

The PIOGA Press

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Groups petition for massive increases in oil & gas well bonds

By Kevin J. Garber, Sean M. McGovern and
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Babst Calland

On September 14, the Sierra Club, PennFuture, Clean Air Council, Earthworks and other groups submitted two parallel rulemaking petitions to Pennsylvania's Department of Environmental Protection (DEP) asking the Environmental Quality Board (EQB) to require full-cost bonding for conventional and unconventional oil and gas wells, for both new and existing wells. The petitions do not address or consider the permit surcharges and other funding mechanisms for plugging wells, including the federal infrastructure bill that is expected to provide millions of dollars to plug abandoned wells.

Background

The Pennsylvania General Assembly addressed and increased bonding in 2012. Under Act 13, well owners/operators are required to file a bond for each well they operate or a blanket bond for multiple wells. Currently, the bond amount for conventional wells is \$2,500 per well, with the option to post a \$25,000 blanket bond for multiple wells. 72. P.S. §1606-E. For unconventional wells, the current bond amount required varies by the total well bore length and the number of wells and is limited under the statute to a maximum of \$600,000 for more than 150 wells with a total well bore length of at least 6,000 feet. 58 Pa.C.S. §3225(a)(1)(ii). EQB has statutory authority to adjust these amounts every two years to reflect the projected costs to the Commonwealth of plugging the well.

Proposed changes to bond amounts

The petitioners contend that a lack of full-cost bond-



All wells drilled since April 1985, not just new wells, would be subject to the higher bond levels.

ing has resulted in the abandonment of thousands of wells and that such wells pollute the environment and adversely affect the health of communities, and allege that the EQB has an obligation to increase bond amounts pursuant to the petition under the Environmental Rights Amendment. Pa. Const. art. I, §

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Well bonding petitions *Continued from page 1*

27. Petitioners argue that increased bond amounts would encourage operators to plug non-producing wells or provide funds for the state to plug wells if an operator does not plug them.

The petitioners rely upon the EQB's authority to adjust a well's bond "every two years to reflect the projected costs to the Commonwealth of plugging the well" (58 Pa.C.S. § 3225(a)) to propose a dramatic increase in bond amounts, applying the increases retroactively.

Petition for full-cost bonding for conventional wells. The petition for conventional well bonding seeks to amend 25 Pa. Code § 78.302.

The petition requests the bond increase from \$2,500 to \$38,000 per well and the blanket bond increase from \$25,000 to the sum of the applicable individual bond or security amount required for each well. For example, a blanket bond for 10 wells at \$38,000 per well would total \$380,000. The petitioners contend that the proposed bond amount is supported by an expert analysis of average well plugging costs from 1989 to 2020. The expert report concludes that the bond should be raised to \$25,000 and \$70,000, for conventional and unconventional wells respectively. The petition notes, however, that \$38,000 is in line with DEP's estimate of \$33,000 for its average historical cost of plugging abandoned/orphaned conventional wells.

The amendment requested would apply to new as well as existing wells drilled after April 17, 1985. The amendment also would require DEP to report to EQB every two years (four years, if two is not feasible) whether EQB should adjust the bond amount.

Petition for full-cost bonding for unconventional wells. The petition asks EQB to adopt a new regulation for unconventional wells in 25 Pa. Code Chapter 78, which would mirror an amended regulation for conventional wells, even though 25 Pa. Code § 78a.302 already exists and would contradict the proposed new regulation.

The petitioners want EQB to increase the bond from the current range, which starts at \$4,000 per well, to \$83,000 per unconventional well. Blanket bonds would equal the sum of the applicable individual bond or security amount required for each well. For example, a blanket bond for 10 wells at \$83,000 per well would total \$830,000. The petitioners rely on substantially the same analysis and rationale used in their petition for conventional wells to support the increased bond amounts.

Like the petition for conventional wells, the regulation would apply to new and existing unconventional wells drilled after April 17, 1985, and would require DEP to report to EQB every two years (four years, if two is not feasible) whether EQB should adjust bond amounts.

What happens next?

Under EQB's Petition Policy (25 Pa. Code Chapter 23), DEP must determine whether the petitions are complete and if they request an action that EQB can take without conflicting with federal law. If DEP determines

PIOGA's response to the well-bonding petitions

PIOGA held a virtual meeting/conference call with producer members on September 22 to discuss the activist groups' petitions for greatly increasing the amounts required for well bonding (see accompanying article) and to determine the association's response. The consensus was that the proposal would financially harm operators, with the potential to put some out of business; that the petitions rely on less-than-accurate data; that the increased bonding would do nothing to solve the Commonwealth's orphan and abandoned well problem; and that PIOGA should vigorously fight the proposal.

The association cannot formally get involved in the process until proposed rulemakings are published for public comment. However, at this time we *can* educate legislators and other policymakers about the devastating impact these bonding requirements would have—especially on conventional operators.

Toward that end, PIOGA has requested information from our producer members. If you are a producer and your company has not responded to PIOGA's questions requesting specific information, we urge you to do so as soon as possible. If you didn't receive the questions and want to help, please contact Dan Weaver, Matt Benson or Kevin Moody. Responses should go to Kevin Moody, PIOGA's General Counsel & Vice President for Government Affairs, at kevin@pioga.org. **All information sources will remain strictly confidential.**

Our short-term goal is to develop a one-page information sheet that can be provided to lawmakers and others and that can serve as talking points for members to reach out to their own state representative and senator.

the petitions meet the above conditions, it will inform EQB of the petition and the nature of the request. The petitioners may make a brief oral presentation at the next EQB meeting occurring at least 15 days after the department's determination, and DEP will make a recommendation whether the EQB should accept the petition. ■

Babst Calland is tracking these petitions and subsequent actions taken by DEP and the EQB. If you have questions regarding the potential regulatory changes described above, please contact Kevin Garber at 412-394-5404 or kgarber@babstcalland.com; Sean McGovern, 412-394-5439 or smcgovern@babstcalland.com; or Jean Mosites, 412-394-6468 or jmosites@babstcalland.com.

PIOGA Annual Membership Meeting report

After going virtual in 2020 due COVID, PIOGA's Annual Membership Meeting thankfully returned to an in-person format this year. About 70 members signed up for the September 15 event at The Chadwick in Wexford to hear updates on the work of the association, provide input on merger discussions with another producers' organization and enjoy a networking reception.

Board Chairman Gary Slagel of Steptoe & Johnson was the afternoon's first speaker. He reviewed PIOGA's mission and vision statement, highlighting key phrases including "swift and decisive" action on legislative and regulatory issues and committees that are "open and interactive and provide concise information on a regular basis."

