

The PIOGA Press

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Pennsylvania Independent Oil & Gas Association
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DEP unveils draft final-form VOC rulemaking

The Department of Environmental Protection on December 9 presented the agency's Air Quality Technical Advisory Committee (AQTAC) with the draft final-form version of regulations intended to control volatile organic compound (VOC) emissions from existing oil and natural gas sources. A presentation at the meeting covered the significant changes made in response to public comments received on the proposed rulemaking in mid-2020.

As published in the May 23, 2020, *Pennsylvania Bulletin*, the proposed rule would have Pennsylvania adopt reasonably available control technology (RACT) requirements and RACT emission limitations for oil and natural gas sources of VOCs that were in existence on or before the effective date of the regulation. The proposed rule would apply to owners and operators of storage vessels, natural gas-driven pneumatic controllers, natural gas-driven diaphragm pumps, centrifugal compressors and reciprocating compressors, and fugitive emission components. The proposal is based on the U.S. Environmental Protection Agency's October 2016 Control Techniques Guidelines (CTG) for the Oil and Natural Gas Industry, which provide RACT requirements for VOC emissions from existing oil and gas sources.

An article in the June 2020 *PIOGA Press* (available at pioga.org/news-resources/newsletter) provides an in-depth summary of the provisions of the proposed rule. The proposal drew approximately 4,500 comments from 36,000 commentators.

In formal comments submitted in July 2020, PIOGA emphasized these points (*PIOGA Press*, August 2020):

- The rule must be revised to exclude owners and operators of conventional wells because it fails to comply with Act 52 of 2016, the law requiring separate rulemakings for conventional and unconventional oil and gas facilities.



- The underlying data supporting the proposal is outdated and insufficient.

- Neither EPA nor DEP have demonstrated the CTG oil and gas rule is necessary.

- The rule disproportionately impacts conventional sources.

- Conventional and unconventional wells are fundamentally different, and these differences are not accounted for by DEP.

- EPA did not collect any significant data in the 2016 CTGs to identify the emissions profile of low-production wells, and DEP relied on EPA data to support the proposed rule.

- DEP has not provided the basis for the population of conventional wells in Pennsylvania cited in the preamble to the rulemaking.

- There are significant differences associated with emissions from new storage vessels versus existing vessels, and there is no certainty that existing facilities will

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General Assembly approves resolution blocking RGGI

By a vote of 130-70 the state House of Representatives on December 15 approved a Senate concurrent resolution blocking Pennsylvania from joining the Regional Greenhouse Gas Initiative (RGGI), a multi-state compact dedicated to reducing carbon dioxide emissions from fossil fuel-powered electricity generators.

Governor Tom Wolf has unilaterally pushed through the RGGI rulemaking against the wishes of the Republican-led General Assembly, along with a considerable number of Democrats, as well many in business, industry and labor (*The PIOGA Press, November 2021*). The cap-and-trade program with 11 other states charges power plants for each ton of carbon dioxide they emit, making such sources of energy less competitive.

“For the past two years, we have been fighting against RGGI and the authoritarian way it is being imposed on Pennsylvania by Governor Wolf,” said Representative Jim Struzzi (R-Indiana) following the House vote. “Why is the number of businesses joining the ranks of the opposition? Because the initiative will be devastating to Pennsylvania.

“RGGI will hit Pennsylvanians’ wallets in so many ways, from property tax bills to energy bills. It will kill small businesses and negatively impact local communities. RGGI is bad for Pennsylvania, and the governor needs to end his personal crusade. If nothing else, RGGI needs to go before the General Assembly, just as consideration of any tax should do.”

By the time you read this, the governor will have vetoed the concurrent resolution. A veto sends the resolution back to the legislature, where each chamber has 30 calendar days or 10 legislative days—whichever is longer—to attempt to override the veto. The Wolf administration can’t move forward with the regulation during that period.

The resolution blocking RGGI passed the Senate in late October 32-18, two votes shy of a two thirds majority, and the House 130-70 in December, six votes shy of veto override benchmark. If the legislature fails to come up with the two-thirds majority needed to override the veto, the state can proceed with joining RGGI. However, it’s likely that the matter will ultimately be decided by the courts.

Report: Wolf strongarms fellow Dems over RGGI

In a January 4 article, the *Pennsylvania Capital-Star*

reported that Wolf “reached for a classic piece of Harrisburg leverage—state funding for local projects—to get Democratic lawmakers in line” ahead of voting on the anti-RGGI resolution.

On the record, the *Capitol-Star* wrote, no Democratic lawmakers would acknowledge the tactic. Privately, however, lawmakers and lobbyists noted that the Democratic Wolf administration implied that gubernatorial sign-off for millions in state aid to lawmakers’ districts was contingent on backing RGGI.

You can read the entire article here: www.penncapital-star.com/working-the-economy/wolf-admin-used-state-grant-funding-as-leverage-during-debate-on-carbon-fee.

AG’s office signs off on RGGI rulemaking

Earlier in December, the state Attorney General’s office signed off on the rulemaking, despite the fact that the attorney general himself, Josh Shapiro, announced in October that he did not support the plan (*The PIOGA Press, November 2021*). Shapiro made the statement shortly after announcing he is running for governor in 2022. At the time, he said it’s not clear RGGI will address climate change while protecting energy jobs and ensuring affordable power.

Shapiro’s Office of Legal Review determined the rule to allow Pennsylvania’s participation in RGGI does not conflict with state law and can go forward. The decision was signed by a deputy AG. In a statement, the office said the law prevents it from rejecting a proposed regulation based on policy concerns.

Senate Republicans were quick to criticize Shapiro.

“Just a few short weeks ago at a campaign stop in Indiana County, Josh Shapiro said he had real concerns that RGGI would hurt families at a time when many are struggling to put food on the table,” the GOP said in a statement. “Speaking to a pro-energy community, he pledged to protect energy jobs. However, when he had an opportunity last month to keep his promise to those working families, he completely failed them.

