S. Preservati](#)

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## ● [Government Report Backs Needs for Natural Gas Storage Hub in Appalachia](#)

*"There is an incredible opportunity to establish an ethane storage and distribution hub in the Appalachian region and build a robust petrochemical industry in Appalachia," said Rick Perry, secretary of the Department of Energy.*

**Why this is important:** It's vitally important our federal government recognizes and supports an NGL storage hub in the Appalachian Basin. Federal loan guarantees and grants are essential to kickstart a chemical manufacturing renaissance in the Ohio Valley. As indicated by DOE Secretary Perry and various members of the U.S. Congress, the abundance of NGL production in Appalachia, the geographic diversity of this production and the downstream manufacturing operations would be a welcome extension of the U.S. petrochemical industry, as well as an additional source of domestic and export products to benefit our economy. --- [William M. Herlihy](#)

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## ● [China Backtracks on Local Coal Ban](#)

*"China's government has restored heat to hundreds of frigid households after an 'improper' ban on burning coal highlighted problems with anti-smog policies for the second year in a row."*

**Why this is important:** China's attempts to reduce coal burning continue to run into roadblocks. China remains the largest consumer of coal and burns more than 1 billion tons a year. To reduce smog, several cities banned the burning of coal to heat homes. For a second year in a row, that move led to protests and residents burning furniture to stay warm when they could not afford other forms of heat. The government is allowing the residents to again burn coal while they work on alternative heat sources. --- [Mark E. Heath](#)

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## ● [Senate Confirms McNamee as FERC Commissioner](#)

*"The U.S. Senate on a 50-49 party-line vote confirmed Bernard McNamee to a seat on the five-member Federal Energy and Regulatory Commission, despite questions about his independence from the Trump administration and his previous comments in support of a bailout of coal and nuclear U.S. power plants at the expense of renewable energy."*

**Why is this important:** By a narrow vote, the U.S. Senate confirmed Bernard McNamee as the fifth member of the FERC Board. Much maligned by the environmental community, McNamee will bring a welcome balance to FERC for the fair treatment of oil and gas pipelines, as well as other conventional fuel facilities currently under attack both before FERC and in the courts. It's time to address the realities of our country's energy needs, which cannot currently be met by renewable sources. --- [William M. Herlihy](#)

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## ● [Climate Talks Pause as Battle Over Key Science Report Looms](#)

*"A diplomatic standoff over a single word could set the stage for a bigger showdown during the second half of this year's U.N. climate summit."*

**Why this is important:** The Katowice Climate change talks have stalled because several countries chose to "note" the IPCC's most recent report on climate change instead of "welcoming" it. Given that reputable climate scientists have challenged the report as going too far, while other credible climate scientists have challenged it as not going far enough, the prudent path would be to acknowledge the report and its findings, while subjecting the report to the peer review process before adopting its findings outright. --- [Nicholas S. Preservati](#)

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## ● [Australian Mount Pleasant 10.5 Mil mt/yr Thermal Coal Mine to See First Coal This Month](#)

*"The project, which was bought from Rio Tinto in August 2016 for \$220.7 million plus royalties, is based in Australia's thermal coal dominant region of the Hunter Valley and is planned to export via the Port of Newcastle."*

**Why this is important:** A new Australian coal mine is set to start production this month. The Mount Pleasant mine will produce 10.5 metric tons of thermal coal per year that will be exported for sale. It has rail contracts to ship its coal to ports for the next 10 years. The world thermal coal market continues to be strong. Much of the new mine's exports will be sold to Japan, although some will be available to export to other countries. --- [Mark E. Heath](#)

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## ● [EIA Energy Statistics](#)

*Here is a round-up of the latest statistics concerning the energy industry.*

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#### [Weekly Petroleum Status Report](#)

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### [COAL](#)

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#### [Coal Markets](#)

#### [Weekly Coal Production](#)

## **RENEWABLES**

### **Short-Term Energy Outlook**

### **Monthly Biodiesel Production Report**

### **Monthly Densified Biomass Fuel Report**

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