"This really is an organization based on communication," he said.

After announcing the results of the recently concluded

election of directors (*see accompanying article*), Slagel went on to recognize PIOGA's Board of Directors and Executive Committee. "This is a board that is very high functioning, always interactive," he commented. "It's a good way to conduct our business."

Slagel also thanked the staff for their efforts in carrying out the organization's work, especially planning and carrying out a full slate of events ranging from committee meetings and PIOGATech training to conferences and networking events.

President and Executive Director Dan Weaver provided a State of the Association overview that highlighted:

- PIOGA currently has more than 360 member companies, a number that is holding steady.
- Since last year's annual meeting, PIOGA conducted 11 in-person events. Counting committee and board meetings, PIOGA has held approximately 80 events in past 12 months.

Congratulations to our newly elected board members

The results of this year's board elections were announced at the Annual Membership meeting held on September 15. Congratulations to the eight members selected to fill the board seats for the 2021-2024 term: Stanley Berdell - BLX, Inc., Paul Espenan - Diversified Energy Company PLC, Sam Fragale - Freedom Energy Resources LLC, James Kriebel - Kriebel Companies, David Marks - BHE Eastern Energy Field Services, Teresa McCurdy - TD Connections, Inc., Len Paugh - Long Ridge Energy Generation and Gary Slagel - Steptoe & Johnson PLLC. Seven of the board members were incumbents, with one new member elected.

Meet PIOGA's newest board member, Len Paugh

Len brings more than 30 years of oil and gas experience to his role as the head of gas development for Long Ridge Energy. His current responsibilities include development of Long Ridge's gas assets, mid-stream and marketing of the gas for the power plant. Len is also heavily involved in the alternative energies program at Long Ridge.

Prior to his involvement with Long Ridge, he was a principal at the Peters Management Group, a unique technical and operational consulting firm with specialization in multiple industries including coal, mineral processing, oil and gas, and power generation. Prior to founding PMG, Len was a founding member and Chief



Operating Officer for Mountaineer Keystone and MK Midstream. Prior to MK, Len was the Operations Manager for Pennsylvania and West Virginia for Range Resources. While at Range, Len led the team developing the discovery wells in the Marcellus Shale. Len's responsibilities at Range included the day-to-day operations of drilling 250-plus wells per year, operating 5,000 wells, 2,500 miles of pipeline, 30 compressor stations and a staff of more than 150 people with annual budgets in excess of \$100MM. Len holds a Bachelor of Science degree in Petroleum and Natural Gas Engineering from West Virginia University.

Thoughts on joining the PIOGA board: "PIOGA members represent our industry with passion and integrity. My desire is to bring a perspective of not only an operator, but also that of an end-user (consumer) of the gas."

Thanks for your service!

Our thanks go out to Rico Biasetti from NG Advantage for his service to PIOGA as he ends his stint on the Board of Directors.

"Rico has been an active member and board member for the past three years and we appreciate his commitment to PIOGA. Rico led by example and actively engaged himself and his employees for the good of the industry. We thank Rico for this leadership and dedication to the Board of Directors," said Dan Weaver, President & Executive Director.





At the Board of Directors meeting held just before the Annual Meeting, Ken Fleeman (center) was presented a plaque in honor of his service to the board. It was Fleeman's final meeting as a board member. Shown making the presentation are PIOGA President & Executive Director Dan Weaver (left) and Chairman Gary Slagel (right)

• This year, PIOGA began a monthly "Just the Facts" series of fact sheets emphasizing the good the industry is doing and countering misinformation about oil and natural gas. Just the Facts goes out to members and policymakers each month and is posted on PIOGA's social media accounts. Weaver urged members to share these posts to help PIOGA spread these messages even more widely "to help combat ignorance about our industry." He also encouraged members to suggest topics they would like to see addressed in a Just the Facts edition.

Weaver briefed members about the billions of dollars that would be available to states and tribes to plug orphan and abandoned wells under the massive infrastructure bill moving through Congress. In Pennsylvania, the Department of Environmental Protection is preparing for this funding by identifying priority wells to be plugged and contractors that would be available to take on plugging projects. Unfortunately, the state's contractor requirements are overly burdensome, and Weaver urged interested members to fill out a survey to help guide DEP is adopting more realistic requirements. (Contact Weaver at dan@pioga.org to receive a survey to complete.)

Weaver emphasized in closing, "We are at war, fighting a war of attrition" for the survival of our industry against those opposed to continued use of fossil fuels. "We here at PIOGA are happy to be your shield, your spear tip."



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PIPP merger discussion

The Pennsylvania Independent Petroleum Producers (PIPP) is an organization of about 250 members representing producers primarily in the northwest part of the state. Slagel explained that PIOGA and PIPP have been discussing a merger on an informal basis for about a year. The PIOGA Board of Directors wanted to use the Annual Meeting to ask members whether merger negotiations should proceed formally.

Slagel noted that while there remain many details to be worked out, benefits of combining the two organizations would include a more unified voice for the industry in Harrisburg, increased administrative efficiencies and increased dues revenue.

A show of hands indicated that members participating in the meeting were overwhelmingly in favor of taking discussions to the next stage.

Legal and legislative updates

Kevin Moody, PIOGA General Counsel and Vice President for Government Affairs, provided a fast-paced overview of the many legal actions, rate cases and pipeline-related rulemakings the association has monitored or been involved in. Many of these have been reported on over the past year in the pages of *The PIOGA Press* or the PIOGA eWeekly electronic newsletter.

Moody paid particular attention to PIOGA's suit against the PA One Call System, Inc. (POCS). Oral arguments were held September 13 in the Clarion County Court of Common Pleas. PIOGA charges that POCS' operation costs are not shared among facility owners in an equitable manner and fees for services provided to contractors are not based on the costs of the services, that POCS' election of board members does not comply with the PA One Call Law, and that POCS failed to provide board positions for pipeline owners/operators associated with conventional and unconventional wells as directed by a 2017 law. Moody said he was pleased with the way oral arguments went and the judge's apparent grasp of the issues involved.

Dick Gmerek of PIOGA's lobbying firm, Gmerek Government Relations, observed that even though PIOGA has scored recent successes in Harrisburg—including warding off a severance tax and pushing legislation differentiating between conventional and unconventional operations—there is still a huge amount of misunderstanding about the industry on the part of much of the General Assembly. As an example, he noted that many legislators



Dick Gmerek of Gmerek Government Relations.