“The Attorney General’s Office had two opportunities to stop Governor Wolf’s unilateral carbon tax that will lead to plant closures and cost countless Pennsylvanians their jobs. In both cases, he sided with Governor Wolf and put his own political interests ahead of his duty to stand



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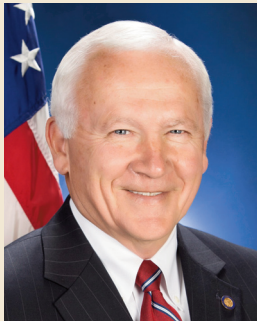
“Energy jobs are vital to Pennsylvania families. All elected officials should be doing everything we can to build our energy economy and support new investments in our

communities. It is extremely difficult to achieve that goal when certain elected officials shirk their responsibilities to the people they serve.” ■

RGGI fails Pennsylvania on its most basic promise

By Senator Gene Yaw

I’ve sounded the alarm over the Regional Greenhouse Gas Initiative (RGGI) in many public settings over the past several months. This undertaking, an executive fiat ordered by Governor Tom Wolf, will impact the life and wallet of virtually every Pennsylvanian and deliver almost nothing in terms of improved air quality.



At the outset, the stated purpose of RGGI is to reduce greenhouse gases. In theory, this works through an auction that is open to power producers and industrial plants in 12 states that buy “credits” to offset the excess emissions their facilities generate. The proceeds from the auction sales are then distributed to various government programs, the majority of which have nothing to do with the environment.

The current RGGI states include Connecticut, Delaware, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Rhode Island, Vermont and Virginia. They will control the amount of credits Pennsylvania can sell at auction and, as an inevitable consequence, will dictate many decisions affecting our environment and economy.

In reality, RGGI forces Pennsylvania to undermine its own position as a top energy producer and hand over economic control to a collection of states that bear little resemblance to us. This is troubling when we consider that New England would prefer to buy natural gas from Russia rather than permit the construction of a pipeline that would connect their region to Pennsylvania’s plentiful supply.

Eight RGGI states report some of the highest electricity rates in the nation. In some RGGI states, residents pay double the rates paid by Pennsylvanians. According to a study done by PJM, the operator of the 13-state power grid which controls the flow of our electricity, RGGI will cause an 18 percent increase in rates—nine times larger than the spike the Pennsylvania Department of Environment Protection (DEP) claims will occur through 2030.

DEP hails the projected 2 percent reduction in rates seen in other states as proof that RGGI works. This is misleading, at best, when we consider that those residents pay 50 percent to 75 percent more for electricity compared to Pennsylvanians. A 2 percent decrease when rates are nearly twice as high translates into a negligible savings—if at all—in Pennsylvania.

In 2019, the state predicted that clearing prices for the credits bought at auction would not rise above \$3 per ton. RGGI’s most recent auction, completed on December 1, set a clearing price of \$13 per ton—more than four times the rate DEP forecasted and a 40 percent increase over the September 8 auction clearing

price alone. At current prices, the Wolf RGGI scheme translates to an approximately \$750 million annual tax on Pennsylvania consumers.

It gets worse. According to DEP’s own modeling, 90.1 percent of the emissions reduced in Pennsylvania will be offset by increased pollution from non-RGGI states in our electric grid. A similar report by Penn State University shows that 86 percent of the electric capacity lost in Pennsylvania under RGGI will be replaced by increased coal-fired generation in neighboring non-participating states.

Make no mistake, RGGI depends on continued pollution. Without it, there would be no need for credits. With no need for credits, there is no market and thus no one would need to participate in RGGI’s auctions. So, rather than curbing environmental air pollution, RGGI depends on continuing it.

Some estimates forecast that in the first decade of RGGI, the reduction in carbon dioxide emissions will be less than 1 percent. This is despite the fact that, due to state-of-the art technology, CO2 emissions in Pennsylvania from fossil fuel generation have already been reduced by 38 percent since 2002—more than all RGGI states combined.

A DEP presentation on July 22, 2020, indicated that great improvements had been achieved in ambient air quality in Pennsylvania. How did this great news in July become such a problem that only RGGI could fix just a few months later? The answer is politics.

RGGI targets coal-fired electric generation plants and the thousands of skilled trade jobs these facilities support. States, and even countries, with far fewer environmental controls in place than those in Pennsylvania, will absorb those jobs. Why would we close highly regulated Pennsylvania electric plants and send that generation capacity and those opportunities elsewhere?

No matter how its viewed, RGGI is not good for the environment or the economy of Pennsylvania.

RGGI supporters conveniently ignore that RGGI will leave thousands unemployed, skyrocket electricity bills for everyone—including our most vulnerable populations—and serve as an unauthorized carbon tax implemented without legislative approval. It’s just another way that the current administration wants to bypass our government’s fundamental checks and balances to further policy goals that harm the very residents they mean to help.

In its simplest terms, RGGI fails miserably in accomplishing its only stated purpose.

State Senator Gene Yaw represents Pennsylvania’s 23rd District, which encompasses Bradford, Lycoming, Sullivan, Susquehanna (part) and Union counties. He is majority chair of the Senate Environmental Resources and Energy Committee.

Mix, Mingle & Jingle: Good times and good causes

Those attending PIOGA's Mix, Mingle & Jingle holiday event on December 16 at The Chadwick in Wexford not only had a great time socializing with other PIOGA members and guests, but they also did a great job of helping us support a pair of worthy causes.

Sales of raffle tickets for an impressive assortment of gift baskets generated more than \$1,300 for the Veterans Leadership Program (VLP), a Pittsburgh-based organization that provides wellness, career development, housing and support services for veterans across the region. VLP Business Development Director Randy Levander was on hand to spread the word about the organization and draw the winning tickets for the raffle baskets.

Veterans possess highly sought-after skills, which are directly transferable to nearly every industry. Companies in our industry are encouraged to learn more by visiting VLP's website at www.veteransleadershipprogram.org, or contact Levander directly at levanderr@vlpwpa.org. Thanks to those who purchased raffle tickets and donated the items for the baskets.

Our other holiday giving recipient was the food pantry of North Hills Community Outreach (www.nhco.org), which serves people experiencing crisis, hardship and poverty northern Allegheny County. Those who donated a food item at the mixer received an extra drink ticket.

