The PIOGA Press

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Pennsylvania Independent Oil & Gas Association
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Governor vetoes Conventional Oil and Gas Act legislation

It was disappointing—but not surprising—that Governor Tom Wolf vetoed Senate Bill 790, the Conventional Oil and Gas Act.

In his November 25 veto message, the governor acknowledged the “distinct” challenges facing the conventional industry, but he went on to wrongly claim the legislation “does not adequately protect the environment and the public health and safety of the citizens of the Commonwealth, and would contribute to a legacy of environmental degradation.”

The current version of the Oil and Gas Act—Act 13 of 2012—was enacted as a response to the rapid build-out of the unconventional gas industry in Pennsylvania at that time. Many provisions of Act 13 are overkill for shallow oil and gas operations, and SB 790 was drafted to address the inequities between the two very different facets of the industry. While some provisions echo the well-proven requirements of the original Oil and Gas Act of 1984, other sections of SB 790 go beyond the earlier law to reflect current industry best practices.

The 76-page bill sponsored by outgoing Senate President Pro Tempore Joe Scarnati would have regulated all aspects of conventional oil and gas well operations—permitting, bonding, drilling, production, waste disposal, and plugging and abandonment, as well as potential problems such as leaks, spills and water-supply damage. Many of SB 790’s provisions recognize the far smaller scale of conventional operations and the lesser potential for environmental impacts. One of the inequities addressed is the industrial-scale site restoration requirements of Act 13. While an unconventional well site typically is several acres in size, drilling a conventional well disturbs only a fraction of that area.

SB 790 also laid out different requirements than Act 13 for assessing a potential well’s impact on public

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PIOGA Pennsylvania Independent Oil & Gas Association

PIOGATech
PIOGA's Technical Seminar Series

Air Quality Compliance Training

Hosted by:
PIOGA's Environmental Committee

THANK YOU TO OUR PARTNERS!!

ALL4

Babst Calland Attorneys at Law

CEC Civil & Environmental Consultants, Inc.

CleanAir ENGINEERING

SE TECHNOLOGIES

CEU Partner

Wilkes University 1933

Date: Tuesday, December 15, 2020

Location: Virtual Training

Time: 9:00 AM - 12:30 PM Introductory Session
12:00 PM - 3:15 PM Advanced Session

Fee: **Half-Day Session (Introductory or Advanced)**
PIOGA Members - $50
Non-PIOGA Members - $75

Full Day Session (Both Introductory & Advanced)
PIOGA Members - $100
Non-PIOGA Members - $150
Fee includes the training and Continuing Education Units (CEUs) and Professional Development Hours (PDH).

New this year, this training will be separated into **2 sessions** - **Introductory** in the morning and **Advanced** in the afternoon - so attendees can obtain a more focused training for your needs. You are welcome to attend only a half day or the full day.

Introductory Session - 9 am to 12:30 pm

Overview of Air Quality Regulations Affecting Oil and Gas Industry	Frank Dougherty, ALL4
Intro to ProMax for O & G Emission Estimates	Allison Devine, CEC, Inc.
An Overview of Methods for Identifying and Estimating Methane Emissions	Volker Schmid, CleanAir Engineering, Inc.
Air dispersion modeling case studies at compressor stations in PA, WV and OH	Meghan Yingling and Monty Saron, SE Technologies, LLC

Technology Showcase: Fenceline Monitoring for Criteria and Hazardous Air Pollutants by CleanAir Engineering from **12:00 to 12:30 pm.** *(For both Intro & Advanced attendees)*

Advanced Session - 12:00 pm to 3:15 pm

PA Dept. of Environmental Protection Air Quality Update	Charles Boritz, PA DEP
Air Permitting Case Studies: The Nuances of Oil & Gas Facilities	Amanda Black, CEC Inc.
Proposed Pennsylvania O&G CTG RACT Rule	Andrew Beaver, ALL4
Regional Greenhouse Gas Initiative (RGGI) and Post-Election Updates	Jean Mosites and Kevin Garber, Babst Calland
Compliance Management Roundtable Panel with Operators	Moderated by Jean Mosites, Babst Calland with Operators

Registration
Go to www.pioga.org > Events > PIOGA Events > Air Quality Compliance to register online.
Deadline is Friday, December 11, 2020

Implications of the 2020 election for the energy industry

Authors:

Kevin J. Garber

Jean M. Mosites
—
Babst Calland

As of the date of this article, Joe Biden is likely to become the 46th president of the United States. Assuming that stands, the Biden-Harris administration will try to implement dramatically different environmental and energy policies than the Trump administration. Whether Congress enacts many or all those policies depends heavily on the outcome of the two January U.S Senate special elections in Georgia. The Biden administration can impart significant changes through executive orders and agency actions despite the outcome of those elections, while states and regional governmental bodies will continue to play a significant role in shaping policy. This article reviews some of the implications of the 2020 election for the energy industry.

2020 election summary

National elections. Republicans cut into the Democrat's majority in the House but Democrats still hold a 222-205 margin as of the date of this article. Republicans hold 50 Senate seats to 46 for the Democrats and two for independents pending the outcome of the Georgia special elections for Senate in January. If Democrats pick up both seats, Vice President-Elect Kamala Harris would cast the deciding vote on matters which divide the Senate 50-50. Shelley Moore Capito (R-WV) is likely to succeed John Barrasso (R-WY) as the top Republican on (and possibly become the chair of) the Senate Environmental and Public Works Committee when Senator Barrasso moves on to head the Energy and Natural Resources Committee. Both are positive developments for the energy industry.

Mr. Biden has chosen individuals from non-governmental environmental organizations and academia to lead his transition teams to staff the Environmental Protection Agency, Council on Environmental Quality, the Department of Interior and the Department of Energy. The teams themselves are largely comprised of those of similar background. Notably absent are representatives from the energy industry, which portends the nominations of more environmental-activist agency heads than served in the Trump administration. For example, the *Wall Street Journal* has criticized Mr. Biden's choice of John Kerry as a cabinet-level special envoy for climate (i.e., a "climate czar") as reflecting that climate will be a special negotiating priority rather than one

2020 election recap: The Pennsylvania perspective

The 2020 election was anything but business as usual in Pennsylvania as the Commonwealth took center stage in the protracted battle for the presidency. While the Keystone State appears to have helped deliver the White House to the Democrats, further down the ballot it was a good election cycle for Republicans.

That was the takeaway provided to PIOGA members in a December 4 election-recap webinar featuring two political insiders from the association's Harrisburg lobbying firm, Gmerek Government Relations.

Gmerek's Chris Lammando and Dick Gmerek explained that the 2020 election cycle was historic for a several reasons. One was that voting occurred under the first significant rewrite to the state's election law in decades, and most notably under that was the change to make it easier to vote by absentee ballot. While previously there were just a few, specific reasons under which a voter could request an absentee ballot, now any voter may obtain a mail-in ballot without providing a reason.

The coronavirus pandemic created a huge demand for mail-in ballots—approximately 3 million were requested (compared to about 280,000 in the previous election) and 85 percent of those were returned. Democrats were far more likely to vote by mail in this election than Republicans.

For all the headlines about actions by Pennsylvania's secretary of state and the Pennsylvania Supreme Court regarding mail-in ballots, along with Joe Biden's apparent win over Donald Trump for president, Republicans did surprisingly well in Pennsylvania, Lammando explained.

At the federal level, the Pennsylvania delegation to the House of Representatives remains evenly split 9-9 between Republicans and Democrats. Lammando noted that Democrats had expected to flip two seats, but that failed to happen.

Among state row offices, Republicans captured two of the three positions up for election. Tim DeFoor took the open seat for auditor general and Stacy Garrity beat incumbent Joe Torsella for auditor general. The third was a disappointment to the oil and gas industry, with Democrat Josh Shapiro easily winning reelection as attorney general. Lammando described

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issue among many in foreign policy. Mr. Biden has already committed to rejoining the Paris Climate Agreement on his first day in office or within his first 100 days, depending on which report you read.

State elections. At the state level, Republicans retained their majority in the state houses in seven of the 10 states critical to energy extraction and production, including Pennsylvania. There are Republican governors in six of those states. The following table summarizes the makeup of the state houses and executive offices.

	Post-election majority		
State	**State Senate**	**State House**	**Governors**
Alaska	Republican	TBD	Mike Dunleavy
Colorado	Democratic	Democratic	Jared Polis
Louisiana	Republican	Republican	John Bel Edwards
New Mexico	Democratic	Democratic	Michelle Lujan Grisham
North Dakota	Republican	Republican	Doug Burgum
Ohio	Republican	Republican	Mike DeWine
Oklahoma	Republican	Republican	Kevin Stitt
Pennsylvania	Republican	Republican	Tom Wolf
Texas	Republican	Republican	Greg Abbott
West Virginia	Republican	Republican	Jim Justice

Courtesy of The Klaber Group

The Biden Energy Plan

The president-elect's environmental and energy teams say climate change is an "existential threat" to the environment. The Biden Energy Plan commits the U.S. to an *irreversible path* to net-zero carbon emissions *economy-wide* by 2050. Although the plan does not propose to tax carbon emissions, impose a carbon cap and trade program or ban hydraulic fracturing on private land, and therefore is not as far-reaching as the Green New Deal, it is an unsettling departure from the Trump administration's policy of reducing regulatory overreach in favor of less burdensome regulations on the fossil fuel industry.

