

2015 Energy Regulatory Conference

Firm Event

October 22, 2015 from 8:00 am to 6:30 pm (EDT)

Please join Kelley Drye & Warren LLP on October 22, 2015 at the Hotel ICON in downtown Houston, TX, for our advanced seminar on key regulatory issues facing the U.S. energy industry. This full-day conference will feature regulatory law specialists, economists and energy industry leaders who will examine the latest issues, risks, and business opportunities emerging from federal regulatory and policy making decisions.

Program Highlights

Regulatory Developments Under the Clean Air Act

The Clean Air Act is the source of the U.S. Environmental Protection Agency's most frequent - and most frequently contested - regulations, particularly for the oil and gas industry. EPA is developing new and increasingly stringent CAA regulations that will impact all segments of the industry. Our panelist will discuss the top air issues in the upstream, midstream, and downstream sectors; their potential impacts on industry; and the likelihood that CAA rulemaking will be finalized in the remaining 2 years of the Obama Administration.

Federal Developments in Water Regulations

Critics of the oil & gas industry often cite water quality as their top concern. Industry cites water availability as a top operation risk. Regulation of these issues has traditionally been handled cooperatively between the Environmental Protection Agency and the states under the Clean Water Act. This presentation will discuss how the CWA's cooperative federalism model is shifting toward federal control through the federal government's broad definition of "waters of the United States" subject to CWA jurisdiction; EPA's efforts to categorically prohibit certain effluents; increased regulation over cooling water intake structures; and other efforts constraining the roles of states in regulating water quality.

Blind Spots: Three Regulatory Programs that Energy Companies May Not Be Thinking About, But Should

In an industry faced with so many regulations, it's easy to overlook rules coming out of federal agencies that are not directly focused on the energy sector. The challenge of changing federal regulations can be complicated, and non-compliance sometimes carries a significant financial cost. Our panelists will discuss how regulatory decisions emanating from the Federal Trade Commission (FTC), the Federal Communications Commission (FCC) and the Occupational Safety and Health Administration (OSHA) can - and should - impact the way energy companies operate.

Occupying the Field: Federal Preemption, Federalism, and Permitting

Recent court decisions have narrowed the potential scope of preemption defense to state law claims brought by consumers and property owners. In *Oneok v. Learjet*, the Supreme Court held that state law antitrust claims were not preempted by the Natural Gas Act absent a conflict with federal regulation. The Texas and Iowa supreme courts and the Third Circuit have recently rejected arguments that common law nuisance claims based on air emissions were preempted by the Clean Air Act. This presentation will review how these decisions narrow the contours of preemption defenses to state law claims and what companies can do to mitigate the risk of additional litigation.

Green Policy: When the World's Largest Purchaser of Goods & Services Wants Sustainable Energy

As the world's largest purchaser of good and services, the federal government often uses its buying power to shift the market for different products. President Obama's effort to green the federal government is a recent example of the use of this economic leverage. The Federal Government spends \$500 billion on goods and services every year and \$20 billion on energy. For many product types, the U.S. Government is the single largest purchaser. In this session, we'll review how manufacturers and vendors can increase their sales potential by helping federal purchasers meet their energy-efficient product purchasing requirements.

Lunch Service and Federal Legislative Q&A

The newly appointed President of the American Fuel & Petrochemical Manufacturers (AFPM), Chet Thompson, and former Congressman Lee Terry will discuss the most important energy issues currently before the U.S. Congress, including tax reform, trade, and TSCA reform.

Markets vs. State: Today's Energy Market and the Cost of Artificially Suppressing Demand

America's emerging role as a leading energy producer and the collapse in global energy prices have upended many assumptions about the energy market. Our panel of leading industry economists will provide an update on where the U.S. and global energy markets stand and discuss key areas in which federal policy continues to distort the market. The panel will examine the driving forces in today's market, the status and impact of the crude oil export ban, and the implications of easing restrictions on natural gas export licensing.

Access: Federal Lands and Federal Control on Private Land

The energy industry requires reasonable access to hydrocarbon resources and the rights of ways to transport those resources. Our panel will examine the federal government's increasing control over land access - from direct regulation of activities on federal land to the indirect regulation of actions on private land through the Endangered Species Act. We will ask our panelists about the pace of permitting and the outlook for the final two years of the Obama Administration, including the prospect of using Monument authority in potentially important development areas.

Navigating a Downturn: Ethics Issues During Downsizing, Restructuring and Insolvency

Reeling from the steepest decline in oil prices in recent history, some oil and gas companies and related services companies are facing workforce reductions, corporate restructuring and insolvency. In addition to minimizing legal exposure for the corporation, lawyers must be aware of hidden ethical considerations as they guide their clients through the current downturn. This presentation will identify and examine some of these considerations, including: What legal advice should attorneys

give corporate officers with respect to the fiduciary duties imposed upon them when their companies enter a "zone of insolvency?" What are the ethical issues facing counsel advising corporate conglomerates in which the interests of the parent become adverse to one or more subsidiaries? How do you minimize legal exposure when implementing a reduction in force (RIF)? What are the ethics of handling a whistleblower in the context of a RIF? What are the rules for ex parte communication with potential claimants?

Don't Take Chances: Complying With International Trade Regulations

The market for energy industry products, technology, and know-how is expanding globally while U.S. and international export compliance, economic sanctions, and anti-corruption rules are becoming increasingly complex and widespread. Risks associated with violations are also rising as the government seeks significant criminal and civil penalties from companies in the oil and gas industry, which is seen as target-rich environment. Both large and small companies find it difficult to keep track of changing rules and ensure compliance. Our panel will discuss the international trade compliance restrictions impacting the energy industry, the essential elements of a practical, effective export compliance program, and what to do when potential violations occur.

Guest Speakers

Clarise Ashworth, Regulatory Attorney, Chesapeake Energy Corporation

Julie Carey, Energy Economist, Navigant Consulting, Inc.

Matthew Haynie, Counsel, American Petroleum Institute

Allison Hedgecock, General Counsel, New Mexico State Land Office

Betsy Hendrick, Legal Manager, Sulzer Pumps, Inc.

Frederick Lawrence, Vice President of Economics and International Affairs, Independent Petroleum Association of America

Dan Naantz, Senior Vice President of Government Relations and Political Affairs, Independent Petroleum Association of America

Chet Thompson, President, American Fuel and Petrochemical Manufacturers

Brian Woodard, Director - EHS Regulatory Affairs, Chesapeake Energy Corporation

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