

# Legislative & Regulatory Update



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West Virginia Mine Drainage Task Force Symposium  
April 10, 2017

# Overview

- Status of the West Virginia Coal Industry
- Legislative Update
- Federal Issues
  - Poison Pills
- Moving Forward
  - Case Study

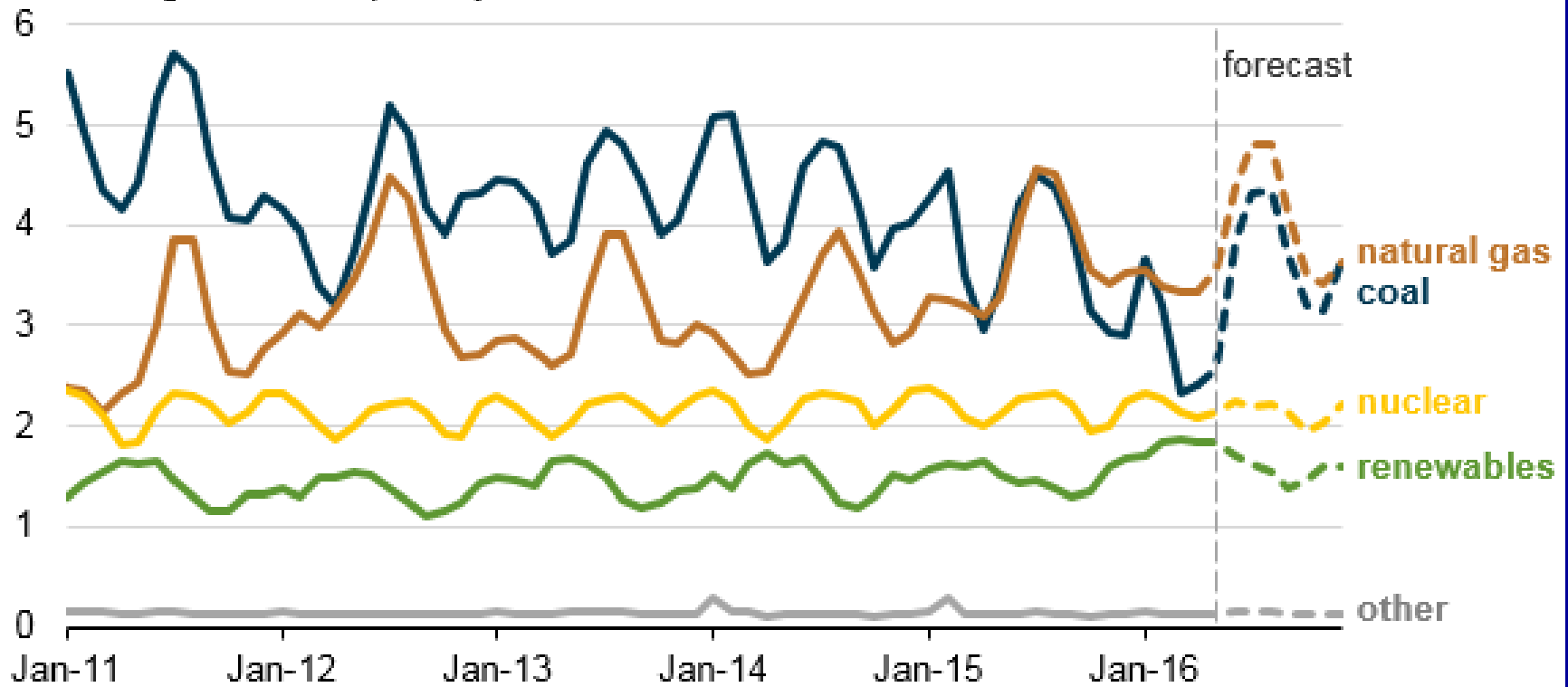
# WEST VIRGINIA COAL IN BRIEF

	Year				
	2012	2013	2014	2015	2016 (Prelim)
<b>Production</b>					
Underground	87,450,619	88,409,670	87,848,079	84,094,346	75,533,965
Surface	44,706,046	31,933,176	29,052,071	18,860,300	14,854,871
<b>Total Production</b>	<b>132,156,665</b>	<b>120,342,846</b>	<b>116,900,140</b>	<b>102,954,646</b>	<b>90,388,836</b>
<b>Mines</b>					
Underground	132	107	86	69	90
Surface	84	67	60	42	36
<b>Number of Mines</b>	<b>216</b>	<b>174</b>	<b>145</b>	<b>111</b>	<b>126</b>
<b>Employment</b>					
Underground	17,229	14,811	14,073	12,219	14,700
Surface	5,861	4,621	4,086	2,975	2,658
Coal Handling Facilities	2,150	2,050	1,940	1,887	1,899
<b>Direct Coal Employment</b>	<b>25,240</b>	<b>21,482</b>	<b>20,099</b>	<b>17,081</b>	<b>19,257</b>
Contractors	29,375	29,000	28,940	30,431	28,804
<b>Total Employment</b>	<b>54,615</b>	<b>50,482</b>	<b>49,039</b>	<b>47,512</b>	<b>48,061</b>
<b>Economic Impact</b>					
Coal Severance	\$ 451,800,000	\$ 407,300,000	\$ 314,900,000	\$ 279,200,000	\$248,569,299(est)

