



Week of October 8, 2017

● [EPA Moves to Repeal Obama's Clean Power Plan Coal Regs](#)

"EPA Administrator Scott Pruitt announced Monday that the Trump administration is moving to scrap the Clean Power Plan, the Obama administration's signature regulatory program to curb emissions from coal-fired power plants."

Why this is important: The Clean Power Plan was EPA's ambitious attempt to change the way power is produced in the United States, ostensibly to cut greenhouse gas emissions. The Trump administration will repeal that initiative, but the next step is more important - repeal of the Endangerment Finding. EPA's regulation of greenhouse gases is premised on a flawed analysis by EPA that greenhouse gases posed a significant danger to the country. Subjecting the Endangerment Finding to an impartial review will likely result in the Finding's rejection, and a more reasonable approach to greenhouse gas regulation. --- [David L. Yaussy](#)

● [West Virginia Supreme Court Ruling Could Block Citizen Suits Against Mines](#)

"A new West Virginia Supreme Court ruling could give coal operations some leverage to block citizens from seeking help from the courts when mining contaminates or eliminates their drinking water supply, according to lawyers who handle such cases."

Why this is important: This ruling is much about the "separation of powers" doctrine as it is about contaminated water. In what may be considered a victory for state regulators in general, the Supreme Court ruled the judicial branch cannot usurp the regulatory responsibilities of an executive agency that were provided to the agency by the state legislature. --- [Nicholas S. Preservati](#)

● [Federal Judge Denies EQT's Request for Stay in Lease Calculation Dispute](#)

"A federal judge has rejected EQT's motion to stay proceedings in a long-running lawsuit over its lease payment calculations."

Why this is important: Not representing a party to this litigation, one cannot second-guess Judge Bailey's denial of the Motion to Stay by EQT Production Company. However, the interpretation of the phrasing of royalty clauses in individual leases is essentially based on the language contained in each particular lease. This sort of variation does not ordinarily lead to groupings of plaintiffs into a single class action. At a minimum, one would anticipate the creation of subcategories in any such class certification based upon similar royalty clause language that would ultimately determine the outcome of that dispute. --- [William M. Herlihy](#)

● [Federal Court Says Pennsylvania Town's Fracking Law is Unconstitutional](#)

"A federal judge in Pennsylvania has struck parts of a charter passed by Highland Township that barred oil and gas companies from storing fracking waste in the town, saying it was preempted by federal and state law and unconstitutional."

Why this is important: Similar laws have been enacted by other local governments across the country in an attempt to preempt what they perceive as unduly lax state and federal environmental regulations or enforcement. Some local ordinances may even be passed with the intent to apply these more-restrictive regulations retroactively, thus creating traction for a cause of action after the fact. A related effort is being contested in the United States District Court for the Southern District of West Virginia, *Eastman Chemical v. Lincoln County Commission*, Case No. 2:17-cv-2268. --- [Clifford F. Kinney Jr.](#)

● [Tax Breaks Make \\$50 Oil Profitable in the U.S.](#)

"While the U.S. administration is pushing for a tax code overhaul and supports American 'energy dominance', an environmental group suggests in a new study that at the current oil prices of \$50, the development of U.S. oil resources may be much more dependent on tax deductions and provisions than previously thought."

Why this is important: The tax code overhaul being developed by Congress is supposed to eliminate many deductions and subsidies, putting businesses on more of a level playing field. This study suggests that, if that happens, there are significant shale oil and gas resources that won't be economical to develop. Of course, subsidies extend beyond direct tax benefits for all types of industries. For example, renewable sources of electricity often get preferential treatment when bidding to provide power to the grid. We can hope someday all subsidies, tax and otherwise, can be eliminated and businesses can simply compete to be the lowest-cost reliable provider of energy. --- [David L. Yaussy](#)

● [Time to Shine: Solar Power is Fastest-growing Source of New Energy](#)

"Solar power was the fastest-growing source of new energy worldwide last year, outstripping the growth in all other forms of power generation for the first time and leading experts to hail a 'new era'."

Why this is important: Renewable energy accounted for two-thirds of new power added to the world's grids in 2016, with solar constituting the largest source of power generation and overtaking net growth in coal. The International Energy Agency predicts growth in renewable power will be twice as large as gas and coal combined over the next five years, although coal will still be the biggest source of power. China accounted for almost half of the solar panels installed in 2016 and India's solar energy industry is forecast to double over the next five years. The global rise of renewable energy is unlikely to slow, and coal's biggest export markets are among those who appear to be embracing renewable energy. As such, solar energy presents an opportunity for investment in an increasingly diversified energy market. --- [Dennise R. Smith](#)

● [Does Potential Expansion of Atlantic Coast Pipeline to South Carolina Change Equation for Virginia?](#)

"Dominion and its partners, which include Duke Energy, have said the prime driver of the project is a demand for natural gas from utilities in Virginia and North Carolina that have already signed contracts for the vast majority of the 1.5 billion cubic feet of gas a day that developers have said the pipeline will carry. Weekley's remarks mean that either most of the gas the pipeline will carry won't go to Virginia or North Carolina or it can carry more gas than previously stated."

Why this is important: Dan Weekley's remarks that "everyone knows" the pipeline will ultimately expand into South Carolina likely will not impact the current FERC decision-making process. However, opponents of the pipeline have seized on the remarks to support their claim the pipeline developers have withheld information from the process. While it is not uncommon for expansion discussions to accompany projects under FERC review, Mr. Weekley's remarks and the subsequent discussions about them highlight the interest and potential for gas produced from the Utica and Marcellus gas fields. --- [Matthew P. Heiskell](#)

● [EIA Energy Statistics](#)

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

- [Today in Energy](#)
- [Weekly Gasoline & Diesel Update](#)

- [Weekly Natural Gas Update](#)
 - [Weekly Coal Production](#)
 - [Weekly Coal Market Report](#)
 - [Petroleum Marketing Monthly](#)
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