



**The Daily Dish**

## May 29th Edition

DOUGLAS HOLTZ-EAKIN | MAY 29, 2015

Ending the disco-era [oil export ban is within reach](#) according to a new article by Reuters. Bank of America Merrill Lynch analysts said they discovered “a surprising amount of support to remove the ban across members of the House and Senate.” There are currently 13 co-sponsors on Senator Mukowski’s bill, including one Democrat. If lifted, [research shows](#) that gas prices could drop 1.5 to 13 cents per gallon.

The states are continuing to speak out against the EPA’s new carbon rule. Wisconsin Governor Walker [wrote a letter to the administration](#) calling the rule “unworkable” for his state and expressing “deep concerns...” that the plan is “...riddled with inaccuracies, questionable assumptions and deficiencies that make the development of a responsible state plan unworkable.” [AAF has found 93 power plants](#) employing 80,000 people that will be in danger of being forced to shut their doors if the rule is fully implemented.

### ***Eakinomics: WOTUS***

The Obama Administration is back with the final version of its so-called “Waters of the United States” ([WOTUS](#)) rule, which defines the bodies of water that will be regulated under the Clean Water Act of 1972. The rule was necessitated by a series of Supreme Court decisions that ruled the Environmental Protection Agency (and the Army Corps of Engineers) had overstepped their authority under the Clean Water Act. Recall that the [preliminary version](#) of this rule imposed \$166 million in annual costs to state and local governments, and private entities. That version of the rule took 370 pages. Its major feature was that it replaced a standard definition of bodies of water, “such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds,” with a case-by-case judgment framework. The key to deciding each case is whether a body of water has a “significant nexus” with other navigable bodies traditionally covered by the Act. The seeming vagueness of this standard led [25 Senators](#) to object to the proposed rule.

After listening to public comment, the administration is back with a [final rule](#) that is shorter (297 pages) but much more costly (\$462.9 million). EPA stresses that the final rule will “narrow” and “clarify” the scope of WOTUS criteria. However, having narrowed and clarified, EPA is much surer that a body of water will fall under its jurisdiction: it now thinks there is a 2.84 to 4.96 higher probability (compared to current practice) that a case will find the “significant nexus” that it needs to proceed. In part this is because of a partial u-turn; the rule now contains a set of “automatic jurisdictions” much like having a broad, standard definition. This rise in the number of regulated bodies of water explains the sharp rise in the price tag.

It remains to be seen if the new rule will survive the political test that the preliminary rule so clearly failed, or the legal test that its predecessors failed as well.

### ***From the Forum***

[ACA Market Size May Influence Premium Volatility](#) by Conor Ryan, AAF Senior Health Care Data Analyst

