



115 VIP Drive, Suite 210  
Wexford, PA 15090  
Phone: (724) 933-7306 | Fax: (724) 933-7310  
Email [info@pioga.org](mailto:info@pioga.org) | Web: [www.pioga.org](http://www.pioga.org)

## ***Working together, PIOGA helps our members accomplish that which they cannot achieve alone***

The Pennsylvania Independent Oil & Gas Association (PIOGA) is honored to represent more than 360 member companies from all facets of our industry. For more than a century, PIOGA and our predecessor associations have prided ourselves on our role of bringing together a widely diverse range of companies, individuals and interests to collaborate for the benefit of the entire industry.

PIOGA is working harder than ever to advocate for Pennsylvania's oil and gas industry. Understanding the interconnectedness of all facets of the industry is crucial to the success of our industry. Coming together to work on today's challenges is imperative and effectively communicating to our stakeholders is paramount.

### ***The work we do on behalf of our Producer members impacts all members***

PIOGA understands the struggles our oil and natural gas producers are dealing with today. As economies here and abroad attempt to recover from the COVID-19 pandemic, we have seen energy shortages and accompanying price spikes. Some of these problems are due to an overreliance on not-always-reliable "green" energy sources. Here in the Appalachian Basin, with our abundance of natural gas, we are constrained from helping alleviate such shortages due to short-sighted opposition to pipeline expansion. The key to the survival of our industry continues to be demonstrating that natural gas and crude oil – along with the infrastructure that gets our products to market – are essential to a reliable clean, lower carbon energy future for Pennsylvania and the nation.

Most of our independent producers are family-owned businesses that feel these adverse impacts much more deeply in difficult times. ***However, individual companies cannot tackle all of the issues alone. It takes all members, sharing our expertise and our resources, to fight these battles on behalf of our industry.***

**PIOGA's primary role is government relations.** PIOGA's government relations team includes President and Executive Director Dan Weaver, Vice President of Government Affairs and General Counsel Kevin Moody and contract lobbyists from one of the foremost government affairs groups in Harrisburg. With direction and assistance of PIOGA's Legislative and Market Development committees, we focus our efforts on legislation in the Pennsylvania General Assembly that directly impacts our producers and those companies serving our industry.

We are tracking dozens of bills aimed at the industry in one way or another. Many would have a devastating impact by banning hydraulic fracturing, further limiting waste-disposal options, hamstringing infrastructure development or mandating a phaseout fossil fuels entirely. Fortunately, these are unlikely to advance in today's Republican-controlled legislature, although we still must remain vigilant. There also are some beneficial pieces of legislation, like a package of reforms to improve business recovery from the COVID-19 crisis. **Here are a few of our top state legislative issues:**

- **Royalty Payment Legislation.** Sometimes good intentions can go astray. That's the case with a bill advancing through the General Assembly this session meant to help royalty owners better understand the components of the payments they receive from lessors and make it easier to seek additional information. While PIOGA generally supports the measure, we are troubled by one provision that sets an unrealistic deadline under which payments must be made. We are working to ensure the bill is amended so that producers and their mineral owner partners both are satisfied with the outcome.
- **Carbon Capture and Hydrogen.** Carbon capture technology is gaining traction in the General Assembly as one of the tools to reduce the level of carbon dioxide emissions even more than our industry has already done. PIOGA is working with legislators and the Pennsylvania Chamber of Business and Industry and others on legislation to encourage development and implementation of this technology in the state, as there are benefits to producers and service providers as well as the environment. Also, our Market Development Committee is exploring the benefits of developing hydrogen as a zero-carbon fuel that can be transported through natural gas pipelines.

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- **Conventional Oil & Gas Act.** Despite the Wolf administration's opposition, PIOGA continues to lobby in support of the Conventional Oil & Gas Act to implement the General Assembly's policies stated in the Pennsylvania Grade Crude Development Act (Act 52 of 2016).