PIOGA's Kevin Moody provides his legal update for members at the Annual Meeting

believe that oil and gas resources belong to the state rather than private owners.

A big problem, Gmerek continued, is that Harrisburg is dysfunctional. "No one gets along with anyone else, not even Republicans with Republicans," he noted. Relations continue to be poor between the GOP-controlled legislature and the Wolf administration—as the handling of the COVID crisis and the 2020 election process demonstrated.

Governor Tom Wolf's go-it-alone style is exemplified by his push for Pennsylvania to join to Regional Greenhouse Gas Initiative (RGGI), which is opposed by a majority in the General Assembly. Gmerek said it appears the CO2 cap-and-trade regulations are a done deal unless stopped by the courts or unless implementation can be dragged out until a Republican governor can be elected in 2022. For the latter to occur, Gmerek added, Republicans will have to get behind a strong, consensus candidate—which isn't looking likely at this point, with the large number of potential candidates in the running.

Committee reports

Environmental Committee. Co-chairs Paul Hart of Diversified Energy Company and Ken Fleeman provided an overview of their committee's structure and the many state and federal issues the group is dealing with. "It's all about the people," Hart said, praising the willingness of members to become involved and share their expertise.

Hart and Fleeman used the agenda from the most recent committee meeting to highlight hot topics such as DEP's ongoing development of a controversial prioritized review program for the erosion and sedimentation control general permit known as ESCGP-3; helping coordinate industry input on DEP's draft rulemakings for conventional oil and gas operations; road spreading of produced water; inconsistencies in well plugging requirements; federal Subpart OOOOa methane emissions regulations that are in flux; and much more.

Continues on page 16

PIOGA events this month



4th Annual Pins & Pints – Halloween Edition

Shine up your bowling ball, dust off those shoes and come join us for some wicked networking, bowling, beverages, food, and lots of fun with your industry colleagues and fellow ghouls! It happens the evening of Thursday, October 21, at Zone 28 in Pittsburgh.

As always, we offer registration for individuals, or you can sign up a team of five. Sponsorship packages are available too.

Costumes are optional, but those who join in are eligible for a devilish surprise!

Space is limited, so sign up today!



PIOGATech PIOGA's Technical Seminar Series

Handling Flammable Liquids and Vapors

This five-hour training takes place Tuesday, October 26, at the Holiday Inn Express & Suites in Canonsburg. Speakers will cover coded vessels for tank trucks loading, unloading and transporting flammable liquids; understanding the differences in coded versus non-coded vessels; types of pumps, valves, hoses and seal materials to be used on tank trucks when handling flammable liquids and vapors; bonding and grounding of the truck, hoses, and other equipment when handling flammable liquids and vapors; and condensate safe operating procedures and hazard controls.

The registration fee of \$175 for PIOGA members or \$250 for nonmembers includes the training, breakfast, lunch and CEU/PDH certificate upon completion. The deadline to register is October 18.

Registration & information:
www.pioga.org > PIOGA Events

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When politics—not market forces—drive energy policy

Energy users in Pennsylvania and much of the U.S. have benefited greatly in recent years from the emergence of huge supplies of affordable domestic natural gas from shale formations, including the Marcellus and Utica. Prices both for home heating from natural gas and for year-round electricity in states that allow market forces to drive energy-related policies have allowed families to spend far less on utility bills—an estimated \$50 billion total savings over the past four years—according to the American Gas Association.

Unfortunately, political agendas have been used more frequently in recent years in states and countries to interfere with the market forces that have kept energy reliable and affordable, such as Governor Tom

Wolf's efforts to join the Regional Greenhouse Gas Initiative (RGGI) without legislative concurrence.

The October edition of PIOGA's Just the Facts series highlights two examples where political manipulation has created energy crises—one longer in development in California and a second occurring in real time in Europe. The result of both is the same: higher prices for businesses and consumers and lost opportunities for the economy.

You can read this and other editions of Just the Facts by visiting the Latest News and Blog section at pioga.org. As always, you can download Just the Facts for your own use and to share with friends, colleagues and policymakers.

Senate committee adopts concurrent resolution blocking RGGI regulation

Following the action of its House counterpart 12 days earlier (*September PIOGA Press, page 1*), the Senate Environmental Resources and Energy Committee on September 14 approved a concurrent resolution that blocks implementation of Governor Wolf's regulation creating a CO2 cap-and-trade program for fossil fuel-powered electricity generators and enabling Pennsylvania to join the multistate Regional Greenhouse Gas Initiative (RGGI). The adopted concurrent resolution would disapprove the regulation, block its implementation and prohibit the Department of Environmental Protection from further promulgating a regulation on RGGI.

Speaking in support of the resolution at the September 12 hearing, the committee chair, Senator Gene Yaw (R-Lycoming), noted that the committee has conducted many hearings and heard from those impacted by the proposal and from scholars and individuals who manage the regional power grid. Based on the hearings, he contended that:

- Governor Wolf does not have the statutory authority to enter the environmental compact. Further,

Pennsylvania's participation in other multistate collaborations has occurred through legislation, which is not the case with RGGI.

- Joining RGGI requires Pennsylvania to give up its economic and environmental controls involving energy to 11 other states. Those states have long opposed Pennsylvania's position as an energy producer and net exporter of energy.

- Joining RGGI would result in a tax on energy and the decommissioning of power-generating facilities. Researchers and power grid managers have noted that energy prices could increase by as much as 18 percent. Further, it is projected that over 10 years, CO2 emissions will decrease by less than 1 percent if Pennsylvania joins RGGI. Pennsylvania will lose jobs and give up the ability to manage its economy for a very small projected decrease in CO2 emissions.

- It is clear that coal-fired and natural gas-fired electricity generation will leave Pennsylvania and surrounding states will pick up the power load. Pennsylvania joining RGGI does not remove this fossil fuel generation from the market. The power generation goes elsewhere, and Pennsylvania is still impacted by the emissions from West Virginia and Ohio, which have less stringent environmental standards. However, Pennsylvania will have lost thousands of jobs and face higher energy prices.

In opposition to the concurrent resolution and in support of Pennsylvania joining RGGI, the committee's

minority-party chair, Senator Carolyn Comitta (D-Chester), defended Wolf's efforts by arguing that the governor has the legal authority under the Air Pollution Control Act and the Pennsylvania Constitution to undertake this effort to protect Pennsylvania's environment. While Senator Comitta noted that the sides would never reach an agreement on RGGI, she said there are many other issues and legislation on which there is an agreement to move forward to protect Pennsylvania's environment. As such, the committee should agree to disagree on RGGI but move forward on other issues that will complement the benefits of joining RGGI.