The Biden Energy Plan essentially is a $2 trillion infrastructure plan. It emphasizes an interconnectivity between clean energy and the economy. Highlights include the goal of zero net emissions from power plants by 2035 and economy-wide by 2050. The federal government would use its procurement power to build 500,000 e-vehicle charging stations, convert all 500,000 school buses to electric and provide all Americans in municipalities of more than 100,000 population with "quality public transportation" (in the plan's words) by 2030. The Biden plan promises to upgrade four million commercial buildings to become more energy efficient and weatherize two million (mostly low income) homes within four years. It intends to induce the construction of 1.5 million homes and public housing units to address a stated affordable energy crisis and increase energy efficiency. Environmental justice principles feature prominently in the plan.

The road to the Biden Energy Plan

How green we go and how fast we get there depends on congressional and executive branch action.

The January special elections in Georgia will dictate the extent to which Congress passes legislation to implement the Biden Energy Plan. Republicans in Congress see themselves largely in a defensive posture for the upcoming 117th Congress, acting to temper or block far-reaching energy bills the more environmentally active House might contrive.

In the short term and apart from legislation, if both Senate seats go to Democrats, Congress could use the Congressional Review Act (CRA) to invalidate late-term Trump administration regulations. Adopted in 1996, the CRA allows Congress to invalidate, by a simple majority vote, final agency regulations adopted by the previous administration in the 60 legislative days before the previous Congress adjourned. It is a simple, expedited procedure—a joint resolution to invalidate a regulation is presented to committee, then, if approved, is presented to the legislative bodies for majority vote. Trump administration pro-energy regulations at risk to CRA invalidation, depending on the date of adjournment, include the September 14 and 15 EPA final oil and gas Review Rule and the Reconsideration Rule (i.e., the Quad O and Quad Oa rules that exclude transmission and storage from the O&G Production Source category and do not regulate methane emissions); the final October 15 Coal Combustion Residuals rule (extending the deadline to close landfills and surface impoundments and allowing owners of surface impoundments (of which approximately 520 currently are in operation) to demonstrate that an unlined impoundment is as safe as a lined one); and the final July 13 Clean Water Act Section 401 water certification rule (limiting the review of section 401 certifications to water quality impacts rather than far-reaching potential climate change effects).

If the Senate remains in Republican hands, the Biden administration and its agencies can take several steps to undo Trump administration regulations they believe would impede the Biden Energy Plan. Litigation abeyance is one such tactic. For pending litigation involving Trump-era regulations, a new EPA and Department of Justice can ask courts to place cases in abeyance to postpone briefing and arguments until the new admin-

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PIOGA community giving:
Staff spread joy to area children in need this holiday season

For the fifth year, PIOGA staff partnered with member company Print King to collect toys for our area's children whose families are experiencing hardships through The Lighthouse Foundation. PIOGA staff recognize the importance of a child experiencing the joy of opening a new toy or game during this holiday season.

"This year more than ever we need to ensure our children get to experience the magic of opening their presents on Christmas morning. I'm so proud of the PIOGA staff for donating to this important effort," said Dan Weaver, President and Executive Director.

PIOGA staff once again gave generously and appreciate the opportunity to donate to The Lighthouse Foundation that's doing great work on behalf of impoverished individuals and families in northern Allegheny and Butler counties. To learn more, go to www.thelighthousepa.org. ■

2021 PIOGA events preview

Needless to say, 2020 has been a trying year for in-person events. We are optimistic that 2021 will bring better things and have put together an events calendar reflecting that attitude. Please watch your email or visit pioga.org > PIOGA Events for updates as we move forward.

February 18 – Pins & Pints networking event

February 25 – PIOGATech, environmental/E&S topics

March 18 – Topgolf networking event

March 25 – PIOGA Tech, safety TBA

April 22 – PIOGATech, environmental/well construction topics

May 6 – clay shoot networking event

May 19 – Spring Meeting & Exhibition, Rivers Casino, Pittsburgh

June 7 – Ted Cranmer Memorial Golf Outing & Steak Fry, Wanango Golf Club, Reno

July 15 – cigar dinner networking event

July 22 – PIOGATech, safety TBA

August 18 – PIOGATech, environmental/water & waste management topics

August 19 – 24th Annual Divot Diggers Golf Outing, Tam O'Shanter of Pennsylvania, Hermitage

September 15-16 – Annual Membership Meeting and Fall Sports Outing

October 21 – clay shoot networking event

October 26 – PIOGATech, safety TBA

November 17 – Annual Oil & Gas Tax and Accounting Seminar

November 18 – wine tasting networking event

December 16 – PIOGATech, environmental/air quality compliance topics

December 16 – Mix, Mingle & Jingle Holiday Party

Save the date!

2021 PIOGA Spring Meeting & Exhibition
Wednesday, May 19
Rivers Casino, Pittsburgh

We will be holding this event in Rivers Casino's new Events Center, which will allow PLENTY of room for social distancing if COVID is still a concern. Or, it will allow us to have a REALLY BIG event! Either way, this will be our major conference of 2021 and we hope to see you there.

For most members, it's renewal time

For the large majority of PIOGA members, now is the time to renew your membership for the coming year. If your membership is due by the end of 2020, the main contact for your company received a renewal packet in the mail last month.

Your PIOGA membership has always been a great value, worth far more than the amount you pay in dues. 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. As stated on our website's homepage, *Working together, we help members accomplish that which they cannot achieve alone.* What you can be sure of is that 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.

PIOGA understands the struggles our oil and natural gas producers are dealing with today. On top of the continuing COVID-19 pandemic, our industry is challenged by persistently low commodity pricing, geopolitical pressures impacting U.S. markets, and restrictive and costly legislative and regulatory obstacles adversely affecting the demand and use of our products. Further, we are embarking on a new federal administration that could well be openly hostile to our industry, bringing on a whole new set of challenges.

Most of our independent producers are family-owned businesses that feel the impacts much more deeply in troubling 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.

If you would like to know more about how we are working together on behalf of the entire Pennsylvania oil and gas industry, please take a few minutes to read this summary of our activities—pioga.org/publication_file/2021_Annual_Dues_Renewal_Ltr_and_Assoc_Update.pdf. You'll also find suggestions for how you can increase the value of your membership, such as participating in committee activities and taking advantage of PIOGA member discounts.

We thank you in advance for continuing to be a PIOGA member in 2021 and beyond. Questions about your membership? Contact Debbie Oyler, Director of Member Services, at debbie@pioga.org or 724-933-7306 ext. 22. ■

Become a 2021 PIOGA Partner

We are pleased to announce the 2021 PIOGA Partners program. The program was launched in 2018 in response to member requests for a "one stop" yearlong event sponsorship option for budgetary purposes. The program also offers unique opportunities—like the Committee Partner—to both support the association's work and make your company stand out all year long.

We also continue to offer traditional event-by-event sponsorships.

The various Partner levels and their benefits are shown in the accompanying table. If you have questions or are ready to sign on now for 2021, contact Debbie Oyler at debbie@pioga.org or 724-933-7306 ext. 22.

And finally, a big thank-you to the members who were 2020 PIOGA Partners. They can be found on page 11 of this issue. We greatly appreciate your support! ■

2021 PIOGA Partner Levels	Yearly Sponsorship Amount	Networking Events (5-7/yr.) Comp Tickets	Golf Events (3/yr.) Comp Tickets	Clay Events (3/yr.) Comp Tickets	PIOGA Meetings (1-2/yr.) Comp Tickets	PIOGATech Seminars (5-7/yr.) Comp Tickets	Advertising Discount*	Logo Recognition Website, Newsletter, Printed Signage
Keystone	$10,000	2	2	2	2	2	30%	Yes
Executive	$7,500	2			2	2	20%	Yes
Meetings	$5,000				4		10%	Yes
Golf	$4,000		4					Yes
Clays	$4,000			4				Yes
Committee	$3,000							Committee meetings, PIOGA Press and eWeekly
Engineer	$2,500							PIOGA meetings, PIOGA Press and eWeekly
Driller	$1,500							PIOGA meetings, PIOGA Press and eWeekly
* PIOGA Press and PIOGA eWeekly only								

Membership incentive program continues in 2021

PIOGA's incentive program is intended to promote membership growth and participation in PIOGA while rewarding active members for their consistent efforts toward these goals. Here are the program's guidelines:

• To claim any credits, your membership must be current and in good standing.