# Coal Markets 2008-2016

## Stabilization (?)

Monthly net electricity generation, all sectors (Jan 2011 - Dec 2016)  
million megawatt-hours per day



# Coal Markets 2008-2016

## Stabilization (?)

**[Steel Demand Outlook]**

(million tons)

	2014	2015	2016(e)	2017(f)		
				YoY	YoY	
U.S.	107.0	96.1	95.0	Δ1.2%	97.8	3.0%
EU	149.3	153.6	154.8	0.8%	156.9	1.4%
China	710.8	672.3	681.8	1.4%	675.0	Δ1.0%
India	76.1	80.1	84.4	5.4%	89.1	5.7%
ASEAN	62.1	65.1	70.5	8.3%	75.0	6.3%
MENA	72.5	72.0	72.4	0.6%	73.3	1.2%
<b>Global</b>	<b>1,544</b>	<b>1,499</b>	<b>1,509</b>	<b>0.7%</b>	<b>1,513</b>	<b>0.3%</b>

\* World Steel Association(Oct.2016), POSRI(Jan.2017)

**[Coking Coal Price]**

(US\$/ton)



\*Premium LV HCC FOB Australia (Quarterly Benchmark Price)

# 2017 Regular Legislative Session

- New Governor
- New Senate President
- New Members
- New Party (I)
- Late Start

## *House:*

63 Republicans

36 Democrats

1 Independent

## *Senate:*

22 Republicans

12 Democrats



# 2017 Regular Legislative Session

As of 8:44 a.m. 4/8/2017

- 1,802 Bills Introduced
- 173 Bills Completed Legislative Action
- 20 Bills Signed by the Governor
- 1 Bill Vetoed by the Governor
- 1 Veto Override by the Legislature
- **\*Budget Crisis: -\$500 million\***
- **Cuts vs. New Revenue**
  - **Senate Plan (coal severance reduction)**
  - **House Plan (no coal severance reduction)**
  - **Governor's Plan (sliding severance scale)**

# 2017 Regular Legislative Session

## Coal Jobs & Safety Act of 2017 / SB 687

### -Mine Safety Boards

-Seven to Three

### -Special Reclamation Fund

-Water Treatment

### -Blasting

-Federal Conformity

### -Oil & Gas Well Plugging

-MSHA / OMHS&T Standards vs. Doing the Job of the Abandoned Well Fund



# 2017 Regular Legislative Session

## Coal Jobs & Safety Act of 2017 / SB 687

### -Narrative Standards

- State vs. Federal Judiciary

- Aquatic Ecosystem vs. Conductivity  
(yes, conductivity)

### -Rulemaking Mandate

- Conform State Rules to Federal  
Regulations

*"No Good Deed Goes Unpunished"*

*Nine Years for a State Program  
Amendment?*

# 2017 Regular Legislative Session

## Coal Jobs & Safety Act of 2017 / SB 687

### West Virginia Senate

Roll Call

SB 687

Relating generally to coal mining, safety and environmental protection

Yea: 32    Nay: 2    Absent: 0    Excused: 0

Y AZINGER	Y KARNES	Y RUCKER
N BEACH	Y MANN	Y SMITH
Y BLAIR	Y MARONEY	Y STOLLINGS
Y BOLEY	Y MAYNARD	Y SWOPE
Y BOSO	Y MILLER	Y SYPOLT
Y CLEMENTS	Y MULLINS	Y TAKUBO
Y CLINE	Y OJEDA	Y TRUMP
Y FACEMIRE	Y PALUMBO	Y UNGER
Y FERNS	Y PLYMALE	Y WELD
Y GAUNCH	Y PREZIOSO	Y WOELFEL
Y HALL	N ROMANO	Y MR PRESIDENT
Y JEFFRIES		