PIOGA's government relations firms tells us that with both the House of Representatives and the Senate putting a concurrent resolution into motion disapproving RGGI, each legislative chamber has the greater of 30 calendar days or 10 legislative days to pass the resolution. The same concurrent resolution must pass each legislative chamber before it is presented the governor for his consideration. It is expected Governor Wolf will veto the resolution, thereby setting up a future legal challenge on the regulation and whether the Wolf administration has the authority to enter Pennsylvania into RGGI.

With Wolf having only 15 months remaining in office, this matter will be a prominent issue in the 2022 race for governor and may not be decided until a new governor takes office.

Climate Action Plan update

Not surprisingly, phasing out greenhouse gas emissions from the electric-generation sector plays a star role in the 2021 edition of the Pennsylvania Climate Action Plan released by the Wolf administration on September 22. The plan is required every three years by a 2008 law that established Pennsylvania's first statewide policy on climate change. It is meant to inform state policy, but it is not a mandate.

The 2021 Climate Action Plan highlights 18 changes that would enable Pennsylvania to meet the Wolf's goal of reducing greenhouse gas emissions 80 percent by 2050 from 2005 levels.

More than a third of the emissions cuts in the plan would come from just one of the strategies—making the state's electric grid carbon-free by 2050 by phasing out coal and natural gas power plants, sustaining all existing nuclear plants and vastly increasing solar and wind and battery generation. Other strategies that would drive down emissions by large margins include energy efficiency upgrades and fuel switching at industrial plants as well as wide adoption of electric vehicles.

The 2021 plan states that statewide greenhouse gas emissions overall were nearly 19 percent lower in 2017 (the latest year for which

data were available for the plan) than they were in 2005. Emissions decreased from electricity generation, residential and commercial fuel use, and transportation and increased from mining, oil, and natural gas operations and industrial-process heating fuel use.

Without increased action, the administration argues, Pennsylvania's greenhouse gas emissions in 2050 will exceed 2005 levels.

"We need to cut emissions significantly more to protect Pennsylvanians from worsening climate change impacts," said DEP Secretary Patrick McDonnell. "The good news is, we've made a start. The even better news is, there are number of tools at hand that can quickly boost our progress."

Those "tools" include:

- Joining the Regional Greenhouse Gas Initiative.
- Requiring commercial buildings to meet higher energy efficiency standards.
- Increasing use of electric vehicles.
- Increasing the Alternative Energy Portfolio Standards to require electricity generators to get more of their energy from clean renewable sources.
- Increasing the energy savings requirements for electric distribution companies, thereby boosting residential and commercial electrical energy efficiency.
- Requiring natural gas utilities to meet similar energy savings requirements.
- Increasing capture of biogenic methane from non-fossil sources—including animal manure, food waste and landfill gas—for commercial and industrial use.

Reaction. In response to the release of the 2021 Climate Action Plan, Senator Yaw said in a statement: "We have to stop fooling ourselves that fossil fuels are to blame. Without fossil fuels, there can be NO clean or 'green' energy. The Climate Action Plan repeatedly references 'clean energy' while ignoring that fossil fuels are needed for every aspect of unreliable renewables. How are wind turbines and solar panels made? They don't just fall out of the sky." ■



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ACT with confidence

The following letter was sent on September 10 from the Pennsylvania Grade Crude Development Advisory Council (CDAC) to Patrick McDonnell, Secretary of the Pennsylvania Department of Environmental Protection. CDAC's chair, Dave Hill of Hill Drilling, is also a member of the PIOGA Board of Directors. Act 52 is the 2016 law that created CDAC.

Dear Secretary McDonnell,

It has come to the attention of the Pennsylvania Grade Crude Development Advisory Council (CDAC) that the Pennsylvania Department of Environmental Protection (DEP) has failed to keep the CDAC apprised of DEP activities that are clearly within the mandates of Act 52 to do so. Most recently and most specific is the failure of DEP to inform CDAC of two studies conducted by Penn State University (PSU) on behalf of DEP concerning road spreading of produced fluid on dirt and gravel roads to control dust and stabilize the road beds.

Road spreading of produced fluid is a subject that has been discussed time and again during CDAC meetings at which DEP representatives have been present and participants, and is clearly a subject of interest to CDAC, conventional oil and gas operators, and other stakeholders.

For example, at the November 12, 2019, CDAC meeting, member Burt Waite reported that the Produced Water Committee had collaborated with Dr. William Burgos of PSU by garnering support from industry to provide in-kind services as matching funds for a proposal from PSU to the U.S. Department of Energy. Unfortunately, Dr. Burgos and PSU were not successful in their bid to study the environmental impacts of road spreading, but it clearly demonstrated CDAC's interest in the subject. Further, the CDAC Produced Water Committee has reported on road spreading of produced water at most CDAC meetings for the past several years.

It was thus a surprise when William Henderson, who is a resource person for the CDAC Water Committee and an employee of the produced water treatment company GCI, reported at the August 6, 2020, CDAC meeting that he had become aware that a road spreading impact study—directly targeted to quantifying the nature of run-off water quality from roads treated with produced water, with an emphasis on radium—was underway by PSU under the direction of Dr. William Burgos. Inquiries were made and it was disclosed in phone conversations between the Produced Water Committee members and DEP Deputy Secretary Scott Perry that indeed a PSU study was underway and that the study was funded by DEP. CDAC expressed its disappointment that it has not been asked to provide input into the study scope and agenda and that CDAC had not even been informed that the study was underway. The omission prevented the Produced Water Committee and CDAC from performing their duties as mandated by Act 52.

Further, immediately prior to the August 19, 2021, meeting it was discovered through internet blogs that a second PSU study on road spreading that was again funded by DEP had been completed and was being published in a scientific journal. Again, a study that was funded by DEP and was of clear interest to CDAC and its Produced Water Committee was kept secret, again preventing CDAC from performing its duties mandated by Act 52.

The scoping and outcome of these two studies were and are completely within the purview of CDAC. The most recent study would have benefitted from CDAC's participation because, while this study states that the removal of radium (as opposed to dissolved solids) from the water prior to spreading would not reduce the benefits of using brine to control dust and stabilize dirt roads to an appreciable degree, people who are intimately familiar with brine treatment believe that this process is more complex, more difficult and requires more permitting than originally envisioned, which makes its use impractical and unrealistic at individual tank battery or lease sites.