Photos of the mixer and the PIOGATech air quality training held on the same day at The Chadwick can be found in the Photo Galleries section of the website. ■



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Kris Macoskey from CEC kicks off the air quality compliance training that also was held December 16 at The Chadwick. See page 6 for the report.

Randy Levander of the Veterans Leadership Program (left) presents ARG's Dave Cook with one of the donated raffle baskets.



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Final PIOGATech of 2021 addresses air quality compliance

On December 16, the Environmental Committee hosted its final PIOGATech training of the year, focusing on air quality compliance. This training was the seventh technical session over the past six years to address air quality matters and the ever-changing regulations with which our industry must comply. Now more than ever, air quality issues are a major focus federally and at the state level, and the oil and gas industry must be prepared.

More than 70 people participated in this six-hour training that offered participants both an in-person and virtual option. The day provided an overview of air quality regulations affecting the oil and gas industry and, in addition, participants were able to learn about emission inventory basics; compressor fugitive emissions control; air permitting basics; H₂; carbon capture and sequestration; regulatory updates on subpart OOOOa, b and c; the Regional Greenhouse Gas Initiative; and ESG. CleanAir Engineering provided a live, on-site demonstration of their new Methane Emissions Quantification Jeep.

PIOGA's thanks go out to Babst Calland; Civil and Environmental Consultants, Inc.; CleanAir Engineering; CNX Resources; Diversified Energy Company; Energy Water Solutions; SE Technologies; Sommer Energy Technologies; and Spilman Thomas & Battle for putting together a very relevant program and for providing their expertise on this important topic for our members. ■

Partnering with The Lighthouse Foundation to bring holiday joy

For the sixth year, PIOGA staff partnered with member company Print King to collect toys for our area's children 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.



"As hardships continue for many families in our region, the PIOGA staff wanted to ensure that the kids get to experience the best Christmas possible, and I'm proud of the PIOGA staff for their commitment to this effort," said Dan Weaver, President and Executive Director.

Staff once again gave generously and appreciate the opportunity to donate to an organization that's doing great work on behalf of impoverished individuals and families in northern Allegheny and Butler counties. To learn more, visit www.thelighthousepa.org. ■

Become a 2022 PIOGA Partner

We are pleased to announce the 2022 PIOGA Partners program. The program was launched four years ago 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, contact Debbie Oyler at debbie@pioga.org or 724-933-7306 ext. 22. ■

2022 PIOGA PARTNER LEVELS	Yearly Sponsorship Amount	Networking Events (5-7/yr.) Comp Tickets	Golf Events (2/yr.) Comp Tickets	Clay Events (2/yr.) Comp Tickets	PIOGA Meetings (1-2/yr.) Comp Tickets	PIOGATech Seminars (4-6/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								

Our first events of the new year!



PIOGA’s Lunch & Learn Series: Cultural Competence

You are invited to join with PIOGA’s Diversity Committee on **Tuesday, January 25**, from noon to 1 p.m. for the next installment of our Lunch & Learn Series as we hear from Kaitlin Robidoux of Steptoe & Johnson, PLLC. The webinar will address ways to think about how to respect people from cultures different from our own—including by being self-aware of our own subconscious biases and recognizing the benefits of living in a diverse community.

There is no charge for PIOGA members to participate, but an RSVP is required. Register by going to Events at members.pioga.org. The webinar link will be sent prior to the event. ■

Cigar networking event at BURN

Come on out on **Thursday, January 26**, to BURN by Rocky Patel on Pittsburgh’s North Shore as we kick off the new year with a cigar networking event. The event runs from 6 to 9 p.m., and your registration fee of \$150 for PIOGA members or \$175 for nonmembers includes unlimited wine, domestic beer, heavy appetizers and a two-cigar pairing.



We’re also offering a variety of sponsorships to help your company stand out. The \$500 event sponsorship includes two complimentary registrations, two additional cigars, and print and electronic logo acknowledgement. For \$300 you can become a Cigar, Appetizer, Beer or Wine sponsor and receive one complementary registration, one additional cigar and the same logo-based acknowledgement as above.

Our cigar events are always a great, relaxing time with excellent networking opportunities. Be sure to register or sponsor by January 21 by visiting the PIOGA Events section at www.pioga.org. ■

B&R Resources LLC v. DEP continues on remand

The Commonwealth Court strays from 'reasonable efforts' to 'required to expend to remain in business' in vacatur of EHB order

The Commonwealth Court vacated an Environmental Hearing Board (EHB) order entered February 14, 2020, that had reduced personal liability against defendant, Richard Campola, the owner and manager of defendant oil and gas operator B&R Resources LLC.¹ The court found that certain monetary expenditures were not required to keep B&R Resources, LLC in business and thus should have been used to plug abandoned wells pursuant to Department of Environmental Protection (DEP) orders. Additionally, the court concluded that money Mr. Campola loaned to B&R Resources should have been used to address those violations.

Though not a precedential decision, the court's opinion arguably shifts the standard when the EHB reviews personal liability from "what could the individual decision maker have addressed with reasonable efforts" to did the individual maximize compliance with legal requirements by only authorizing those business expenditures required "for the business to remain a going concern."

Background

This action began on June 29, 2015, when DEP issued an administrative order directing B&R Resources and Mr. Campola, in his individual capacity, to either plug or bring back into production 47 abandoned oil and gas wells. Richard Campola is the managing and sole member of B&R Resources, LLC, a company that engaged in the exploration and production of oil and natural gas.

As a general rule, the liabilities of a business entity do not extend to corporate officers, directors or shareholders of the corporation. An exception to that general rule is the participation theory, which imposes individual liability on officers, directors, or shareholders for personally participating in wrongful conduct. DEP argued that Mr. Campola was liable because he personally participated in the abandonment of the wells by failing to

address the violations.