**Equally important in PIOGA's government relations work are our regulatory initiatives,** and here the efforts of the Environmental Committee are worth far more than the cost of your PIOGA dues. The committee is made up of a wide range of professionals from our member companies who are willing to lend their time and expertise in dealing with issues before state and federal regulatory agencies. We know for a fact that other industry organizations are envious of our committee's effectiveness. This is just a sampling of the many regulatory matters we are currently working on:

- **Emissions regulations.** Under Governor Wolf's Methane Reduction Strategy, the Pennsylvania Department of Environmental Protection (DEP) is working aggressively to impose new regulations on the oil and gas industry. A rulemaking now under way would control emissions of volatile organic compounds (VOCs) from existing oil and gas operations. Otherwise known as the CTG RACT rule, the proposal would place an outsized burden on conventional producers. Responding to this rulemaking to ensure a commonsense, economically viable result is a top priority for the committee. Meanwhile, at the federal level, PIOGA continues to work with a group of associations led by the Independent Petroleum Association of America to try to moderate upcoming U.S. EPA subpart OOOOa methane emissions regulations from an administration openly hostile to our industry.
- **Regional Greenhouse Gas Initiative (RGGI).** PIOGA has joined with lawmakers, business groups and others to oppose the governor's unilateral push for Pennsylvania to join a 10-state cap-and-trade program that claims to drastically reduce carbon dioxide emissions from electricity generation. The shift to natural-gas-fired generation is one of the reasons Pennsylvania's greenhouse gas emissions already are declining significantly, without the adverse effects joining RGGI would have on the state's economy and electricity generators, including natural gas-fired. Key questions are whether RGGI is an interstate compact and whether the administration has the authority to impose, without legislative approval, a carbon tax masquerading as a fee. While the Attorney General may determine the rulemaking to be unlawful, it is looking increasingly likely that the matter will be decided by the courts and that PIOGA will participate.
- **Conventional oil and gas regulations.** Late in 2020, DEP unveiled the first draft of a pair of Chapter 78 regulations – one dealing with environmental protection performance standards and the other with waste management and related issues. Along with other trade groups and the Penn Grade Crude Oil Development Advisory Council (CDAC), we have been providing input to DEP on how to resolve points of contention. DEP intends to formally propose the regulations in 2022.
- **Water disposal.** While unconventional operators have options for reusing and recycling their produced water, producers on the conventional side are drowning in wastewater as treatment facilities shut down and development of new disposal wells continues to be stymied by regulatory hurdles and local opposition in the form of Home Rule Charters. PIOGA has been working with CDAC to identify affordable treatment technologies and to provide DEP with recommendations to provide a clear framework for development of UIC wells. We also hope to work with the department to reinstate the practice of spreading wastewater from conventional wells on dirt roads for dust suppression and stabilization.
- **Orphan and abandoned wells.** As many producers know, DEP is insistent when it comes to produce-or-plug mandates, but the trouble is, plugging rules and DEP's application of them are contradictory, unclear and unnecessarily restrictive.

### Are you a producer on the Peoples system?

The production enhancement agreements with Peoples and Equitable Gas ended October 29, 2019, when the combined Peoples/Equitable Gas divisions base rate settlement became effective, providing for a 26¢/Mcf gathering rate and maintaining the PES water vapor standards and the June 1, 2019, standards for the Peoples and Equitable Gas systems, respectively. The settlement also replaced the PES Project Review Committee (PRC) with the new Peoples-Producers Cooperation Committee (PPCC), controlled by PIOGA, to address: (i) operational issues, such as gas quality, pipeline replacements and pipeline abandonments, and seasonal regulator adjustments, and (ii) ways to bring more locally produced natural gas to the Peoples system. The quarterly meetings have been delayed by COVID-19 but may be initiated when producers inform PIOGA of issues for discussion. In July 2020, PIOGA and Peoples also finalized a revised Master Interconnect and Measurement Agreement (MIMA), which is required to deliver per the Rate AGS tariff.

**Goodwin Gathering System pipeline replacement & retainage reduction.** The Goodwin pipeline replacement required by the Aqua America (now, Essential Utilities)/Peoples acquisition settlement began in 2021 rather than 2020 as anticipated, so the first reduction of the 85% annual retainage rate to 78% became effective October 1, 2021. The full pipeline replacement, which will transform the unregulated gathering system into a regulated distribution system, is expected to take 7 years, during which time the retainage rate will be systematically reduced to the system-wide producer retainage rate, currently 2%.

**FERC Equitrans gathering systems abandonment proceeding.** PIOGA supported the PaPUC's approval of Peoples' acquisition of the Equitrans M-73 gathering line, which Peoples will repurpose as a distribution line. FERC approval is expected, but has not occurred as of this writing (November 2021).

PIOGA continues to work with CDAC and DEP to remove uncertainties and inconsistencies so that more unproductive, orphan and abandoned wells can be plugged economically. Additionally, in anticipation of federal funding for well plugging, PIOGA is helping DEP create a database of contractors able to perform plugging services and attempting to convince the department to ease some of its overly restrictive requirements for contractors.