The purpose of this letter is to formally remind DEP of its obligations under Act 52 to work with CDAC and inform CDAC of matters that pertain to the conventional oil and gas industry and operators in the state:

(1) To consult with the council on all policies and technical regulations promulgated under 58 Pa. C.S. (relating to oil and gas).

....

(3) To provide technical assistance required by the council to carry out its duties under this act.

The Department has failed to carry out these obligations in recent years as shown by the narrative herein as well as by other actions, such as the development of the proposed rulemaking "Control of VOC Emissions from Oil and Natural Gas Sources" (#7-544), IRRC #3256). The specific duties of Act 52 that DEP has prevented CDAC from per-

forming with respect to these studies are:

(1) Examine and make recommendations regarding ... policies implemented by the department that impact the conventional oil and gas industry of this Commonwealth.

....

(3) Promote the long-term viability of the conventional oil and gas industry.

(4) Assist the Secretary of Environmental Protection with ... new departmental policy that will impact the conventional oil and gas industry of this Commonwealth, including economic consequences.

....

(6) Provide institutional support for the conventional oil and gas industry of this Commonwealth by ensuring effective cooperation and communication among governmental agencies and the academic and research community.

(7) Recommend appropriate measures relating to the promotion and development of the conventional oil and gas industry of this Commonwealth.

....

(9) Develop a joint working group with the department to explore and develop an environmentally responsible and economically viable production water management option.

We, members of CDAC, are expecting more cooperation and transparency from the Department in the future so that the mandates of Act 52 can faithfully be upheld and implemented. Accordingly, we request that DEP require PSU to provide presentations of these studies to CDAC so CDAC has an opportunity to discuss them with PSU.

Respectfully submitted,

Dave Hill, CDAC Chairman



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FERC staff recommends natural gas infrastructure winterization measures in light of 2021 extreme winter weather events

By Kayla J. Grant, Randall S. Rich and
Valerie L. Green
Pierce Atwood LLP

The Federal Energy Regulatory Commission (FERC), in coordination with the North American Electric Reliability Corporation (NERC), presented its preliminary findings and recommendations at FERC's open meeting on September 23 regarding its inquiry into the February 2021 Cold Weather Event in the Electric Reliability Council of Texas (ERCOT), Southwest Power Pool, Inc. (SPP), and Midcontinent Independent System Operator, Inc. (MISO).

The February 2021 Cold Weather Event occurred from February 8 through 20, during which large numbers of generating units experienced outages, derates or failures to start, resulting in energy and transmission emergencies. The power outages affected millions of customers throughout the ERCOT, MISO and SPP regions. On February 16, FERC and NERC announced a joint inquiry to examine the root causes of the event.

The preliminary findings indicate that a majority of the unplanned generating unit outages, derates and failures to start were due to natural gas fuel supply issues.

The major causes of the decline in natural gas wellhead production were "shut-ins to protect natural gas production and processing facilities from freeze-related impacts, frozen equipment, loss of power supply, and poor road conditions (due to precipitation) that prevented the removal of fluids from production sites or access to facilities to make necessary repairs."

While the inquiry and preliminary report largely focus on electric grid operations, FERC/NERC also made natural gas-focused recommendations:

1. Congress, state legislatures and regulators with jurisdiction over facilities used for producing, treating, processing, pressurizing, storing or transporting natural gas should require those gas facilities to have cold weather preparedness plans, including measures to prepare to operate during a weather emergency. This measure would be mandatory, with an implementation time-frame before winter 2023/2024.
2. Natural gas production, gathering and processing facilities should consider implementing measures to protect against freezing and other cold-related limitations, which can affect the production, gathering and processing of gas. This would be voluntary, with an implementation timeframe before winter 2022/2023. Example measures include:
 - Covering or sheltering sensitive facilities, adding heating equipment; and
 - Installing backup generation at critical sites.

Other examples include (with the full list forthcoming in the final report):



- Implement freeze protection measures, including burial of flow lines.
- Ensure necessary emergency staffing, including surge capacity.
- Enter into mutual assistance programs, whereby fellow natural gas infrastructure companies that are not affected by the same storm could supply equipment, supplies or staff, to those affected by a cold weather emergency.
- Review contracts (firm vs. non-firm/interruptible retail electric power).
- Review whether all electrical equipment has been designated as critical load.
- Take proactive steps to procure quick turn-arounds on requests for environmental waivers for backup generators when needed during cold weather events.
- Enhance emergency operations plans to incorporate extreme cold weather response.
- Producers, gatherers and processors should conduct training and drills to exercise their emergency operations plans, including coordinated drills/exercises on severe winter event scenarios, jointly with pipelines.


The preliminary report also recommended that FERC establish a forum in which state legislatures/regulators, in cooperation with FERC, NERC and the regional entities, balancing authorities, and gas infrastructure entities could identify concrete actions to improve the reliability of the natural gas system.

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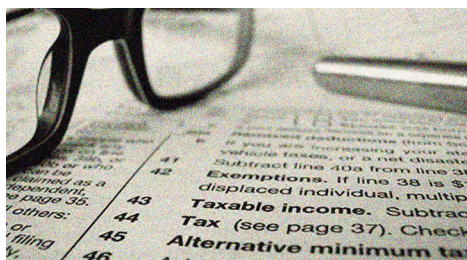
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bility of the natural gas infrastructure system to better support bulk-power system reliability during cold weather. The report suggested a joint task force with the National Association of Regulatory Utility Commissioners, a federal advisory committee or technical conferences.

The report with FERC/NERC's final recommendations is expected this winter. ■

Annual Oil & Natural Gas Accounting and Tax Seminar coming up November 17

In an effort to keep members of the oil and gas industry informed of the many programs put forth by the federal government, as well as



industry tax issues, we have once again asked Arnett Carbis Toothman LLP (ACT) to present our annual Oil and Natural Gas Accounting and Tax Seminar. The event will be presented on Wednesday, November 17. As much as we prefer face-to-face interaction, this year the format again will be a webinar.

This event is cosponsored by PIOGA along with the Gas and Oil Association of West Virginia and the Southeastern Ohio Oil and Gas Association. Tax and accounting issues affecting Pennsylvania, West Virginia and Ohio will be discussed. Time will be allotted for questions during the webinar, and the ACT presenters will be available for questions and consultations by phone or email after the program.