The board's 2017 adjudication

Mr. Campola appealed the administrative order to the EHB. After a two-day hearing, the board dismissed the appeal in August 2017, holding that Mr. Campola was liable together with B&R Resources under the participation theory to plug all 47 wells.² The EHB held that an officer, director or shareholder could be liable for "intentionally neglecting" the company's obligations. Under the intentional neglect standard, the EHB held that "actual affirmative acts are not necessary to find liability." The EHB held that Mr. Campola "actively avoided" plugging the wells. Mr. Campola appealed to the Commonwealth Court, arguing that the EHB erred because B&R Resources did not have the resources to plug the wells.

Commonwealth Court's 2018 decision (B&R Resources I)

In 2018, the Commonwealth Court reversed the 2017 adjudication and remanded to the EHB.³ The Commonwealth Court agreed with the board that intentional neglect is enough to find liability under the participation theory. The Commonwealth Court held, however, that intentional neglect does not extend to violations which the company could not address. Mr. Campola is "liable for a statutory violation under the participation theory only if there is a causal connection between his wrongful conduct and the violation."⁴ Any intentional decision that B&R Resources would not plug a well has a causal connection if B&R Resources had the resources to plug those wells.

Because each abandoned well is a discrete violation of the Oil and Gas Act, the Commonwealth Court held that the EHB must ascertain how many wells B&R Resources could plug. As such, the Commonwealth Court reversed the EHB's 2017 adjudication and order and remanded to the board to determine "how many, if any of the wells could have been plugged if Campola had caused B&R to make reasonable efforts to plug the wells[.]"

The board's 2020 adjudication

On remand, the EHB concluded that it must determine what constitutes "reasonable effort" by B&R Resources under Mr. Campola's direction to meet its statutory obligation to plug the wells.⁵ In so determining, the EHB concluded that it must consider the financial resources available to B&R Resources. It did not accept all of B&R Resources' business decisions under a business judgment rule. Notably, the EHB suggested that doing so would "treat B&R Resources' plugging obligation as a sort of afterthought to other business

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—
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¹ *Dep't of Env'tl. Protection v. B&R Resources, LLC*, No. 291 C.D. 2020, 2021 WL 5764308 (Pa. Commw. Ct. Dec. 6, 2021) ("B&R Resources I"); *B&R Resources, LLC v. Dep't of Env'tl. Protection*, EHB Docket No. 2015-095-B, 2020 WL 853729 (Pa. Env. Hrg. Bd. Feb. 14, 2020).

² *B&R Resources, LLC v. Dep't of Env'tl. Protection*, EHB Docket No. 2015-095-B, 2017 WL 3585535 (Pa. Env. Hrg. Bd. Aug. 9, 2017).

³ *B&R Resources, LLC v. Dep't of Env'tl. Protection*, 180 A.3d 812 (Pa. Commw. Ct. 2018) ("B&R Resources I").

⁴ *B&R Resources I*, 180 A.3d at 821.

⁵ *B&R Resources*, 2020 WL 853729, at *5.

requirements.” The EHB explained, “[j]ust like we disagree with the Department’s position that all of B&R Resources’ income should be used for plugging, we think that relegating a business’ environmental obligations to a second-class status behind all other business expenses is equally wrong and inconsistent with the law of Pennsylvania.”⁶ As such, the EHB indicated that it would examine the merits underlying a business decision.

The board’s 2020 adjudication analyzed business decisions related to financial expenditures, but found it inappropriate to speculate on some decisions, such as whether B&R Resources could have generated more revenue by investing money differently. After completing its adjustments, the EHB concluded that Mr. Campola wrongfully directed \$85,278.00 away from B&R Resources’ plugging obligations. The parties stipulated that the cost to plug one of the wells is \$18,500. Dividing the amount directed away from plugging by the amount stipulated to plug each well, the EHB held that Mr. Campola personally caused four of the violations identified in the administrative order by his wrongful conduct. As such, the EHB dismissed Mr. Campola’s appeal as to four of the wells but granted the appeal as to the remaining 43 wells.

The department appealed the 2020 adjudication to the Commonwealth Court on March 13, 2020.

The Commonwealth Court’s 2021 decision (B&R Resources II)

In an unreported opinion,⁷ a three-judge panel of the Commonwealth Court framed the issues in relevant part as whether:⁸

the EHB exceeded the scope of *B&R I*’s remand instructions by reviewing Campola’s expenditures of B&R’s resources or revising its prior disposition of Campola’s appeal; [and]

the EHB erred in applying the legal standard set forth in *B&R I* by holding that only 4 of the 47 wells could have been plugged had Campola caused B&R to make reasonable efforts to comply with the statutory mandate that abandoned wells must be plugged[.]

The Commonwealth Court concluded that the EHB did not exceed the scope of *B&R Resources I*’s remand instructions by reviewing Mr. Campola’s expenditures or revising its prior disposition of the appeal. The Commonwealth Court found, however, that the EHB did not properly apply the “reasonable efforts” standard to determine how many of the wells B&R Resources could have plugged.

Recall that in *B&R Resources I* the Commonwealth Court took issue with the EHB’s holding that Mr. Campola was personally liable for the plugging obliga-

tion on **all** 47 wells because “B&R had **some** financial resources that Campola decided to spend for other purposes rather than to correct the violations.”⁹ *B&R Resources I* instructed the EHB on remand to “use a standard of reasonable efforts on the part of Campola and B&R to determine Campola’s liability.”¹⁰ In its 2020 adjudication, the EHB applied that standard. DEP argued on appeal in *B&R Resources II* that the EHB’s application “would gut the participation theory of liability.”¹¹ The Commonwealth Court agreed.¹²

The court noted that “reasonable efforts” is an objective standard that “evaluates one’s actions to determine whether the person exhibited those qualities of attention, knowledge, intelligence and judgment which society requires of its members for the protection of their own interests and the interests of others.”¹³ This is

⁹ *B&R Resources II*, at *8 (emphasis supplied). Please note, the Commonwealth Court used bold typeface throughout the opinion to emphasize certain phrases. Those are noted with a parenthetical stating “emphasis supplied” where the court bolded words in a quotation and “emphasis original” where the court bolded terms of its own drafting.

