



## David M. Flannery | Member

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**LICENSURE** KY | PA | WV  
**EDUCATION** J.D. West Virginia University

A client of David Flannery's once said that David is "the finest environmental policy attorney in the nation." Throughout his career, David has focused his practice in the areas of environmental and energy law and is ranked as one of the leading lawyers in America in these areas. Flannery is a member of the American College of Environmental Lawyers and a Commissioner to the Ohio River Valley Water Sanitation Commission (ORSANCO) and is well-regarded by his clients, policy makers and colleagues. David has authored numerous articles for industry and trade publications and is often requested to speak on relevant and timely environmental topics both regionally and nationally. His unique combination of business acumen, technical background, and litigation experience make Flannery a valuable resource for clients faced with energy, environmental, and regulatory issues, including facility siting.

### REPRESENTATIVE EXPERIENCE

Represented electric company and trade association in an intervention in support of USEPA Affordable Clean Energy Rule before the United States Court of Appeals for the District of Columbia Circuit

Defended electric companies and manufacturers against petitions by various northeast states to impose pollution controls on sources in the Midwest including intervention in support of USEPA's denial of those petitions before the United States Court of Appeals for the District of Columbia Circuit

Principal industry negotiator in the development of state hazardous waste, groundwater, air pollution, and energy legislation and advice to clients on the implementation of those programs

Represented electric power producer in permitting and regulatory matters related to the installation of Carbon Capture and Sequestration ("CCS") technology on a coal-fired power plant and drafting of state CCS legislation in multiple states.

Advised clients in multiple states with respect to climate change issues including legislative policy, rulemakings and stakeholder proceedings.

Advised clients on environmental due diligence and in advance of the acquisition of industrial property and facility siting

Represented multiple clients in connection with USEPA efforts to develop new and renewed National Ambient Air Quality Standards ("NAAQS")

Represented electric utilities and manufacturers in connection with USEPA efforts to impose emission reduction controls on sources in upwind states to address air quality non attainment in downwind states, including appeals of final rules to the United States Court of Appeals for the District of Columbia Circuit.

## WORK EXPERIENCE

2013	Steptoe & Johnson PLLC
1997-2013	Jackson Kelly PLLC
1983-1996	Robinson & McElwee
1976-1983	Love, Wise, Robinson & Woodroe
1972-1976	James, Wise, Robinson & Magnuson

## RECENT PUBLICATIONS / SPEAKING ENGAGEMENTS

Co-author "Memorandum for ECOS Concerning Waters of the United States Issues" by members of the American College of Environmental Lawyers, September 11, 2014

Co-author, "Memorandum for ECOS Concerning Clean Air Act 111(d) Issues" (related to CO2 emissions from coal burning power plants) by members of the American College of Environmental Lawyers, February 21, 2014

Lead author of the legal and regulatory chapter of the National Coal Council report entitled "Expedited CCS Development: Challenges & Opportunities" (related to the continuing use of coal in power plants) April 2011

"Competition for New Energy Projects - Incentives Offered by Various States," 28 Energy and Mineral Law Institute (2007)

"The Water Resources Protection Act and its Impact on West Virginia Water Law," 107 W.Va. Law Review 749 (2005)

"Ozone Transport: Will Midwest and Southeastern Utilities Have to Pay to Clean Up Air in the Northeast?" 18 Eastern Mineral Law Institute (1997)

"Water Quality Standards: Their Development and Application to Natural Resource Activities," 17 Eastern Mineral Law Institute (1996)

"Consolidated Environmental Regulation in West Virginia," 97 W.Va. L. Rev. 401 (1995)

"Abandoned Well Initiatives: An Examination of Recently Enacted Legislation in the Eastern United States," 14 Eastern Mineral Law Institute 20 (1993)

"Hazardous Waste - The Oil and Gas Exception," 89 W.Va. L. Rev. 1089 (1987)

"Hazardous Waste Management Act - Closing the Circle," 84 W.Va. L. Rev. 347 (1982)

## MEMBERSHIPS AND AWARDS

**PROFESSIONAL**

American College of Environmental Lawyers, Founding Regent

Peer Review Rated AV by Martindale-Hubbell

The Best Lawyers in America®

Chambers USA America's Leading Lawyers for Business

Who's Who Legal: Environmental 2014-2016

Super Lawyers®

West Virginia State Bar

Kentucky Bar Association

Pennsylvania Bar Association

American Bar Association, Natural Resource Section

**INDUSTRY/CIVIC**

Ohio River Valley Water Sanitation Commission (ORSANCO), Commissioner

National Coal Council

West Virginia Chamber of Commerce, Board of Directors and Past Chairman

Interstate Oil and Gas Compact Commission, Legal and Regulatory Committee

West Virginia Youth in Government, Board of Directors

U.S. Chamber of Commerce, Energy, Clean Air and Natural Resources Committees

Energy and Mineral Law Foundation, Trustee