• You must inform the PIOGA Director of Member Services of your member(s) recruited.

• Recruiting a new member earns a credit equal to 10 percent of the amount of the first-year dues of the newly recruited member.

• There is no limit to how many new members may be recruited per year.

• Credits will not be issued in the form of cash or legal tender.

• Credits must be applied toward reduction of PIOGA dues, PIOGA event fees, PIOGA sponsorships, PIOGA advertising (*PIOGA Press* and eWeekly only) or PIOGA donations.

• Credits cannot be claimed for renewing members that have been in default less than two years.

• Credits must be applied/used within 12 months of being credited to your PIOGA account or will be forfeited.

• You may apply credits toward partial or progressive prepayments to your PIOGA account.

• The incentive program is initially retroactive beginning January 1, 2021.

Questions? Want to participate? Contact Debbie Oyler, Director of Member Services, at debbie@pioga.org or 724-933-7306 ext. 22. ■

Choose how you get your news

If you now receive a printed copy of *The PIOGA Press* in the mail each month but prefer to read it online only, please email Deana McMahan at deana@pioga.org to opt out of the hard-copy version.

Current and past issues are always available by clicking on the News & Resources tab at pioga.org.

Marcellus to Manufacturing

Abundant Energy for Sustainable Growth

November 12
Oglebay Resort &
Conference Center
Wheeling, WV

Thank you M2M 2020 sponsors:

Long Ridge Energy Terminal

Fusilier Resources

RJR Safety Inc.

Pittsburgh Works Together

EnerVest

Blackrock Resources

USA Staffing Solutions

Shale POWER will help businesses grow by supplying the industry

By Tom Shepstone
Shepstone Management Company, Inc.

Shale POWER is a new initiative designed to help businesses find a place in the shale gas industry supply chain and to grow. The challenge is to maximize the gain within the region.

Ohio, Pennsylvania and West Virginia institutions are rising to this challenge by creating something appropriately called Shale POWER. It was announced at the Third Annual Marcellus to Manufacturing Conference, which was hosted by the Pennsylvania Independent Oil & Gas Association in nearby Wheeling, Wheeling, West Virginia, which is sandwiched between the Marcellus and Utica shales.

The Shale POWER initiative, financed by a grant from the Appalachian Regional Commission, is led by the Southwestern Pennsylvania Commission and managed by Catalyst Connection, the latter providing technical assistance and management consulting services in helping businesses modernize manufacturing and leverage new opportunities. Catalyst is supported by agencies and organizations from all three states. The following is a news release describing its new Shale POWER project via the results of a panel discussion from the conference:

Petra Mitchell, President & CEO of Catalyst

SHALEPOWER
Pennsylvania, Ohio, West Virginia Economic Renaissance

Connection, facilitated a discussion with project leads Matt Henderson of Henderson Consulting and Katie Klaber of The Klaber Group. The team provided an overview of the project and its partners, resources and action steps for manufacturers and ways energy companies, manufacturers and economic development professionals can participate in the project.

Mitchell provided an overview of the Shale POWER program, the funding and partners leading the effort. The project has been funded by the Appalachian Regional Commission to counter the economic hardships brought about by the decline in the coal industry. The Southwestern Pennsylvania Commission leads the Shale POWER Initiative and Catalyst Connection manages the activities, along with the West Virginia Manufacturing Extension Partnership, Ohio's Manufacturing Extension Partnership organizations (Ohio State University and MAGNET), and the nonprofit Johnstown Area Regional Industries (JARI).

Katie Klaber explained the shale gas supply chain and its complexity. "The upstream sector of the industry is possible because of drilling and hydraulic fracturing equipment, the associated fluids, proppants, pipe and parts that come together to coax gas and liquids from the earth. The midstream sector also deploys equipment to prepare and install infrastructure and the hardware to build and maintain gas processing and fractionation equipment," said Klaber. "The downstream sector ranges from multi-billion-dollar plants, such as Shell Polymer's to natural gas-fired power generation facilities, all of which require equipment to build and maintain. Even the use of the petrochemical plant products are part of this supply chain."

"Unfortunately, many in the general public and among our local businesses still do not understand that they are benefitting from the supply chain or have opportunities in it that have not yet been realized. In part, that is because it is not an easy industry to navigate – so many players and a supply chain that has been long-established in other parts of the country. But this industry will be here for a long time, and the more that our local manufacturers benefit from its presence, the better for us all," concluded Klaber.

Matt Henderson went on to discuss why now is a good time for manufacturers to enter the supply chain. "The United States is in a position of abundant, affordable and accessible natural gas. This is a reality, no longer speculation or promises of what is to come. This production has made the United States more competitive on the global market. While over the last decade the focus has been on production of the resource, this next decade will be marked by utilization of the resource," said Henderson. "The pandemic has increased our country's awareness on ho dependent we are on imports. We have strong tailwinds that indicate a manufacturing renaissance is on the horizon, enabled by accessibility to an abundant supply of natural gas and natural gas liquids and built on a foundation of manufacturing in this region."

Klaber proceeded to outline the value proposition for the energy industry to partner with Shale POWER. "The project will provide opportunities for the energy industry to identify new suppliers in the region, leading to lower transportation costs and higher reliability and supply chan redundancy. Energy companies and their suppliers continuously innovate, and this region can contribute a disproportionate share of that innovation given our long history of manufacturing excellence. Additional collaboration with local businesses and economic development organizations will lead to unique long-term partnerships for the industry and a greater understanding of the industry in this part of the country."

Henderson outlined steps manufactures can utilize to develop their business development strategy. "The key is planning. This is a long-term proposition measured in decades, not years. The goal is to build long term sustainability," explained Henderson. "Become a student of the industry and get a solid understanding of how the industry works. Truly learn who your buyer is – where you fit along the supply chain. Once you have identified your entry point, refine your value proposition and communicate this clearly to the industry purchaser."

Mitchell concluded the discussion with the specific actions our region's businesses can take to participate in the Shale POWER program. "Energy companies, please reach out to us to get involved for the many benefits. We are looking for manufacturers to join the project to explore whether there are opportunities to expand in this supply chain, and if a mini-grant may be the place to start. To our economic development community, please work with us on this ambitious and critical project for the region."

This is an interesting development that will provide businesses having a new idea they wish to sell to the industry, with a place to start. Capturing a piece of the supply chain is key for spreading the benefits of shale. Shale POWER looks to help, so go for it! ■

This article appears as a November 16 post at naturalgasnow.org. For more information about Shale POWER, visit shalepower.org.

Safety Committee Corner

Business continuity planning

By Wayne Vanderhoof, RJR Safety
PIOGA Safety Committee Co-Chair

What happens when business is disrupted? It has lost revenues plus extra expenses, which means reduced profits, and business insurance doesn't cover all the costs. Businesses may lose customers when the customers defect to the competition because disrupted businesses can't provide customers with what they want within the schedule that they want. All because there was an extended disruption in business operations.

To ensure the business can continue to operate with minimal interruptions, a business continuity plan needs developed which consists of assessing for potential disruptions, determining the business impact of the disruption and developing a plan to minimize disruption. The basic process is to conduct a risk assessment, a business impact analysis, and then identify and document the resources and assets needed to continue to conduct critical business functions and processes. This endeavor will take a team of executives, managers and workers working together.

To conduct a risk assessment, it is necessary to identify potential causes of business disruption, assessing the risk associated with the potential causes for disruptions. It is necessary to then perform a vulnerability assessment. Some examples of potential causes for business disruptions include a declared pandemic emergency, fire/explosion, natural disasters, hazardous materials spill or release, a workplace violence incident, utility outage, severe mechanical breakdown, supplier failure or cyberattack.

Once the various causes of potential business disruption are identified, each one needs to have the risk assessed, which is a product of determining the probability that the potential disruption will occur along with the magnitude of the consequences of the disruption if one occurs. Individual companies will need to determine the specific definitions of each of the probabilities, such as "improbable," "unlikely," "likely" or "highly likely." Individual companies will need to define the magnitude of the consequences as well such as "moderate," "serious," "critical" or "catastrophic." Once the probability and magnitude are determined, the priorities can be established as to which potential causes of disruption will be addressed first in the planning process.

The next step is to conduct a vulnerability assessment to determine resources and assets that are vulnerable to the potential causes of business disruption. Some examples of resources and assets include people, property/buildings, critical infrastructure, supply chain, equipment, information technology, reputation, customer confidence and regulatory or contractual obligations.

The process continues with conducting a business impact analysis for each of the potential causes of disruption to predict the consequences of the potential business disruptions and how it may affect resources and assets. It is necessary to identify the time-sensitive or critical business functions, processes and resources needed to recover from the disruption and to develop strategies to recover. Some examples of impacts to business include injuries or fatalities, property damage, business interruptions, losing customers or their confidence, losing money, or fines from regulatory inspections or contractual penalties.