¹⁰ *Id.*

¹¹ *Id.*

¹² The court concluded the opinion stating, “Such deference, in the absence of supporting substantial evidence, to the business judgment of a private individual running a private business to the detriment of the environmental health of the Commonwealth guts the participation theory of liability, particularly where, as here, that private individual makes it clear that the individual **had no intention of spending funds** to make the private business comply with its known environmental obligations.” *Id.* at * 13 (Emphasis supplied).

¹³ *Id.* at *8 (citing *Cappelli v. York Operating Co., Inc.*, 711 A.2d 481, 485

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⁶ *Id.* at *5.

⁷ Unreported opinions of the Commonwealth Court are not binding precedent. 210 Pa. Code § 69.414.

⁸ *B&R Resources II*, 2021 WL 5764308, at * 6.

measured by what a reasonable person would do “under the facts and circumstances presented in a particular case.”¹⁴ Where a statutory violation is involved, the reasonable person standard may become what “might reasonably be expected of a person of ordinary prudence, acting under similar circumstances, **who desired to comply with the law.**”¹⁵

Notably, in ascertaining the meaning of “reasonable efforts,” the court looked to cases that involved the duty to take reasonable attempts to mitigate damages—which the court stated is “essentially what *B&R I* required”.¹⁶ “Reasonableness is to be determined from all the facts and circumstances of each case, and must be judged in the light of one viewing the situation at the time the problem was presented, and the fact finder’s decision of reasonable efforts is entitled to deference **if it is supported by the record.**”¹⁷ In contrast, “actions that **continue the wrongful conduct** are **not** efforts that should be considered reasonable.”¹⁸

Under these tenets, the Commonwealth Court found that “reasonable efforts” requires evidence that a person: (i) took affirmative, diligent action to prevent harm and protect the person’s interests, as well as those of others; and (ii) acted as a reasonable person who desires to comply with the law. In sum, the Commonwealth Court concluded that “the person’s actions should not simply continue the same wrongful conduct.”¹⁹ The Commonwealth Court reviewed the EHB’s findings through this lens.

DEP argued that the board erred by not considering whether B&R should have entered into a well-plugging schedule after receiving the 2015 administrative order, or by considering “purely discretionary” expenses and B&R’s ability to borrow money.

The Commonwealth Court did not find that the EHB erred regarding its consideration of the well-plugging

schedule. DEP had argued that entering a well-plugging schedule would have resolved all of the violations in the 2015 administrative order. The court noted that the only mention of a well-plugging schedule is a single sentence in *B&R I*’s recitation of facts and “that existence of an alternative mitigation strategy does not establish that the strategy used was unreasonable.”²⁰ The court then turned its attention to the “purely discretionary” expenditures and B&R Resources’ ability to borrow money.

The Commonwealth Court declined to afford deference to Mr. Campola’s business judgment. First, the Commonwealth Court concluded that “the evidence does **not** support the EHB’s finding that **all** the legal expenses [incurred by B&R Resources] were **required to be expended in order for B&R to remain in business.**”²¹ The court asked whether specific legal expenditures were required to remain in business rather than “**expand**” B&R’s business interests.²² In doing so, the Commonwealth Court placed itself into B&R Resources’ shoes and found that “commencing litigation against landowners to bring wells online or inquiring about purchasing a gas line” did not have evidentiary support for the EHB to find that they were “required” for B&R Resources to remain in business. Because the court concluded the EHB’s findings were not supported by substantial evidence, the court then concluded that Mr. Campola “did not use reasonable efforts when causing B&R to expend funds for purposes that were not required for B&R to remain in business while ignoring B&R’s statutory obligation to remedy its violations of the 2012 Oil and Gas Act.”²³

Finally, the Commonwealth Court reviewed whether the EHB erred by not considering B&R Resources’ ability to borrow funds as a “reasonable effort” that Mr. Campola could have caused B&R to use to remedy the violations. Specifically, the court looked at loans Mr. Campola made to B&R Resources that B&R later used to defend Mr. Campola against personal liability in this litigation. The Commonwealth Court noted that, initially, defending B&R Resources and Mr. Campola was one and the same. The court then noted that the joint defense changed once the only dispute before the EHB

(Pa. Super. Ct. 1998) (internal quotations omitted).

¹⁴ *Id.*

¹⁵ *Id.* (citing PA-JICIV § 13.240, Subcommittee N. (quoting *Hayes v. Hagemeyer*, 400 P.2d 945, 949 (N.M. 1963)) (emphasis supplied).

¹⁶ *Id.* at *9.

¹⁷ *Id.* (citing *Prusky v. ReliaStar Life Ins. Co.*, 532 F.3d 252, 259, 261, 263 (3d Cir. 2008)) (emphasis original).

¹⁸ *Id.* (citing *Marion v. Bryn Mawr Tr. Co.*, 253 A.3d 682, 705 (Pa. Super. 2021)) (emphasis original).

¹⁹ *Id.* (citing *Marion*, 253 A.3d at 705).

²⁰ *Id.* at *10 (citing *Marion*, 253 A.3d at 702).

²¹ *Id.* (emphasis supplied).

²² *Id.* (emphasis supplied).

²³ *B&R Resources II*, at *12.

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JUST THE FACTS



LNG use: Growing, improving air quality

Among the benefits of increased natural gas production in Pennsylvania and across the country are the growing opportunities for liquified natural gas (LNG)—to the point that the U.S. became the world's largest producer of LNG at the end of 2021.

Despite claims by elected officials such as Massachusetts Senator Elizabeth Warren, who contends that “corporate greed” is tied to the export of LNG as domestic energy prices have ticked up recently, there is much to celebrate about the success of LNG. The January installment of PIOGA's Just the Facts series addresses the good news.

January's Just the Facts puts current energy prices into historical perspective (consumers today are paying well below the 20-year average for natural gas), discusses how LNG is helping to improve worldwide air quality and reduce CO2 emissions, highlights the importance of virtual pipelines, and notes LNG innovations such as

fueling ships and locomotives.