Topics will include:

- General Tax Updates for 2021 – Federal and State
- Oil & Gas Industry Tax Updates for 2021
- CARES Act
- Paycheck Protection Program – Forgiveness, Tax and Accounting Considerations
- Purchase/Sale, Valuation, Succession and Estate Planning
- IT Security

Oil and gas investors, operators, royalty owners, service companies, and accounting and legal professionals will benefit from attending.

The cost is \$100 for members of PIOGA, GO-WV and SOOGA. The cost for non-members is \$150. Attendees are eligible for 7.0 CPE credits. CLE credits are also available.

For registration and additional information, visit gowv.com/events/2021-tax-seminar. ■

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Market Development Committee tours Pivotal LNG

On October 6, Pivotal LNG hosted PIOGA's Market Development Committee in a tour of the Towanda LNG facility in Bradford County. With a daily production capacity of 50,000 gallons and approximately 180,000 gallons of on-site storage, the facility supplies LNG for marine bunkering at the Port of Hamilton in Ontario, along with other users in the region.



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Diversity Committee chair
Deana Stephens.

Fleeman highlighted PIOGA's Technical Seminar Series and indicated that for 2022 the committee assembled a list of potential PLOGATEch topics that include well plugging, gas migration, hydrogeology and pre-drill water sampling, induced seismicity and geophysical survey methods, and geologic hazard mitigation plans. He encouraged members not only to take part in these valuable trainings, but he also noted that the

planning team welcomes suggestions for topics they would like to see addressed.

Market Development Committee. Co-chair David Marks of BHE Eastern Energy Field Services opened his remarks by urging everyone to have an “elevator speech”—a ready set of facts that support our industry and its products. He noted he recently began emphasizing that the industry produces “feedstocks, not fossil fuels.” The committee’s Industry and Public Outreach Subcommittee spends considerable time discussing how to correct misinformation and promote the industry.

“We talk about real stuff,” Marks stated, explaining that the committee’s monthly meetings focus on markets, where they are headed and why. Led by the committee’s New Projects Subcommittee, the group also receives a steady diet of useful information about new opportunities for Pennsylvania’s producers. The group also organizes field trips to a variety of facilities—most recently to Penneco’s new wastewater disposal facility in Allegheny County.

Marks pointed out the value of the committee is apparent by the fact that despite COVID, the group’s numbers have been growing.

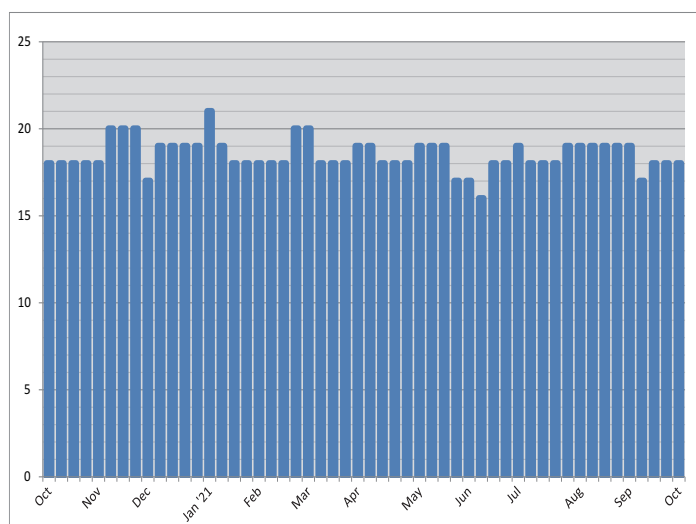
Tax Committee. Don Nestor explained that the role of the committee is to monitor state and federal tax developments related to the industry and communicate them to the membership. On the state level, he noted, a natural gas severance tax is dead for now. Legislation moving through Congress is in flux and contains some harmful provisions for the industry, but Nestor noted that the good news is that tax advantages such as deduction of intangible drilling costs, percentage depletion and the Marginal Well Credit all are retained.

The Annual Oil & Gas Tax and Accounting Seminar organized by the committee and member company

Continues on page 18

Oil & Gas Dashboard

Pennsylvania Rig Count



Penn Grade Crude Oil Prices



Natural Gas Futures Closing Prices

Month	Price
November	\$5.761
December	5.907
January 2022	6.020
February	5.900
March	5.564
April	4.031
May	3.882
June	3.918
July	3.956
August	3.964
September	3.940
October	3.976

Prices as of October 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
 Appalachian fixed price moving averages: David Marks, BHE Eastern Energy Field Services

Northeast Pricing Report — October 2021

Although the Henry Hub has been strengthening, basis prices have been mixed. All Northeast basis locations front-month pricing decreased, except for Algonquin. Transco Z6 had decreased the most at \$0.44 per MMBtu, and Algonquin increased by \$0.20 per MMBtu. The one-year term showed substantial volatility. Algonquin increased the most at \$1.54 per MMBtu. Transco Leidy and Dominion South decreased by \$0.04 and \$0.05 per MMBtu respectively. The full term trading period saw some volatility from September. Algonquin increased a considerable amount of \$0.43 per MMBtu. Transco Z6 also increased by \$0.07 per MMBtu. However, Dominion South decreased by \$0.03 per MMBtu.