When developing strategies to become operational, it is important to determine the resources and assets that will be needed. To do this, use a simple table listing the resource or asset that is used during normal operations, then the quantity utilized or used during normal operations. In subsequent columns, identify quantities of the asset or resource that will be needed after a specific potential business disruption event to get back into operation within 24 hours, 72 hours, one week and one month of the potential disruption event.

For example, a resource that is used during normal operations is staff such as workers, supervisors and managers in each business department. Quantify the number and type of each utilized during normal operations. Then identify the staff that will be needed to become operational within 24 hours, 72 hours, one week and one month after the disruption event. Another example is the asset/resource of a building and processing equipment, identifying current building space used and equipment used during normal operations. Determine and quantify the building space and equipment needs to become operational within 24 hours, 72 hours, one week and one month after the disruption event.

Now that the resources and assets are quantified per a specific time period, determine how and where the resources and assets will be acquired to become operational, asking questions such as, how will those resources/assets be acquired, where will they come from and what is the schedule in which to acquire them.

A very important step in the business continuity planning process is to provide training to the workers on the business continuity plan. This training will provide assurance that the employer is planning how to continue business operations after potential business disruption events. The training will also provide knowledge to workers as to their specific responsibilities within the business continuity plan, along with the projected schedule for recovery. It is important to conduct tabletop exercises with employees and the business continuity planning team to show how the plan will work with all of the many moving parts. The exercises will identify opportunities for improvement that must be addressed so the business continuity plan is always up to date and most effective. It must be understood that even with the best planning, situations will arise that are not exactly addressed within a plan. However, using the existing plan, the unaddressed situation can be managed using other elements within the plan as an example and basis for making decisions and developing a recovery strategy.

Consider the current situation with the declared public health emergency of COVID-19. Has your business been disrupted due to the pandemic? What are you doing now to continue operations? Take the time to write down what you are doing now to continue business operations, including the modifications and changes that were made to date. Once it is written down, this is your current business continuity plan, though it may not be perfect. The plan can be reviewed and improved considering what is working now and what opportunities for improvement exist.

This business continuity plan should be reviewed periodically to determine any changes that may be needed to the plan resulting from personnel changes, responsibility changes, addition of new equipment, suppliers, or a new plant or building.

There are many references that can be used in developing a business continuity plan including Ready.gov supported by the Department of Homeland Security and Federal Emergency Management Agency. ■

This article is a summary of a presentation by the author at the Marcellus to Manufacturing conference in November.

The Mountain Valley Pipeline saga continues

Author:

David Hotchkiss — Steptoe & Johnson, PLLC

On December 1, the Fourth Circuit Court of Appeals granted a motion to stay the construction of the Mountain Valley Pipeline (MVP) filed by the Sierra Club and others. The United States Army Corps of Engineers had found that the MVP was governed by a previously issued nationwide permit, NWP 12. The Huntington, West Virginia, District of the Corps issued a verification, determining that the pipeline project met the criteria for operation under the NWP 12, excusing the project from the individual permitting process. The Norfolk, Virginia, District of the Corps did the same, issuing a reinstatement of its prior verification allowing MVP to use the NWP 12. However, the petitioners filed an action seeking agency review of the verification and reinstatement pursuant to the Natural Gas Act

In granting the motion to stay, the court found that the petitioners were likely to succeed on the merits of their petition for review, explaining that the verification was likely issued in contravention of applicable law because the Corps incorporated into NWP 12 an impermissible modification to a permit condition by the West Virginia Department of Environmental Protection. Furthermore, the court stated that the reinstatement was likely defective as well, as it relied on the verification. The court issued the stay until such time as the court may consider the petitions for review on the merits. However, the court concluded that the petitioners were not likely to succeed on the merits of their challenge regarding the issuance of NWP 12 because the court likely lacks jurisdiction to entertain such challenges.

This is the most recent legal development in the course of the MVP project, an interstate pipeline regulated by the Federal Energy Regulatory Commission (FERC) running 303 miles from northwestern West Virginia to southern Virginia. It is expected to provide up to 2 million dekatherms, or 2 Bcf, of gas per day to markets in the Mid- and South Atlantic regions. The project is a joint venture among EQM Midstream Partners, LP; NextEra Capital Holdings, Inc.; Con Edison Transmission, Inc.; WGL Midstream; and RGC Midstream, LLC.

MVP filed its application with FERC for approval to construct on October 23, 2015. Its application for the FERC Certificate of Public Convenience and Necessity under the Natural Gas Act was filed November 5, 2015, at Docket Number CP16-10. The company filed an updated route in October 2016. FERC issued the Final Environmental Impact Statement in June 2017, concluding that adverse environmental impacts would be reduced to acceptable levels with the implementation of recommended mitigation. Construction began in early 2018 with operations then projected to start in the first quarter of 2021.

During the past four years, the project has encountered multiple stop-work orders and modifications as a result of challenges by the Appalachian Voices, the Sierra Club and other environmental groups. A history of project regulation appears at www.mountainvalleypipeline.info/news-info.

In 2017, the Corps reissued water crossing permits under NWP 12. In October 2017, FERC issued a Certificate of Public Convenience and Necessity. On July 27, 2018, the Fourth Circuit ruled that the U.S. Forest Service had acted arbitrarily and capriciously in adopting a sedimentation analysis performed by FERC and vacated NWP 12. In 2019, the Fourth Circuit Court of Appeals declined to approve a biological opinion favorable to the project issued by the U.S. Fish and Wildlife Service. In October 2019, FERC directed MVP to cease construction pending resolution of the issues raised in the opinion.

On June 18, 2020, FERC conditionally approved MVP's request to extend the pipeline, originally planned for West Virginia and Virginia, into North Carolina. The Forest Service issued a revised opinion in September of this year in which it concluded that the project would not jeopardize the continued existence of any listed species or adversely change critical habitat, and the Corps reissued NWP 12 authorizing water crossing permits for the pipeline. On October 5, 2020, the environmental groups asked the Fourth Circuit to stay the water crossing permits.

On October 9, FERC partially lifted its stop work order, leaving in place a stay only for limited areas (including a 3½-mile section located in the Jefferson National Forest) but permitting MVP to install pipe through or under approximately 1,000 water bodies and wetlands. The environmental groups obtained an emergency stay of construction in the Fourth Circuit on October 16. This stay was deemed to be temporary, pending ruling of the court on a broader stay request.

On November 9, the Fourth Circuit issued an immediate stay of MVP's stream and wetland crossing permits in Virginia and southern West Virginia. Direct appellate jurisdiction over FERC actions lies in the D.C. Circuit. However, eight conservation groups filed a challenge in the Fourth Circuit to the September grant by the Corps of NWP 12 approvals. That stay was to remain in effect until the court decided the pending challenges to MVP's water permits.

On November 18, by order filed at Docket No. 20-2159 (CP16-10-000), the Fourth Circuit initially denied the motions for temporary stay of the U.S. Fish and Wildlife Commission's biological opinion for the pipeline.

This latest stay of construction of the MVP by the Fourth Circuit is part of a pattern of repeated challenges by environmental activists categorically opposed to oil and gas development at virtually every step of the permitting process for new oil and gas pipelines nationwide. ■

PIOGA Member Profile

THE EMPYREAN GROUP
Energy. Excellence. Empyrean.

The Empyrean Group (TEG) was founded in 2003 by former utility executives to provide experienced and talented professionals to the energy, T&D and manufacturing industries. Since its inception, the company has experienced significant growth, adding to its client list some of the nation's largest energy providers, Fortune 500 companies and government entities, as well as having been recognized by the *Pittsburgh Business Times* in 2008 and 2010 as one of the fastest growing companies in Pittsburgh and in 2009, 2010 and 2011 was selected as one of the Top 100 Diversity-Owned Businesses in Pennsylvania, one of the Top 100 Women-Owned Businesses in Pennsylvania, and as one of the Top 500 Asian-Owned Businesses in America by DiversityBusiness.com.

Over the past 17 years, TEG has been providing services in the areas of coal and natural gas generation outage support, vendor oversight, project management, project controls, shop inspections, etc., as well as retail energy marketing, and has provided engineering support in almost every discipline. TEG recognizes the value it represents by offering these same, quality, services to the oil and gas, and petrochemical industries. Services are typically in the form of specialty consulting, managed tasks and staff augmentation. Additional non-core services also include payrolling and direct placement services at the customer's request.

In 2019, TEG made a strategic decision to expand our services to include oil and gas upstream, midstream and downstream services. We feel that the shale industry represents a growth oriented, and sustainable opportunity for professional services for many years to come. We believe that operators, consulting firms, contractors and service companies also will value alternatives that can provide an opportunity to regulate professional bandwidth to mirror basin activity, while still maintaining the quality of talent it has always enjoyed. TEG believes that we are a critical component of your company's sustainability profile.