The bottom line: LNG provides a safe, affordable and clean fuel source in a number of applications, including the export of a small portion of natural gas produced from shale formations in the U.S. Storage capacity around the country and pipeline bottlenecks, most notably to the north and east of the Appalachian Basin, reduce the capability of U.S. producers to directly supply additional gas to those regions and reduce energy costs for businesses and consumers. The greater use of LNG to meet additional domestic and global demand is positive news for the U.S. economy and the global environment.

Visit the Latest News and Blog section at www.pioga.org to read this month's Just the Facts and download a version you can share with colleagues, friends, family and others.

was Mr. Campola's personal liability, and not B&R Resources' liability.²⁴

The Commonwealth Court declined to calculate the number of wells it felt B&R Resources could have plugged under the Commonwealth Court's version of the applicable standard. The matter is remanded back to the EHB to do so.

To the Commonwealth Court, “it appears that Campola was willing to direct B&R to borrow money and pledge its assets when it was necessary to protect Campola personally but not when it was necessary for B&R to satisfy its legal obligation to remedy its statutory violations by plugging the wells.”²⁵ The Commonwealth Court concluded “it was error for the loans made after B&R's liability was no longer at issue not to have been included in B&R's financial ability to plug the wells under the reasonable efforts standard, and we remand for the EHB to recalculate how many more wells B&R could have plugged had these amounts been put to that purpose.”²⁶ The court did not simply state the EHB should review the evidence; it directed the EHB to add those funds back into B&R Resources' financial ability to

plug wells and recalculate the number of wells Mr. Campola is personally liable for plugging.

Conclusion

B&R Resources II revised the “reasonable efforts” of *B&R Resources I* in favor of a more stringent measurement. The court noted that there should be no deference to the business judgment of the individual running a private company. Instead, there must be substantial evidence supporting the finding that expenditures were “actually required” for the regulated entity to remain in business and “not simply a continuation of the wrongful conduct.” Though *B&R Resources II* is not binding precedent, it will be used as persuasive authority by the department in future enforcement actions. Operators should be cautioned to account for potential liabilities presented by environmental law violations and be sure to actively and diligently address violations of the law while considering all methods of response. ■

²⁴ *Id.* at *12.

²⁵ *Id.*

²⁶ *Id.*

Infrastructure bill provides billions in funding for hydrogen and carbon capture, utilization, and storage

On November 15, President Biden signed the bipartisan \$1.2 trillion Infrastructure Investment and Jobs Act (H.R. 3684). This article reviews the key provisions related to hydrogen and carbon capture, utilization, and storage (CCUS).

Hydrogen

Regional Clean Hydrogen Hubs (Sec. 40314). In perhaps the most impactful provision, the bill authorizes an \$8 billion program to support the development of at least four regional clean hydrogen hubs to network hydrogen producers, storage, offtakers and transport infrastructure. The Department of Energy (DOE) must solicit proposals for regional clean hydrogen hubs by May 15, 2022, and select the four hubs by May 15, 2023. DOE will solicit at least one hub pro-

Authors:



Jim Curry



Chris Kuhman
—
Babst Calland

posal for each of the following hydrogen production technologies: fossil fuels, renewables or nuclear. And, DOE will solicit at least one hub to provide hydrogen to each of the following sectors: power generation, industrial, residential and commercial heating, and transportation.

Clean hydrogen definition and production qualifications (Secs. 40312 & 40315). Defines “clean hydrogen” and “hydrogen” in a technology neutral way, and requires DOE and the Environmental Protection Agency (EPA) to develop an initial carbon standard for projects to qualify as clean hydrogen production, eligible for the variety of incentives throughout the bill. Clean hydrogen means “hydrogen produced with a carbon intensity equal to or less than 2 kilograms of carbon dioxide (CO₂)-equivalent produced at the site of production per kilogram of hydrogen produced.” The standard must consider technological and economic feasibility and allow production from fossil fuels with CCUS, hydrogen carrier fuels, renewables, nuclear and other methods that DOE determines are appropriate.

Research and development program and National Clean Hydrogen Strategy and Roadmap (Secs. 40313 and 40314). Requires DOE to establish an R&D program with the private sector to commercialize clean hydrogen production in a variety of applications by May 15, 2022. This provision includes \$500 million in grant funding for clean hydrogen manufacturing and recycling.

Clean hydrogen electrolysis program (Sec. 40314). Requires DOE to establish a program to improve the



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efficiency, increase the durability and reduce the cost of producing clean hydrogen using electrolyzers (commonly called “green hydrogen”), and authorizes \$1 billion for grants and demonstration projects. The goal is to reduce the cost of green hydrogen to less than \$2 per kilogram by 2026.

Appalachian Regional Energy Hub (Sec. 14511).

Provides the Appalachian Region Commission with \$5 million to establish an Appalachian Region hub for natural gas, natural gas liquids and hydrogen produced through steam methane reforming.

Grants for hydrogen fueling infrastructure (Sec. 11401). Authorizes the Federal Highway Administration to award \$2.5 billion in grants for the acquisition or installation of publicly accessible electric vehicle charging, or hydrogen, propane or natural gas fueling infrastructure along an alternative fuel corridor.

Carbon capture, utilization and storage

Carbon utilization (Sec. 40302). Requires DOE, through its Carbon Utilization Program, to develop standards to facilitate the commercialization of carbon-based technologies. The bill also requires DOE to establish a grant program for states and governmental entities to procure and use products that are derived from carbon and reduce greenhouse gas emissions. The bill authorizes \$310 million for this program.

Carbon capture technology (Sec. 40303). Authorizes \$100 million for DOE grants under its Carbon Capture Technology Program, including an engineering and

design program for CO₂ transportation.

CO₂ transportation infrastructure finance and innovation (Sec. 40304). Creates a CO₂ transportation infrastructure finance and innovation (CIFIA) program in DOE and provides \$2.7 billion in funding. CIFIA is a federal credit instrument that will provide funding for certain CO₂ transportation projects anticipated to cost \$100 million or more. In selecting projects, DOE will give priority to large-capacity common carrier pipeline projects, projects with clear demand and projects sited adjacent to existing pipelines. Grants are also available for upsizing infrastructure to meet increase in future demand. All iron, steel and manufactured goods used in a project must be produced in the U.S., with some exceptions.