- **DEP Conventional Sign Guidance.** In June 2021, DEP issued guidance accepting PIOGA's position that a single sign can satisfy the requirements of Subsections § 3211(g) [site ID sign] and 3211(h) [well tag] of the 2012 Oil and Gas Act once a conventional well has been drilled.
- **And so much more.** The above items only scratch the surface of what the Environmental Committee is working on. The committee and its subcommittees also are focusing on matters related to erosion and sedimentation including a prioritized review process under the recently revised ESCGP-3 permit; threatened and endangered species matters; inconsistent enforcement by DEP field personnel; providing support to PIOGA's representatives on DEP's Oil & Gas Technical Advisory Board and CDAC; and addressing proposed DEP technical guidance documents that appear to be rulemakings that bypass the formal rulemaking process.

**No shortage of legal matters.** The third leg of our government relations stool is the judicial system. Increasingly, lawsuits are used as an advocacy tool, and PIOGA must stand ready to become involved in legal initiatives in defense of our industry's rights. These are among the cases in which we have played or are playing a part, often in cooperation with other associations and companies:

- **PA One Call.** PIOGA's challenge to PA One Call's manner of charging producers and excavators for the costs of participating in its state-mandated underground line/facilities locating program was transferred to the Clarion County Court of Common Pleas, with PIOGA adding challenges to One Call's failure (i) to elect board members by vote of facility owner members and (ii) to provide board representation to owners/operators of pipelines associated with conventional and unconventional oil and natural gas wells, both requirements of the PA One Call law. We are hopeful that the board member election challenge will be decided by the end of 2021 and the others by mid-2022.
- **Enforcement of lease provisions and Producer's rights to earned acreage.** In April 2021, the Pennsylvania Supreme Court in *Mitch-Well Energy v. SLT Holdings* reaffirmed the basic legal principles that provisions in oil and natural gas leases cannot be ignored, rejecting the use of the equitable doctrine of "abandonment" to terminate oil and natural gas leases when the leases provide remedies for the allegedly wrongful conduct of the producer. PIOGA had submitted two *amicus* briefs in support of this basic legal principle, which also meant that the producer's farm outs were retained rather than lost.
- **Participation in Anadarko unfair trade practices appeal.** Along with the MSC and API, PIOGA participated in Anadarko's Pennsylvania Supreme Court appeal challenging the Pennsylvania Attorney General's use of the Unfair Trade Practices and Consumer Protection Law (UTCPL) to adjudicate landowner claims of deceptive, misleading and unfair tactics in natural gas lease transactions. In March 2021, the Court rejected the Attorney General's use of the UTCPL.
- **Participation in PennEast Pipeline US Supreme Court appeal.** Along with the Marcellus Shale Coalition, PIOGA submitted an *amicus* brief in support of the authority of a FERC pipeline certificate holder to use eminent domain to acquire lands in which a state has an interest. Proving the adage that "a picture is worth a thousand words," the MSC/PIOGA brief included DCNR's map of streambeds that Pennsylvania claims to own, prompting Justice Breyer to remark "I don't understand how [Congress] ... would have delegated any eminent domain power ... for interstate pipelines without including the power to proceed against the state." In June 2021, the Court held in favor of PennEast Pipeline's use of the power.
- **Challenging DCNR's ownership of streambeds throughout Pennsylvania.** Related to the PennEast Pipeline appeal, PIOGA continues to monitor litigation between landowners and the DCNR challenging the agency's claims of ownership of nearly all streams in the Commonwealth. PIOGA stands ready to provide assistance to bolster the landowners' claims of ownership before the DCED's Board of Property.
- **DEP's attempt to impose personal liability on a company owner.** PIOGA participated in Commonwealth Court proceedings that limited DEP's use of the "participation theory" to impose personal liability on a producer company's sole member and employee for the company's not plugging 47 wells. A Commonwealth Court decision is expected this year on DEP's appeal of the Environmental Hearing Board's decision limiting the personal liability to just four wells, and PIOGA intends to continue supporting the PIOGA member involved in this litigation.
- **Seneca Nation's request for authority to set its own water-quality standards.** Despite the objections of PGCC, PIPP and PIOGA, the EPA in March 2021 granted the Seneca Nation of Indians' (SNI) request for "Treatment As a State" (TAS) authority to administer water quality standards (WQS) and certification programs under the Clean Water Act for surface waters within three SNI Territories, which include the upper Allegheny River and its tributaries. Although TAS approval does not set WQS or establish a certification program, PIOGA stands ready to scrutinize any WQS or certification programs proposed by SNI for EPA approval.