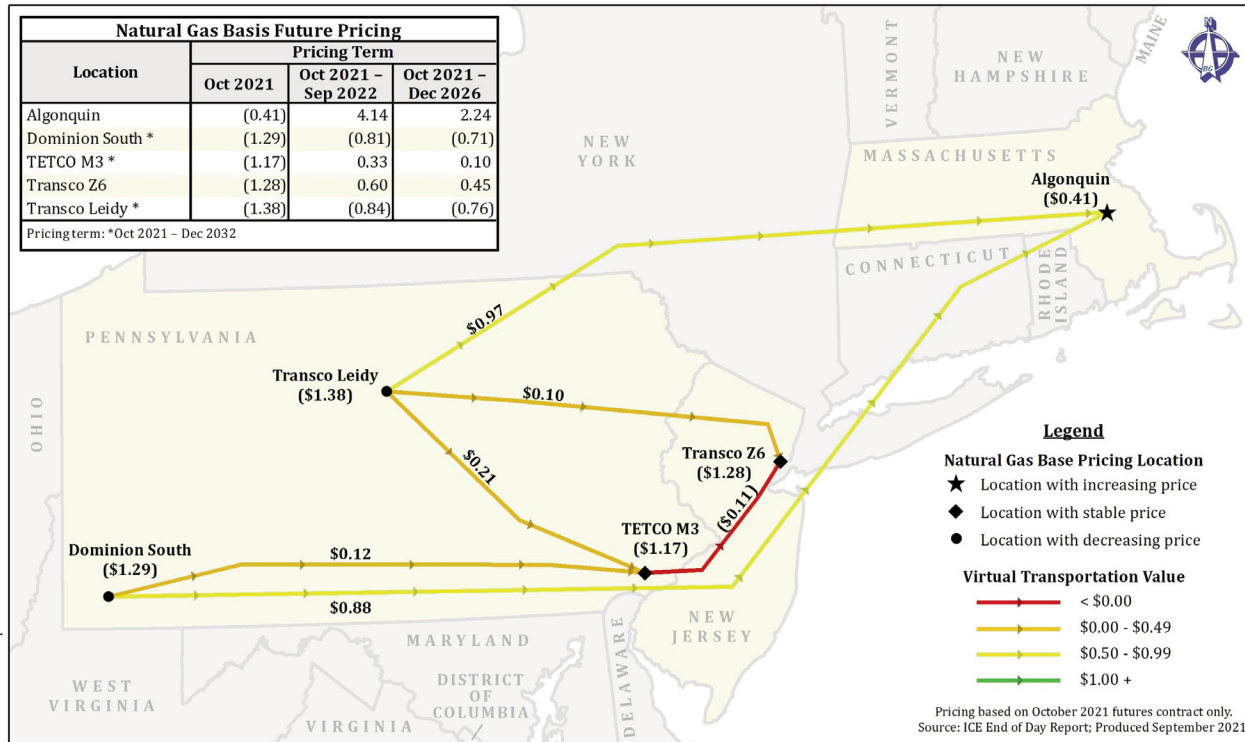
Transportation values were mixed as well. Transco Leidy and Dominion South to Algonquin increased \$0.60 and \$0.56 per MMBtu respectively. TETCO M3 to Transco Leidy Z6 decreased the most at \$0.12 per MMBtu. All other transportation routes had only minor changes.

Transportation Value Market Indicator

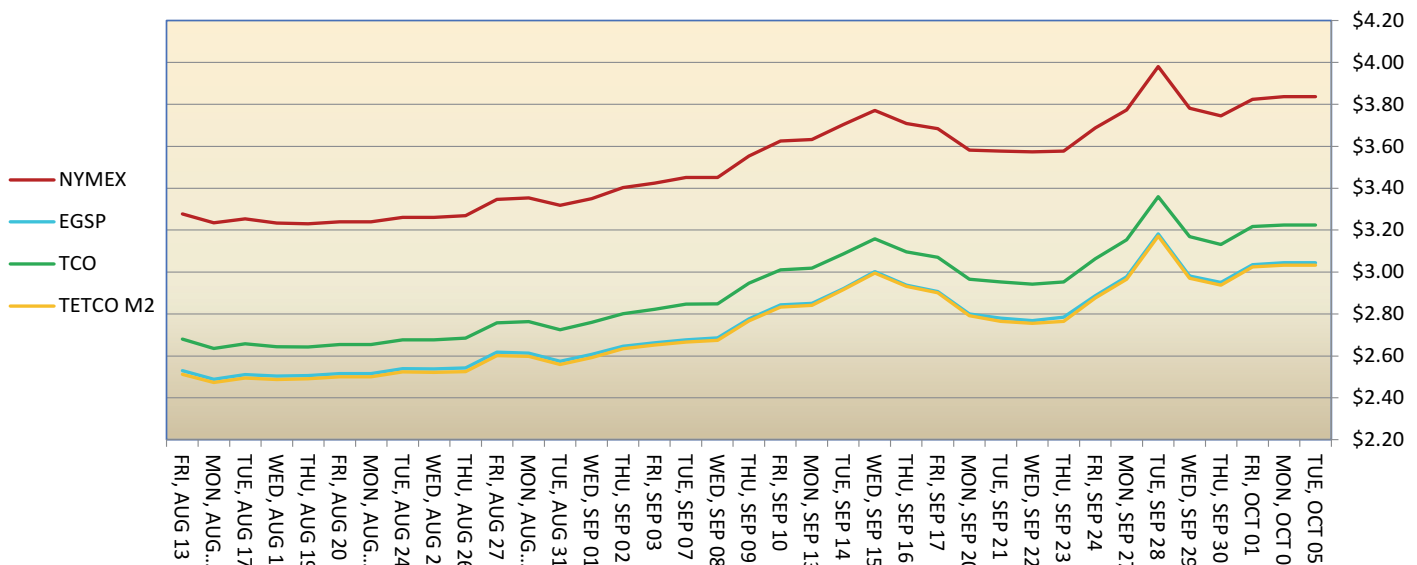


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36-Month Appalachian Fixed Price Moving Averages



Spud Report: September 2021



The data show below comes from the Department of Environmental Protection. A variety of interactive reports are

OPERATOR	WELLS	SPUD	API #	COUNTY	MUNICIPALITY
Cameron Energy Co	1	9/23/21	123-48505*	Warren	Sheffield Twp
Chesapeake Appalachia LLC	3	9/9/21	115-22843	Susquehanna	Auburn Twp
		9/9/21	115-22842	Susquehanna	Auburn Twp
		9/10/21	115-22841	Susquehanna	Auburn Twp
Clean Energy Expl & Prod LLC	2	9/4/21	117-22089	Tioga	Delmar Twp
		9/5/21	117-22090	Tioga	Delmar Twp
CNX Gas Co LLC	1	9/29/21	125-28935	Washington	East Finley Twp
Holden Oil & Gas	2	9/27/21	123-48530*	Warren	Watson Twp
		9/29/21	123-48529*	Warren	Watson Twp
Howard Drilling Inc	1	9/22/21	083-57357*	McKean	Mt. Jewett Boro
INR Opr LLC	1	9/1/21	051-24726	Fayette	Springhill Twp
Minard Run Oil Co	3	9/7/21	053-30938*	Forest	Howe Twp
		9/10/21	053-30937*	Forest	Howe Twp
		9/16/21	053-30936*	Forest	Howe Twp
MSL Oil & Gas Corp	2	9/3/21	083-57292*	McKean	Hamilton Twp
		9/10/21	083-57291*	McKean	Hamilton Twp
PennEnergy Resources LLC	6	9/21/21	019-22882	Butler	Forward Twp
		9/21/21	019-22883	Butler	Forward Twp
		9/22/21	019-22884	Butler	Forward Twp
		9/22/21	019-22885	Butler	Forward Twp
		9/23/21	019-22886	Butler	Forward Twp
		9/23/21	019-22887	Butler	Forward Twp
Pennhills Resources LLC	5	9/15/21	083-57273*	McKean	Hamilton Twp
		9/17/21	083-57272*	McKean	Hamilton Twp
		9/27/21	083-57275*	McKean	Hamilton Twp
		9/30/21	083-57327*	McKean	Hamilton Twp
		9/27/21	083-57342*	McKean	Wetmore Twp
Pierce & Petersen	2	9/20/21	123-48556*	Warren	Glade Twp
		9/27/21	123-48557*	Warren	Glade Twp
Range Resources Appalachia	3	9/13/21	125-28948	Washington	Chartiers Twp
		9/13/21	125-28949	Washington	Chartiers Twp
		9/13/21	125-28950	Washington	Chartiers Twp
Repsol Oil & Gas USA LLC	9	9/20/21	117-22118	Tioga	Hamilton Twp