Carbon storage validation and testing (Sec. 40305). Authorizes \$2.5 billion for DOE to provide funding for large-scale carbon sequestration projects and associated transportation infrastructure.

Secure geologic storage permitting (Sec. 40306). Authorizes \$25 million for EPA’s Class VI UIC well permit program for the geologic sequestration of CO₂ and \$50 million for grants to states seeking Class VI primacy.

Geologic carbon sequestration on the outer continental shelf (Sec. 40307). Allows the Department of Interior (DOI) to grant a lease, easement, or right-of-way on the outer continental shelf for the injection of CO₂ into sub-seabed geologic formation for long-term carbon sequestration. The bill requires DOI to issue regulations by November 15, 2022.

Carbon removal (Sec. 40308). Authorizes \$3.5 billion

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for a DOE program to develop four regional air capture hubs. The hubs will facilitate the deployment of direct air capture projects; have the capacity to capture, sequester or utilize at least one million metric tons of CO₂ annually; demonstrate the capture, processing, delivery and sequestration of captured carbon; and have potential for developing a regional or inter-regional network to facilitate CCUS.

Carbon capture large-scale pilot projects (Sec. 41004(a)). Authorizes \$937 million for DOE to carry out a large-scale CCUS technology program.

Carbon capture demonstration projects program (Sec. 41004(b)). Authorizes \$2 billion for DOE to carry out CCUS demonstration projects.

Carbon removal (Sec. 41005). Authorizes \$15 million for DOE to award a competitive technology prize for the precommercial capture of CO₂ from dilute media and \$100 million for commercial applications of direct air capture technologies. ■

If you have questions about these developments, please contact Jim Curry at 202-853-3461 or jcurry@babstcalland.com or Chris Kuhman at 202-853-3467 or ckuhman@babstcalland.com.

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The Buyers' Guide is an interactive "one-stop-shop" for our members looking for products and services needed for oil and gas operations

PIOGA is pleased to announce the 2021 edition of the PIOGA Buyers' Guide, the premier resource of relevant products and services for oil and gas professionals, now is available via the PIOGA website at www.pioa.org or directly at www.paoilgasbuyers-guide.com,

The 2021 version of the Buyers' Guide features updated and expanded company and product listings, in addition to other valuable information relating to the industry. The Buyers' Guide provides an efficient way to browse for products and services and offers oil and gas suppliers and companies exceptional visibility by showcasing their products and services to a targeted, industry-specific buyer group.

"For the past six years, the PIOGA Buyers' Guide has become a great online resource for purchasing goods and services in the oil and gas industry, connecting our members together for a more efficient way to find what your company is looking for," said Dan Weaver, PIOGA's President and Executive Director.

Our partnership with Strategic Value Media (SVM) has allowed PIOGA to provide more options to our members to advertise their products and services. All Allies & Providers members receive a complimentary listing in the Buyers' Guide, but your company can work with the SVM staff to discuss options of upgrading your listing in



CUSTOS IQ was founded in Sewickley by Robert Ragan Jr, a veteran of cyber security who has served Pennsylvania oil and gas businesses for many decades. Robert's extensive IT-Infrastructure experience in the Pennsylvania energy sector has steered CUSTOS IQ to focus on providing security, support and IT-compliance services specifically tailored to the members of PIOGA.

Robert and the security team at CUSTOS IQ offer a unique cyber-security management platform, which provides market leading offensive security technology capable of assessing prominent risks present in any organizational IT environment. PIOGA members are facing new challenges as cyber requirements for sup-

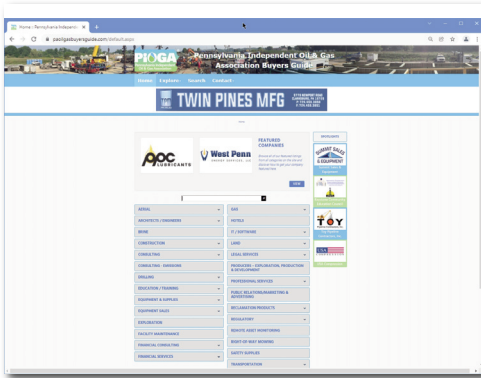
PIOGA Member Profile

ply chain participation have undergone vast shifts in the recent 12 months. Recently surfaced requirements and recommendations include multi-factor authentication, cyber-insurance or ransomware detection and prevention technology.

CUSTOS IQ's engineers can not only assist PIOGA members in implementing new security technology, but utilize a multi-faceted approach by combining market leading offensive security technology with security consulting. The security services include IT-Infrastructure consulting, gap analysis, hardware/software implementations and compliance assessment.

Our organization joined PIOGA to assist the membership in meeting modern day security challenges, by providing accessible and straightforward security management. We look forward to securing the future of PIOGA members.

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the Buyers' Guide. Moreover, there are new categories and subcategories that you can list your company under.

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Did you know? A portion of the proceeds from the Buyers' Guide comes back to PIOGA to help sustain our association. An investment in the Buyers' Guide is not only an investment for your company, but an investment in PIOGA too. We thank you! ■

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VOC rulemaking *Continued from page 1*

be capable of accepting the retrofits, if needed, to capture vapors.

- Storage vessels associated with conventional operations should not be regulated under the proposal due to low emissions levels.
- The economic viability of many conventional operators is at stake.

Changes in the draft final-form rule

At the December AQTAC meeting, DEP presented a list of changes made since the 2020 proposed rulemaking.

Most notable among these changes is that DEP added a requirement for annual leak inspections at what it estimates will be 38 sites where low-producing wells exist on multi-well pads. Also included was a uniform threshold for when operators must begin controlling emissions from tanks, bringing the standards for tanks at conventional well sites in line with newer shale gas sites.

DEP also removed a provision that would have allowed companies to perform less frequent leak searches if they could show that fewer than 2 percent of their components were leaking. DEP replaced it with a standard allowing operators to conduct fewer or no leak surveys at sites only when production drops to a low level.