Website: www.empyreanonline.com
Contact: Darrell B Williams, Director of Business Development
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The CO2 Coalition needs your support to fight back

By Gregory R. Wrightstone

PIOGA and its membership are facing an existential threat to their businesses with the likely presidency of Joe Biden.

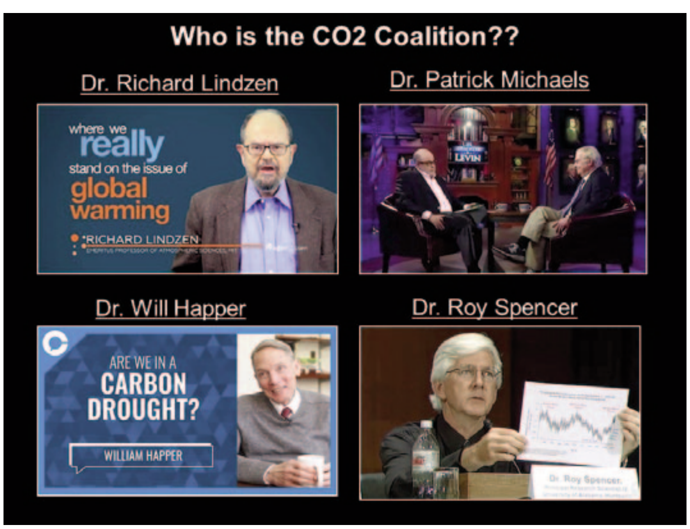
In his "victory" speech on November 7, Biden stated, "America has called upon us to...[fight] the battle to save our planet by getting climate under control." The Biden Plan includes long list of harmful proposals, including "denying federal permits for new fossil fuel infrastructure projects, and ensuring 100% clean renewable energy by 2035."

Biden has made it abundantly clear with his cabinet picks that he intends to make you and your employees sacrificial lambs for the global climate cause, starting with John Kerry, who will be his new special envoy on climate. Possibly even more concerning is his likely secretary of the treasury, Janet Yellen, who has long been a strong supporter of carbon taxation schemes. "When the central problem is the damage caused by greenhouse gas emissions, the cleanest and most efficient way to address it is to tax those emissions," says Ms. Yellen.

What can you do to combat this march to energy poverty and ruin? You can join me and the CO2 Coalition (co2coalition.org) in our defense of science and facts to confront misinformation used to demonize fossil fuels and a byproduct of their use, carbon dioxide.

Most of you know me as I have been speaking to your group for many years, first about activities in the Marcellus play and more recently on the fallacy of manmade climate change. I have been speaking out on radio, TV and to various groups. However, I desired a larger platform in order to influence a larger audience.

Who is the CO2 Coalition? Therefore, I am excited to be joining the CO2 Coalition as Executive Director in January to lead an impressive group of scientists. The CO2 Coalition was established in 2015 as a 501(c)(3) to educate thought leaders, policy makers and the public about the important contributions of carbon dioxide to our lives and the economy. The Coalition seeks to engage in an informed discussion about climate change, humans' role in the climate system, the limitations of climate models and the consequences of mandated reductions in CO2 emissions.



In carrying out our mission, we seek to strengthen the understanding of the role of science and the scientific process in addressing complex public policy issues like climate change. Science produces empirical, measurable, objective facts and provides a means for testing hypotheses that can be replicated and potentially disproven. Approaches to policy that do not adhere to the scientific process risk grave damage to the economy, to science and to people.

The coalition's leadership and its 60 members are a who's who of eminent scientists studying carbon dioxide and climate change, including atmospheric physicists, climatologists, ecologists, statisticians, and energy experts. Our strength is in advancing and researching the science that disputes the so-called "consensus" global warming narrative.

Our strength is in advancing and researching the science that disputes the so-called "consensus" global warming narrative. Recent papers (available at co2coalition.org/publications) include *Methane and Climate, On Climate Sensitivity,* and *What Rising CO2 Means for Global Food Security.* Our most recent publication, titled *The Global Mean Temperature Anomaly Record: How it works and why it is misleading,* was just released in early December by two of the top climate scientists in the world, Richard Lindzen of MIT and John Christy of the University of Alabama in Huntsville.

We are also active in advocating against destructive policy proposals being advocated at both the state and national levels and have been particularly active in Pennsylvania. I have testified twice concerning climate and the proposed Regional Greenhouse Gas Initiative (RGGI). Our current Executive Director, Caleb Rossiter, testified in Harrisburg in September concerning RGGI as well. On December 4, the Coalition posted a press release concerning RGGI (co2coalition.org/2020/12/04/co2-coalition-calls-for-the-removal-of-misinformation-used-in-support-of-pennsylvania-carbon-tax).

The Coalition has committed to a greatly expanded communication strategy to present our message to the public, legislators and thought leaders. We can play an important role in shaping public opinion and influencing the discussion across the nation and the world. Our planned communication expansion requires additional funding above our normal budgeting.

Please consider joining me and the Coalition in our efforts by making a financial contribution. Your support will help us widen our vital work. Tax deductible donations can be made to the CO2 Coalition at co2coalition.org/donate or by check, mailing to The CO2 Coalition, 1621 North Kent Street, Suite 603, Arlington, Virginia 22209.

Your support will be gratefully received and put to good use. ■

A generational opportunity to maximize Appalachia's shale gas boom

Across Appalachia, natural gas producers are supporting the energy security of the United States as they continue to tap the vast shale gas resources of the region. Shale gas is used for heating and power production, but the chemical industry also relies heavily on natural gas as a feedstock to manufacture valuable chemicals.

With some of the world's most cutting-edge facilities and a roster of preeminent fossil energy researchers, the National Energy Technology Laboratory (NETL) has decades of experience converting carbon to higher-value products and the established infrastructure to create an innovation center capable of transforming the downstream sector. With this in mind, NETL has prioritized natural gas utilization, leveraging the Lab's capabilities and expertise to identify more uses for natural gas and bring valuable products to market faster, at lower cost and with less environmental impact.

"We strive to bring national focus and coordination to technology development associated with the conversion of natural gas to high-value commodities, ultimately strengthening our national economy and national security," said NETL Director Brian J. Anderson, Ph.D.

NETL has invested hundreds of millions of dollars in facilities, equipment and expertise necessary to develop technologies that would be too risky or far-term for private-sector investment alone, helping to bridge the gap between initial discoveries and full-scale commercialization in which funding or support often falls through.

"Our own researchers, as well as partners in academia and industry, have explored and tested concepts with great potential," said Director of NETL's Research and Innovation Center Bryan Morreale, Ph.D. "But widespread adoption of these tools and technologies by industry still remains a challenge. We are exploring how to refine these technologies and make them more affordable, which will incentivize large-scale commercialization."

Prioritizing natural gas utilization is an important regional and national effort for NETL as it continues its work to create solutions for the nation's energy challenges. Efforts are already underway with industry to explore possible partnerships targeting the most challenging opportunities.

"NETL has established its presence as the premier research organization driving innovations and delivering fossil fuel-related technology related to industry," said NETL Deputy Director and Chief Research Officer Randall Gentry, Ph.D. "As an enabler, the Lab also can provide data, insight and analysis to better inform the conversation. NETL could function as a convener that brings together all interested parties across the value chain. We've already seen similar success at events like our recent InnovationXLab Carbon X Summit, and we know the industry interest is there."

DOE has positioned the nation to be energy secure through natural gas development, including NETL's game-changing research in horizontal drilling and hydraulic fracturing. By increasing use of natural gas, this priority will help support the rapidly evolving chemicals landscape, helping to ensure that the Appalachian region will seize this once-in-a-generation opportunity in the natural gas supply chain.

"There are thousands petrochemical facilities across 13 key industry sectors within 300 miles of Pittsburgh that manufacture adhesives, paints, plastics and many other important products," Anderson said. "Successfully developing our own regional natural gas processing and refining capabilities will enable a surge of new companies and jobs and enrich development of the workforce, particularly in economically depressed areas. Over the next decade, we are going to work hard to realize this goal through creating a Natural Gas Utilization Center of Excellence." ■

NETL (netl.doe.gov) is a U.S. Department of Energy national laboratory that produces technological solutions for America's energy challenges. From developing creative innovations and efficient energy systems that make coal more competitive, to advancing technologies that enhance oil and natural gas extraction and transmission processes, NETL research is providing breakthroughs and discoveries that support domestic energy initiatives, stimulate a growing economy, and improve the health, safety, and security of all Americans. Highly skilled men and women at NETL's sites in Albany, Oregon; Anchorage, Alaska; Houston, Texas; Morgantown, West Virginia; and Pittsburgh, Pennsylvania conduct a broad range of research activities that support DOE's mission to advance the national, economic, and energy security of the United States.