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
		9/21/21	117-22119	Tioga	Hamilton Twp
		9/22/21	117-22120	Tioga	Hamilton Twp
		9/23/21	117-22122	Tioga	Hamilton Twp
		9/24/21	117-22123	Tioga	Hamilton Twp
		9/25/21	117-22116	Tioga	Hamilton Twp
		9/26/21	117-22117	Tioga	Hamilton Twp
		9/27/21	117-22124	Tioga	Hamilton Twp
		9/28/21	117-22121	Tioga	Hamilton Twp
Seneca Resources Co LLC	13	9/23/21	047-25106	Elk	Jones Twp
		9/23/21	047-25108	Elk	Jones Twp
		9/23/21	047-25109	Elk	Jones Twp
		9/23/21	047-25110	Elk	Jones Twp
		9/23/21	047-25111	Elk	Jones Twp
		9/23/21	047-25103	Elk	Jones Twp
		9/15/21	117-22131	Tioga	Middlebury Twp
		9/15/21	117-22130	Tioga	Middlebury Twp
		9/17/21	117-22125	Tioga	Middlebury Twp
		9/17/21	117-22127	Tioga	Middlebury Twp
		9/17/21	117-22128	Tioga	Middlebury Twp
		9/17/21	117-22129	Tioga	Middlebury Twp
		9/18/21	117-22126	Tioga	Middlebury Twp
Snyder Bros Inc	5	9/13/21	005-31400	Armstrong	Redbank Twp
		9/13/21	005-31401	Armstrong	Redbank Twp
		9/13/21	005-31402	Armstrong	Redbank Twp
		9/13/21	005-31398	Armstrong	Redbank Twp
		9/13/21	005-31367	Armstrong	Redbank Twp

	September	August	July	June	May	April
Total wells	59	52	53	56	32	62
Unconventional Gas	43	35	37	43	23	54
Conventional Gas	0	1	0	0	0	0
Oil	6	14	14	13	9	8
Combination Oil/Gas	10	2	2	0	0	0

Annual Meeting *Continued from page 16*

Arnett Carbis Toothman will be held virtually again this year. The date is November 17.

Political Action Committee. Chair Teresa McCurdy of TD Connections said the PIOGA PAC exists because of the political reality that legislators must raise funds to be elected or reelected, and politicians pay attention to those who assist in this way. PIOGA often holds PAC fundraisers as part of our larger events, and she encouraged members to take part.

"It's hard to ask people for money," McCurdy said, "but it's important for us to support our friends in Harrisburg."

Diversity Committee. The committee's chair, Deana Stephens of Steptoe & Johnson, shared the mission of the group, which is "to work collaboratively to advocate, educate and support diversity within PIOGA, as well as within Pennsylvania's oil and natural gas industry. The committee will work to ensure that PIOGA provides a climate and culture that encourages educational, business and social interactions that support a diverse membership of individuals involved in the oil and natural gas industry in Pennsylvania."

The committee has been holding Lunch & Learn webinars open to the membership—one in April focusing on affinity groups in general, with an emphasis on



veterans' issues in the workplace, and a second in early October titled, "Diversifying the Oilfield: Building the foundation for a diverse energy workforce." A third, as-yet-unscheduled session will address cultural competence.

Possible program topics for 2022 include an Environmental, Social, Governance (ESG) panel; generational diversity; intentional inclusion; cultural awareness and belonging; diversity and preventing workplace harassment; micro aggression; diversity vs. inclusion; and bystander intervention (allyship).

Safety Committee. Presenting virtually was co-chair Eric Staul of Diversified Energy Company, who stated, "The key to a safe company is communications. That's

the focus of our committee.”

The committee’s quarterly meetings always include a presentation, Staul explained. So far in 2021, topics have included OSHA’s consultation program, an OSHA update and risk-based process safety. The group also hosts PIOGATech training; the two sessions this year addressed reasonable suspicion, substance abuse and mental health issues, and transporting and storing condensate and other flammable gases/liquids.

Staul said he and co-chair Wayne Vanderhoof of RJR Safety welcome input into presentations and trainings in 2022. They would like to see opportunities for more hands-on training opportunities, which have been a challenge during the pandemic. As with other committee leaders, they also encourage more member participation.

Membership Committee. Co-chair Robert Beatty of InsightFuel explained the goal of the group is to recruit and retain members by communicating the value PIOGA brings to the industry and to the association’s individual members. Of particular value, he noted, are PIOGA’s in-house legal resources, its government relations and advocacy work, and the opportunities for members to network with other members.

Guided by the committee, PIOGA has increased its social media presence with consistent communication that highlights the value of the association. PIOGA also has developed a pair of recruitment brochures—“Top 7 Reasons to Join PIOGA” and “The Exponential Power of PIOGA Membership”—and also regularly updates and distributes a “brag sheet” that summarizes key association achievements.

Beatty encouraged members to get involved by joining the committee, writing a testimonial that describes how PIOGA benefits your company, providing membership leads to the PIOGA office, suggesting partnerships to increase the association’s visibility and reach, and taking advantage of the New Member Incentive Program that earns companies credits for each new member they recruit. The credits can be used toward reducing your own dues, event fees and advertising. ■

Calendar of Events

PIOGA events

Event information: pioga.org/events/pioga-events

Pins & Pints Networking Event

October 21, Zone 28, Pittsburgh

PIOGATech: Handling Flammable Liquids and Vapors

October 26, Holiday Inn Express & Suites, Canonsburg

Annual Oil & Gas Tax and Accounting Seminar

November 17, virtual event

PIOGATech: Air Quality Compliance

December 16, The Chadwick, Wexford

Mix, Mingle & Jingle Holiday Party

December 16, The Chadwick, Wexford

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