WEST VIRGINIA HOUSE OF DELEGATES

83rd Legislature - First Regular Session

SB 687

Relating generally to coal mining,  
safety and environmental protection

RCS# 492  
4/07/2017  
3:22 PM

PASSAGE

YEAS: 94    NAYS: 6    NOT VOTING: 0    PASSED

YEAS: 94

Ambler	Evans, A.	Kessinger	Rohrbach
Anderson	Evans, E.	Lane	Romine, C.
Arvon	Fast	Lewis	Romine, R.
Atkinson	Ferro	Longstreth	Rowan
Baldwin	Fluharty	Love	Shott
Barrett	Folk	Lovejoy	Sobonya
Bates	Foster, G.	Lynch	Sponaugle
Blair	Foster, N.	Marcum	Statler
Boggs	Frich	Martin	Storch
Brewer	Gearheart	Maynard	Summers
Butler	Hamilton	McGeehan	Sypolt
Byrd	Hamrick	Miley	Thompson
Canestraro	Hanshaw	Miller, C.	Upson
Capito	Harshbarger	Miller, R.	Wagner
Caputo	Hartman	Moye	Walters
Cooper	Hicks	Nelson	Ward
Cowles	Higginbotham	O'Neal	Westfall
Criss	Hill	Overington	White
Dean	Hollen	Paynter	Williams
Deem	Hornbuckle	Pethtel	Wilson
Diserio	Householder	Phillips	Zatezalo
Eldridge	Howell	Queen	Speaker Armstead
Ellington	Iaquinta	Robinson	
Espinosa	Kelly	Rodighiero	

NAYS: 6

Fleischauer	Moore	Pyles
Isner	Pushkin	Rowe

# Federal Regulatory Issues



- Reg Freeze  
(1/20/2017)
- SPR  
-Congressional Review  
Act Disapproval  
(2/16/2017)
- Costly Power  
Plan Ex. Order  
(3/28/2017)

# Federal Regulatory Issues

## *Poison Pills*

- SPR "Contained" a Revised Biological Opinion- ESA and SMCRA permitting activities
- Codified Many of the Egregious Components of the SPR- T&E Species
- Poison Pill- If SPR is Voided, then Cannot Revert to 1996 Biological Opinion
- Project-specific consultation

*(Functionally Doing it Anyway in W.Va.)*

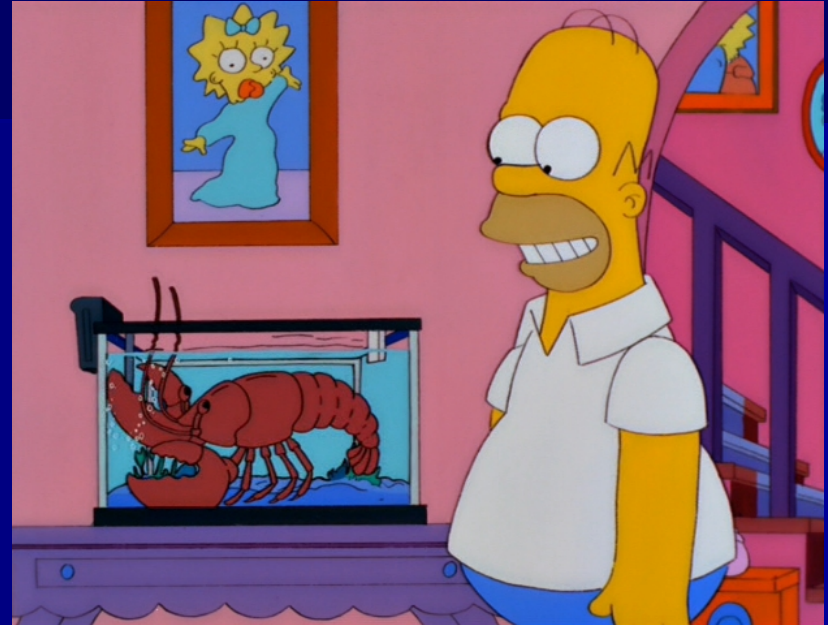
# Moving Forward

*We Have to do Better*



## McDowell County, W.Va.

- Six counties in W.Va. Worse than Great Depression
- 13% UnEmp Rate (15.9% in 2015)
- “Poorest, Sickest, Most Hopeless Place”



## Big Sandy / Guyandotte River Crayfish

- ESA Listed in April 2016
- Critical Habitat Protection Plan (?)
- Specific-Specific Measures (?)
- Pending Projects (?)

# Moving Forward

- **Lots of Work to Do**
  - Rulemaking
- Administrative Issues
- "Across the Finish Line"
  - Aluminum
  - Permit as a Shield
  - Narrative
- Taxes

Washington, D.C. Can't Solve All of West Virginia's Problems

# Thank You



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