Recap: 2020 Oil & Natural Gas Tax and Accounting Seminar

Ask anyone about 2020 and they will say it has been an extraordinary year in so many ways—COVID-19, business shutdowns, working from home and government initiatives. In an effort to keep our members informed of the many programs put forth by the CARES Act as well as industry tax issues, we once again asked Arnett Carbis Toothman llp (ACT) to present their annual Oil & Natural Gas Accounting and Tax Seminar. The format of the November 18 event was changed to a virtual webinar due to COVID-19 restrictions.

In prior years ACT has presented three separate in-person seminars for PIOGA, the Independent Oil & Gas Association of West Virginia and the Southeastern Ohio Oil & Gas Association. This year the three organizations cosponsored the seminar. Tax and accounting issues affecting West Virginia, Ohio and Pennsylvania were discussed. Time was allotted for questions during the seminar and the ACT presenters have made themselves available for questions and consultations by phone or email after the seminar.

Presenters addressed general state and federal tax updates for 2020 and updates specific to the industry. Also covered was the CARES Act; Paycheck Protection Program forgiveness, tax and accounting considerations; purchase/sale, valuation, succession and estate planning; and IT security.

PIOGA extends a sincere thank-you to the team from Arnett Carbis Toothman for all their efforts to hold this annual seminar and to provide this valuable educational event to PIOGA members and guests. A special thanks to instructors Marlin Witt, Partner, CPA, CFP, CGMA; Bill Phillips, Partner, CPA; Charlene Tenney, Supervisor, Business Outsourcing; Chad Parker, CPA; Jonathan Jones, CPA; Benjamin Ellis, Director, Information Technology; and Scott Stone, Partner, Information Technology. They presented to a group of 60 participants who earned CPEs after the seven-hour course. ■

Election implications *Continued from page 4*

istration reviews and potentially revises or withdraws the regulations.

For example, litigation concerning the oil and gas Review Rule and the Reconsideration Rule is pending in the D.C. Circuit Court. The new administration could ask the court to suspend further proceedings until it reevaluates those two rules. Litigation involving a major regulatory revision to the National Environmental Protection Act (which is intended to streamline the Environmental Impact Statement process) is pending in federal courts in Virginia, California and New York for which the Biden administration could employ the same tactic. The same is true of the CCR and 401 Certification rules mentioned above as well as many others.

For Trump-era rules that have not been finalized yet, such as the proposed definition of "habitat" under the Endangered Species Act and the proposed reevaluation and reissuance of the Army Corps' Nationwide Permit 12, the Biden administration could simply direct EPA to stop work on these rules and withdraw others that are sitting with the Office of Management and Budget for review. And of course, the Biden administration could revoke the presidential permit granted to the Keystone XL Pipeline and take similar actions. Thus, despite how the Georgia special election plays out, many avenues are available to the Biden administration to remove perceived obstacles to the implementation of the Biden Energy Plan.

In the states

State environmental law can significantly affect the energy industry. Discussing the many state programs and how the 2020 elections will influence them is beyond the scope of this article. However, to highlight a few key points, 23 states have specific executive or legislative (or both) programs with specific greenhouse gas reduction targets. Twenty-nine states have renewable portfolio standards including Pennsylvania's Alternative Energy Portfolio Standard. California, New York, Nevada, Washington, Maine and Virginia each has enacted state laws to eliminate carbon emission from electric power plants.

Several regional initiatives relate to carbon pricing and carbon cap and trade. These include the Transportation Climate Initiative, for which 12 northeastern states signed a memorandum of understanding in 2019 to reduce carbon emissions from transportation; the Western Climate Initiative, a California economy-wide cap and trade program; and the Regional Greenhouse Gas Initiative (RGGI), for which the Pennsylvania Environmental Quality Board's proposed regulations are open for comment until January 14.

Political makeup in the states will play an important role in the Biden administration's implementation of the Biden Energy Plan. For example, the Wolf administration is committed to adopting final RGGI regulations to reduce CO_2 emissions which the General Assembly is trying to thwart, the most recent example being bipartisan House Resolution 1088, which urges the Independent Regulatory Review Commission to disapprove the proposed RGGI regulations. In Louisiana, Governor John Bel Edwards established a new Climate Initiatives Task Force through executive action to develop a blueprint to meet aggressive CO_2 emission reductions despite Republicans controlling the legislature.

Conclusion

It remains to be seen how the 2020 elections will play out for the energy industry. Courts undoubtedly will be asked to resolve the tension between the executive (President-Elect Joe Biden and some governors) and the legislature (possibly a Republican-controlled U.S. Senate and Republican state general assemblies) regarding legal authority for critical policies affecting the energy industry. Overarching these legal issues are the economic fallout from the COVID pandemic and a growing social sentiment to reduce the use of fossil fuels to respond to climate change. They may be as much or more important to the long-term composition of the energy industry. ■

Pennsylvania election *Continued from page 3*

Shapiro as “a very, very politically focused individual” who is expected to continue to use his office to advance his visibility in a run for governor in 2022.

Republicans increased their control over the state House of Representatives, going from a 109-93 margin pre-election to 113-90 heading into the 2021-2022 legislative session. The most notable Republican victory came in picking off Frank Dermody of Allegheny County, a long-time member of the House leadership. The industry lost one ally on the Democratic side of the aisle—Representative Joe Petrarca of Westmoreland County. He served in the House since 1995 and was a good friend of PIOGA and the conventional oil and gas industry. House Republicans had targeted his district for the last few election cycles, Lammando related.

As of the date of the webinar, there was still one Senate race to finalize due to a challenge to a pool of mail-in ballots. When the race is decided, it’s anticipated the margin will remain 28 Republicans, 21 Democrats and one independent, Senator John Yudichak of Luzerne County, who predominantly votes with the GOP.

“There’s going to be a lot of new faces in Harrisburg,” Lammando said, as the makeup of the General Assembly has changed due to retirements and incumbents who lost in elections. Over recent years, the Republican and Democratic caucuses have moved further to the right and left, making it more difficult to accomplish things in a bipartisan manner.

At the same time, the relationship between the GOP-controlled General Assembly and Governor Tom Wolf will become even more strained. Lammando explained that even before the 2020 election, the unwillingness of the governor to negotiate was a major stumbling block with the legislature. In the current election cycle, Wolf heavily spent heavily from his own money to try to defeat Republican candidates—something that backfired on him.

“After investing all that money, Republicans ended up being in a stronger position,” Lammando said. “I don’t foresee any improvement in the willingness to work together. The legislative leadership will be unlikely to tackle any big, important issues that would require buy-in from the governor.” Essentially considered a lame duck, Wolf is anticipated to continue to attempt to impose his way via executive orders and regulatory actions such as the current rulemaking to join the carbon cap-and-trade program of the Regional Greenhouse Gas Alliance.

Once the new session begins in January, the Gmerek team believes these will be the priorities of the legislature:

- Combatting COVID-19 and restarting the economy.
- Investigating the 2020 election, particularly how it was impacted by administrative and judicial actions.
- Reforming government, reducing expenditures to address the anticipated FY 2020-2021 deficit and finding non-tax ways to generate revenue, such as gambling expansion and privatization of the state liquor system.
- Legislative redistricting of both state and federal districts.
- Addressing the funding deficit for state road and bridge maintenance and construction. ■

SB 790 veto *Continued from page 1*

resources, responding to spills and restoration of water supplies that were damaged or diminished. The legislation originally would have restored the practice of allowing brine to be spread on dirt roads as a dust suppressant, but this provision was amended out as a concession in the House. Another concession was lowering the minimum spill reporting requirement from five to two barrels of oil and from 15 to five barrels of brine.

In his veto message, Wolf claimed the Department of Environmental Protection "repeatedly offered to engage collaboratively" with lawmakers and the industry. The reality is DEP never made a serious effort to negotiate over the legislation. Like many aspects of the Wolf administration, it's their way or no way—as these other snippets from the veto message show:

• SB 790 "rolls back protections for safe drinking water, weakens protections of public resources, allows more spills to go unreported, and avoids erosion and sediment control permitting requirements."

• "This legislation poses an unacceptable risk to the environment and the public health and safety of our citizens."

• "At a time when the conventional industry is still incurring violations at three to four times the rate of the unconventional industry, this legislation is completely unacceptable."

• "[S]everal provisions in the bill relating to burdens of proof, municipal input, public participation and inadequate authority to regulate and enforce environmental standards run afoul of the Pennsylvania Constitution and, based on precedent, would likely not withstand judicial scrutiny."

• The criticisms listed above "only address a fraction of the concerns related to this legislation."

PIOGA reaction

"PIOGA is extremely disappointed that Governor Wolf chose to veto Senate Bill 790. While the governor and DEP acknowledge the need for separate regulations for the conventional oil and gas industry, they continue to use Act 13 as their building-off point," said Dan Weaver, PIOGA president and executive director.