- **PHMSA Gas Pipeline Rulemakings.** Along with IPAA, PIOGA has been working to limit the scope of the various PHMSA pipeline safety rulemakings and their application to pipelines associated with conventional wells.
- **Severance Tax & Use of Oil and Gas Lease Fund revenues.** PIOGA continues to participate in the seemingly never-ending litigation by the Pennsylvania Environmental Defense Foundation seeking to eliminate the use of Oil and Gas Lease Fund revenues to help “conserve and maintain” Pennsylvania’s public natural resources as required by Pennsylvania’s unique Environmental Rights Amendment. These revenues have alleviated the need for enactment of a severance tax.
- **Disposal wells & Grant Township, Indiana County.** PIOGA continues to support litigation against the use of a so-called “right of local self-government” and a Home Rule Charter to prohibit lawful oil and natural gas operations.

#### *The work we do on behalf of downstream markets impacts all members*

We know the interconnectedness of the downstream and upstream markets. That’s why PIOGA is all about finding new and expanded markets for our abundant natural gas resources. **PIOGA’s Market Development Committee** actively works to accelerate increased use of Pennsylvania-produced natural gas in electric generation, natural gas vehicles, commercial and industrial applications, utility distribution demand, and natural gas conversions from other fuels in and throughout Pennsylvania and surrounding states. These are among the committee’s top priorities:

- **Presentations – both in-person and virtual.** The committee’s monthly meetings often feature information-packed presentations on key topics like infrastructure projects, virtual pipelines and market trends as well as field trips to natural gas-related facilities.
- **Sharing intelligence.** The committee’s New Projects Subcommittee meets virtually every month to share intelligence on pipelines – both physical and virtual – as well as projects involving large natural gas end users. These calls, along with connections made at the Market Development Committee’s regular meetings, have led to business opportunities for both Producer members and Allies and Providers members.

#### *Joining together to benefit all members*

What makes PIOGA a strong and effective organization is our ability to come together to collaborate with one another toward common goals benefitting our industry – even though we might be competitors in other situations and regardless of what type of member we are. In addition to our Legislative, Environmental and Market Development committees, we also have active Safety, Diversity and Tax committees that welcome – no, make that *need* – the involvement of other members in order to accomplish their valuable work. **The Safety Committee**, for instance, serves as a forum for sharing best practices and other information to keep our employees working safely. Along with the Environmental Committee, the Safety Committee also organizes regular training opportunities as part of our PIOGATech series. The **Diversity Committee** is a newly established committee that provides a forum where members work collaboratively to advocate and support diversity within PIOGA, as well as within Pennsylvania’s oil and natural gas industry. The **Tax Committee**, which traditionally organizes our Annual Oil & Gas Tax and Accounting Seminar, has become more active in exploring tax-related issues and informing the membership on these matters.

Giving our members opportunities to **stay informed and engaged** is another of PIOGA’s key missions. Our large conferences, intimate networking events and information-packed PIOGATech sessions all provide you and your employees with valuable opportunities to keep abreast of key industry topics and make new connections. We also keep you up to date via our **PIOGA eWeekly** e-newsletter sent out every Monday as well as **The PIOGA Press** monthly newsletter.

#### *Getting more from your dues*

How can you make your membership an even better value for your company? First and foremost, ensure that you or your staff contribute provide expertise to our committees. Head over to the Members Only area of our website (look for the link at the top of our homepage, [www.pioga.org](http://www.pioga.org)) to find out more about what each committee does and how to join.

If you/your employees attend our events or advertise in the eWeekly or *PIOGA Press*, you’ll enjoy a significant member discount. We’ve heard from some members that these savings have nearly repaid the cost of their dues! Please remember that we have the incentive program for bringing in new members, which can earn you dollar credits you can “spend” toward attending events, advertising or sponsorships. Please help us to help you and recruit a new member!

**We understand in these tough economic times you still must carefully weigh every dollar spent. We hope you understand the importance of your support is to PIOGA and the oil and gas industry as we all work together to accomplish the goals we cannot solely do alone.**

Feel free to contact PIOGA’s Membership Director, Debbie Oyler, at [debbie@pioga.org](mailto:debbie@pioga.org) at 724-933-7306 ext. 22 if you have any questions about membership or go to [www.pioga.org](http://www.pioga.org) > **Join Now** to learn more about membership benefits or to apply online.