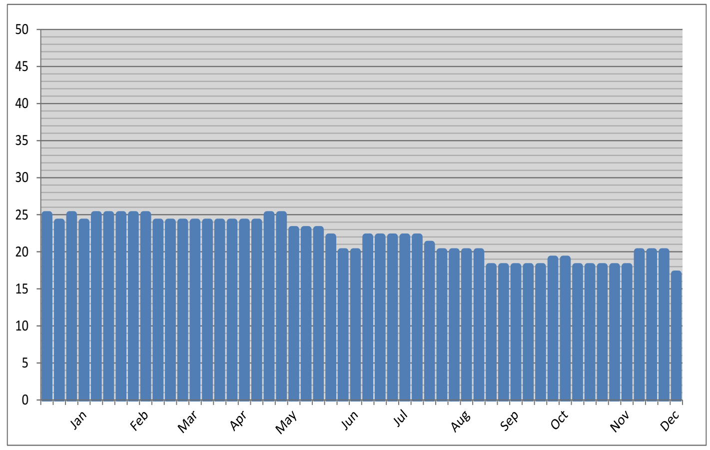
"We are particularly frustrated that the veto was based on a false narrative created by the DEP," Weaver continued. "The department clams the legislation would roll back protection of drinking water supplies, while in reality the bill mandates that replacement water supplies meet federal Safe Drinking Water Act (SDWA) standards or be comparable to the quality of water prior to impact. No other industry is held to an unreasonable standard that would require an operator to provide an improved water supply, a windfall to a landowner whose water did not meet SDWA standards in the past.

"The conventional oil and gas industry has operated for over 160 years in an area of the state that is touted for its pristine natural beauty, and SB 790 would not

Continues on page 22

Oil & Gas Dashboard

Pennsylvania Rig Count



Penn Grade Crude Oil Prices

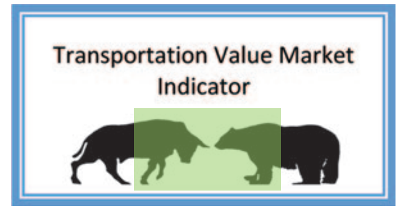
Natural Gas Futures Closing Prices

Month	Price
January 2021	$2.454
February	2.473
March	2.466
April	2.472
May	2.498
June	2.542
July	2.607
August	2.639
September	2.642
October	2.668
November	2.737
December	2.874

Prices as of December 8

Sources
American Refining Group: www.amref.com/Crude-Prices-New.aspx
Ergon Oil Purchasing: www.ergon.com/crudeoil
Gas futures: quotes.ino.com/exchanges/?r=NYMEX_NG
Baker Hughes rig count: bakerhughesrigcount.gcs-web.com/na-rig-count
NYMEX strip chart: Nucomer Energy, LLC, emkeyenergy.com

Northeast Pricing Report — December 2020

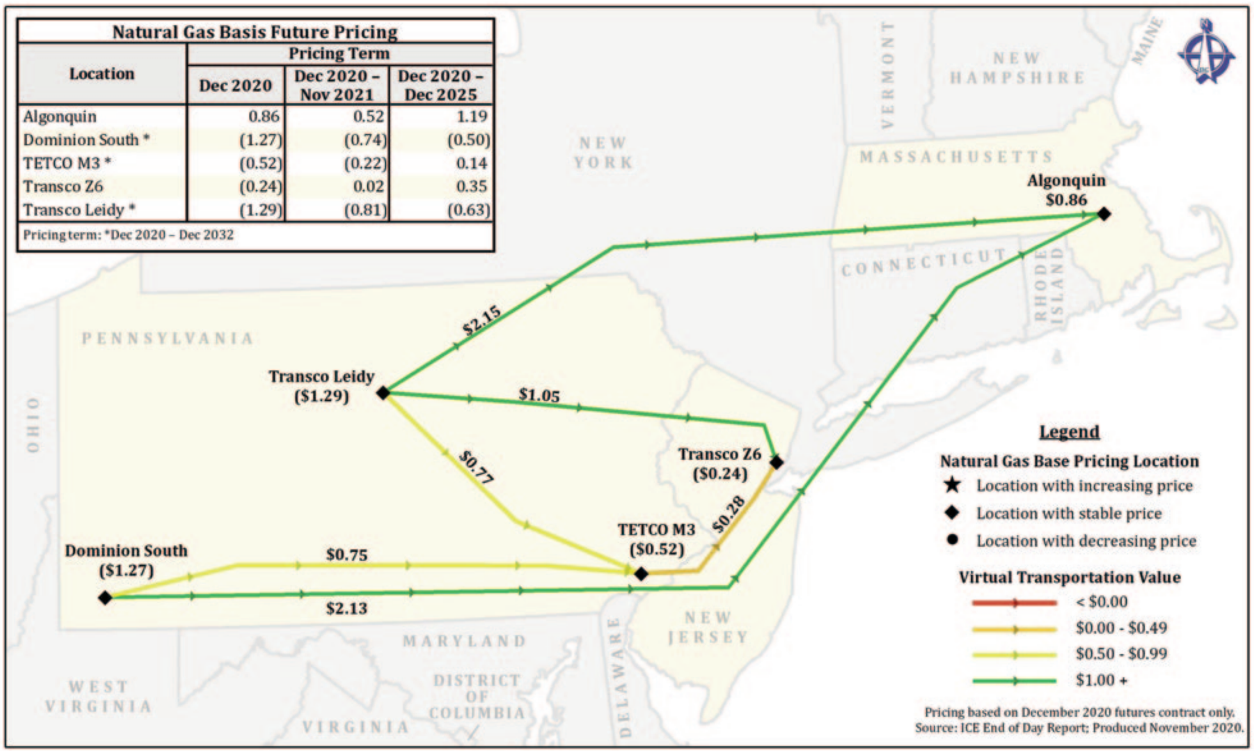


Provided by Bertison-George, LLC
www.bertison-george.com

All trading points continued to be mixed across all trading terms. Front month trading increased for each location, mainly influenced by winter fundamentals. Long-term trading continues to be suppressed. Transco and Algonquin saw the greatest increases of $0.62 and $0.56 per MMBtu. However, Dominion South only increased $0.01 per MMBtu. For the one-year trading term, every trading point decreased in value. Transco Z6 decreased the most at $0.31 per MMBtu. Dominion South decreased the least at $0.11 per MMBtu. The length of contract trading saw some significant drops for long-term trading. Transco Z6 decreased by $0.10 per MMBtu, which represents a 72% decrease from November's pricing.

Transportation values continue to increase going into winter. Transco Leidy to Transco Z6 had the greatest increase of $0.59 per MMBtu. Dominion to Algonquin and Transco Leidy to Algonquin were not far behind with increases of $0.59 and $0.53 per MMBtu respectively.

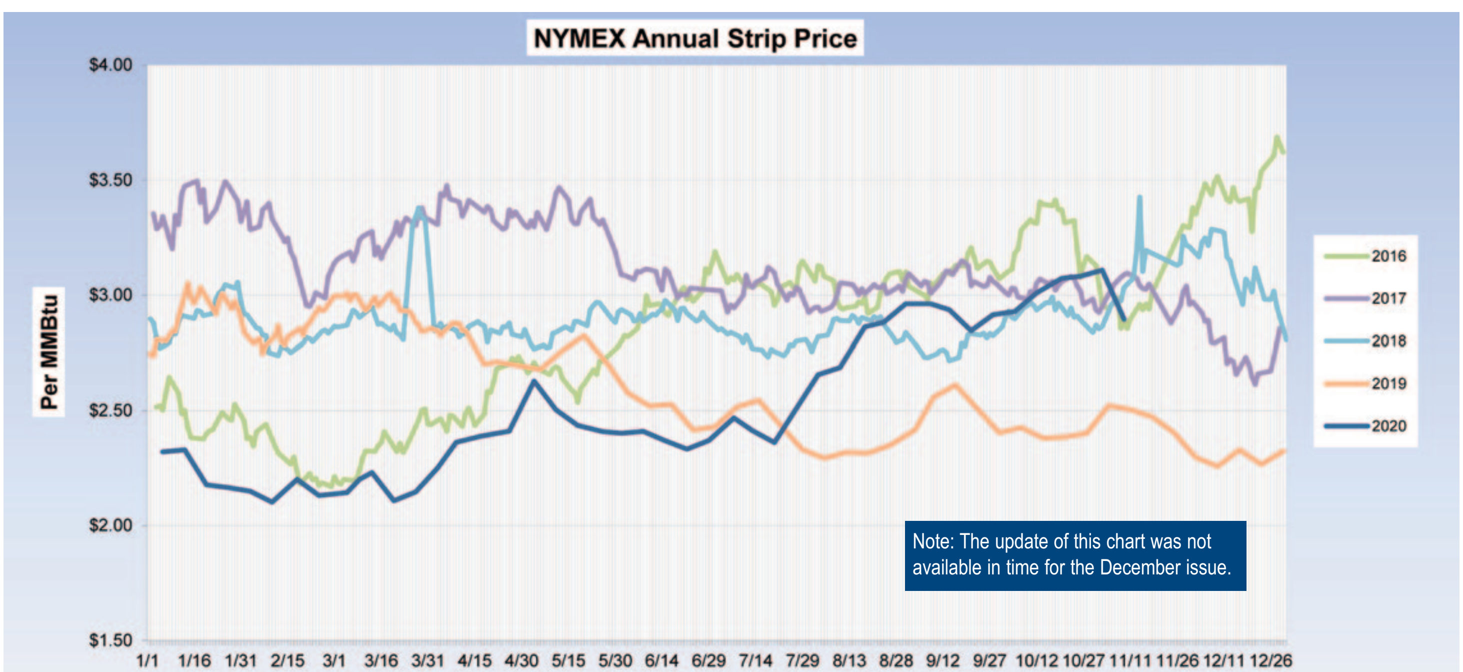
All values are per MMBtu



Natural Gas Basis Future Pricing

Location	Pricing Term: Dec 2020	Dec 2020 – Nov 2021	Dec 2020 – Dec 2025
Algonquin	0.86	0.52	1.19
Dominion South *	(1.27)	(0.74)	(0.50)
TETCO M3 *	(0.52)	(0.22)	0.14
Transco Z6	(0.24)	0.02	0.35
Transco Leidy *	(1.29)	(0.81)	(0.63)

Pricing term: *Dec 2020 – Dec 2032



Spud Report: November 2020

The data show below comes from the Department of Environmental Protection. A variety of interactive reports are available by going to the Office of Oil and Gas Management page at www.dep.pa.gov and choosing Report from the menu. The table is sorted by operator and lists the total wells reported as drilled last month. **Spud** is the date drilling began at a well site. The **API number** is the drilling permit number issued to the well operator. An asterisk (*) after the API number indicates a conventional well.

OPERATOR	WELLS	SPUD	API #	COUNTY	MUNICIPALITY
ARD Opr LLC	6	11/18/20	081-21846	Lycoming	Cascade Twp
		11/18/20	081-21850	Lycoming	Cascade Twp
		11/18/20	081-21847	Lycoming	Cascade Twp
		11/18/20	081-21848	Lycoming	Cascade Twp
		11/18/20	081-21849	Lycoming	Cascade Twp
		11/18/20	081-21874	Lycoming	McIntyre Twp
Bald Hill Oil	2	11/13/20	053-30911*	Forest	Howe Twp
		11/23/20	053-30910*	Forest	Howe Twp
Cabot Oil & Gas Corp	6	11/10/20	115-22747	Susquehanna	Lenox Twp
		11/4/20	115-22758	Susquehanna	Springville Twp
		11/4/20	115-22759	Susquehanna	Springville Twp
		11/4/20	115-22760	Susquehanna	Springville Twp
		11/4/20	115-22761	Susquehanna	Springville Twp
Cameron Energy Co	2	11/11/20	053-30914*	Forest	Howe Twp
		11/20/20	053-30918*	Forest	Howe Twp
Chesapeake Appalachia LLC	7	11/5/20	015-23653	Bradford	Wilmot Twp
		11/5/20	015-23654	Bradford	Wilmot Twp
		11/12/20	015-23613	Bradford	Wyalusing Twp
		11/12/20	015-23614	Bradford	Wyalusing Twp
		11/13/20	015-23612	Bradford	Wyalusing Twp
		11/18/20	131-20629	Wyoming	Meshoppen Twp
		11/18/20	131-20630	Wyoming	Meshoppen Twp
CNX Gas Co LLC	8	11/17/20	059-28033	Greene	Richhill Twp
		11/17/20	059-28036	Greene	Richhill Twp
		11/17/20	059-27999	Greene	Richhill Twp
		11/18/20	059-28035	Greene	Richhill Twp
		11/19/20	059-28032	Greene	Richhill Twp
		11/19/20	059-28034	Greene	Richhill Twp
		11/20/20	059-28038	Greene	Richhill Twp
	1	11/20/20	059-28037	Greene	Richhill Twp
MSL Oil & Gas Corp		11/4/20	083-56771*	McKean	Wetmore Twp
PennEnergy Resources LLC	5	11/16/20	019-22848	Butler	Winfield Twp
		11/16/20	019-22840	Butler	Winfield Twp
		11/16/20	019-22849	Butler	Winfield Twp
		11/17/20	019-22850	Butler	Winfield Twp
		11/17/20	019-22851	Butler	Winfield Twp
Seneca Resources Co LLC	6	11/12/20	081-21869	Lycoming	Gamble Twp
		11/12/20	081-21868	Lycoming	Gamble Twp
		11/12/20	081-21873	Lycoming	Gamble Twp
		11/12/20	081-21872	Lycoming	Gamble Twp
		11/13/20	081-21870	Lycoming	Gamble Twp
		11/13/20	081-21871	Lycoming	Gamble Twp
SWN Prod Co LLC	8	11/24/20	015-23658	Bradford	Herrick Twp
		11/25/20	015-23656	Bradford	Herrick Twp
		11/26/20	015-23655	Bradford	Herrick Twp
		11/27/20	015-23657	Bradford	Herrick Twp
		11/14/20	115-22795	Susquehanna	New Milford Twp
		11/15/20	115-22796	Susquehanna	New Milford Twp
		11/16/20	115-22793	Susquehanna	New Milford Twp
		11/17/20	115-22794	Susquehanna	New Milford Twp

	November	October	September	August	July	June
Total wells	**50**	**45**	**58**	**23**	**43**	**35**
Unconventional Gas	45	34	51	19	41	34
Conventional Gas	0	0	0	0	0	0
Oil	5	11	7	4	2	1
Combination Oil/Gas	0	0	0	0	0	0

SB 790 veto *Continued from page 20*

have changed that," Weaver said.

State Representative Martin Causer (R-McKean), who was the prime sponsor of similar legislation in the House, had this reaction to the governor's veto:

"There are major differences between unconventional deep-well drilling and conventional, shallow-well drilling...differences that this administration continues to ignore because it doesn't fit their narrative," Causer said. "The industry is struggling immensely, and a significant cause of that struggle is the lack of understanding and purposeful misrepresentation of how our conventional oil and gas operations work in a safe and environmentally conscious manner.

"Nearly all of Pennsylvania's conventional oil and gas wells are owned and operated by sole proprietors or small businesses. These men and women live, work and raise their children in the same communities where they are drilling for oil and gas. They are capable of and committed to producing this valuable energy source while also ensuring clean air and water for themselves and future generations," Causer added.

SB 790 was introduced in June 2019 and passed the Senate by a vote of 26-23 in October of that year. The amended version cleared the House of Representatives by a 109-93 margin in May 2020 and was sent back to the Senate for a vote to concur with the House amendments. The final vote in the Senate was 29-19 on November 17, with the bill then going on to the governor and its ultimate veto.

With the two-year legislative session now ended, bills must to be reintroduced when the new session begins in January. Unfortunately, any legislation that would be acceptable to the industry would suffer another veto if it clears the General Assembly again, making a legislative solution unlikely so long as this governor is in office.

At the same time, the Department of Environmental Protection is moving forward with a Chapter 78 regulatory package aimed at the conventional industry. This initiative will include two rulemakings—one dealing with environmental protection performance standards and the other with waste management and related issues. PIOGA and other groups will need to focus their energies on these rulemakings to ensure the result is something that conventional operators can live with.

Pipeline emergency plan bill enacted

One piece of industry-related legislation did make it into law this session after unanimously passing both chambers of the General Assembly.

House Bill 2293 requires that public utilities delivering natural gas liquids via pipeline through high consequence areas make their emergency response plans available to the Pennsylvania Public Utility Commission, the Pennsylvania Emergency Management Agency and the emergency management director of each county where the high consequence area is located. The new Act 130 of 2020 also ensures this information is protected and still is treated as the sensitive information it is by requiring all reviewers of the information to comply with the Public Utility Confidential Security Information Disclosure Protection Act.

The act takes effect 60 days after being signed on November 25. ■

New PIOGA members — *welcome!*

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Calendar of Events

PIOGA events

Information: pioga.org > PIOGA Events
Due to uncertainty surrounding the COVID-19 crisis, please check our website for event updates.

PIOGATech: Air Quality Compliance
December 15, virtual event

Other industry events

OOGA Networking/Holiday Reception
December 17, Zanesville, OH
Info: www.ooga.org/events

IOGAWV Winter Meeting
February 17-18, Charleston, WV
Info: iogawv.com

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115 VIP Drive, Suite 210, Wexford, PA 15090-7906
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