Although the department broadly noted some of the types of comments received, it indicated the formal comment and response document is still being prepared. As a result, no rationale was provided for the changes between the proposed and the draft-final versions. The following changes were highlighted in DEP's presentation slides:

§ 129.121: General provisions and applicability

- Updated the applicability for natural gas-driven pneumatic controller to clarify the final-form rulemaking applies to natural gas-driven continuous bleed pneumatic controller.

§ 129.122: Definitions, acronyms and EPA Methods

- Some unnecessary terms were removed, and minor edits made to other terms for clarification.

§ 129.123. Storage vessels

- Applicability for 95 percent VOC control is reduced to 2.7 tons per year (TPY) threshold for all storage vessels.
- Maximum daily average throughput changed to monthly average throughput to calculate actual VOC emissions.

§ 129.124. Natural gas-driven continuous bleed pneumatic controllers

- Changed the term natural gas-driven pneumatic controller to natural gas-driven continuous bleed pneumatic controller for clarity.

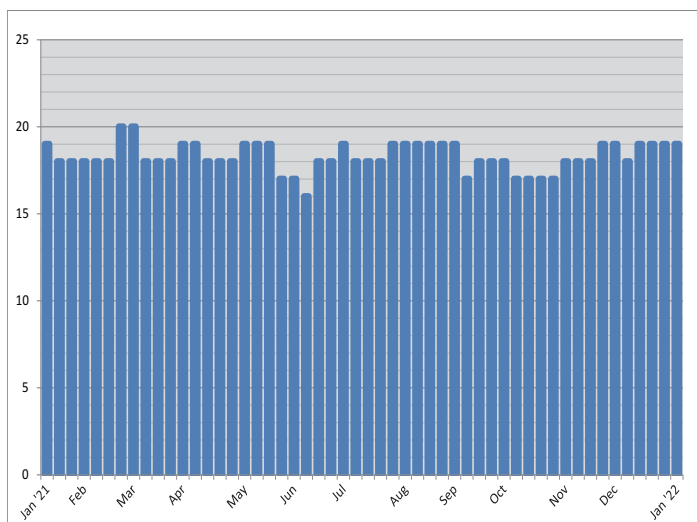
§ 129.125. Natural gas-driven diaphragm pumps

- Minor edits for clarification, no significant changes were made.

Continues on page 18

Oil & Gas Dashboard

Pennsylvania Rig Count



Penn Grade Crude Oil Prices



Natural Gas Futures Closing Prices

Month	Price
February	\$4.144
March	3.910
April	3.825
May	3.825
June	3.863
July	3.927
August	3.958
September	3.938
October	3.949
November	4.054
December	4.239
January '23	4.297

Prices as of January 10

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 — January 2022

New England continues to indicate what it means to be undersupplied. Without significant weather conditions, Algonquin has increased \$9.13 per MMBtu on top of the \$5.01 per MMBtu increase the previous month. January's settlement price is one of the highest points in the previous three years. Transco Z6 front month had a significant jump as well at \$0.90 per MMBtu. However, the rolling one year term dropped \$0.31 per MMBtu. Dominion South and Transco Leidy decreased at \$0.24 and \$0.22 per MMBtu respectively. They both also decreased for their rolling one year and full trading terms. TETCO M3's front month increased \$0.06 per MMBtu. However, its rolling one year term and full trading term dropped \$0.56 and \$0.02 per MMBtu.

Transportation values increased significantly again for the third month in a row. Dominion South to Algonquin is valued at \$16.84 and \$16.82 per MMBtu representing a \$9.37 and \$9.35 per MMBtu increase. Transco Leidy to Transco Z6 increased \$1.12 per MMBtu. Dominion South to TETCO M3 increased \$0.30 per MMBtu. Lastly, Transco Leidy to TETCO M3 increased \$0.28 per MMBtu, TETCO M3 to Transco Z6 increased \$0.84 per MMBtu.

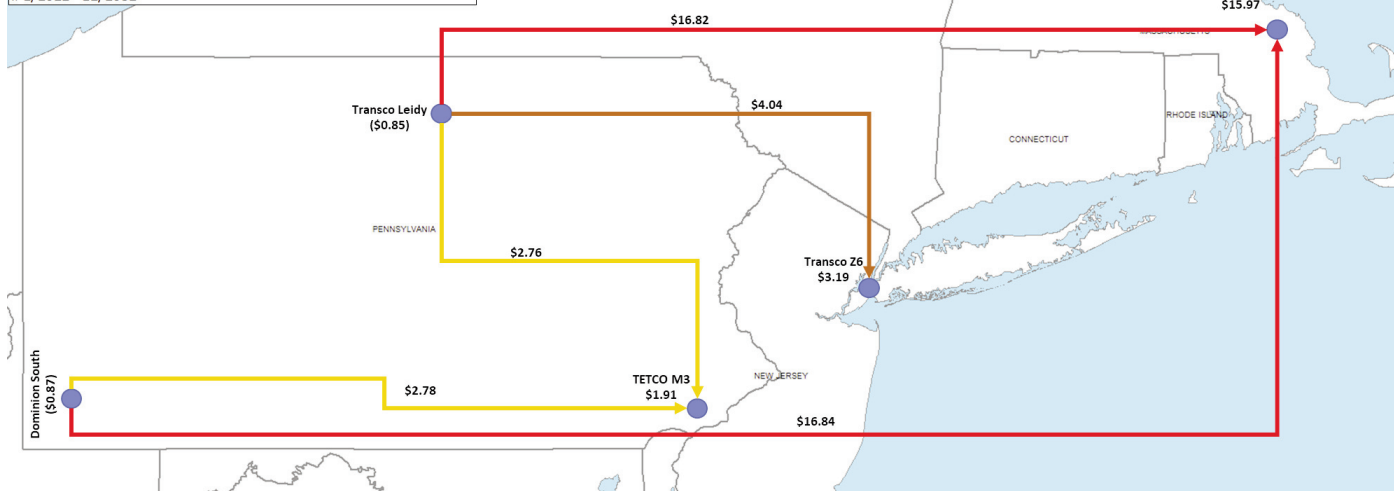
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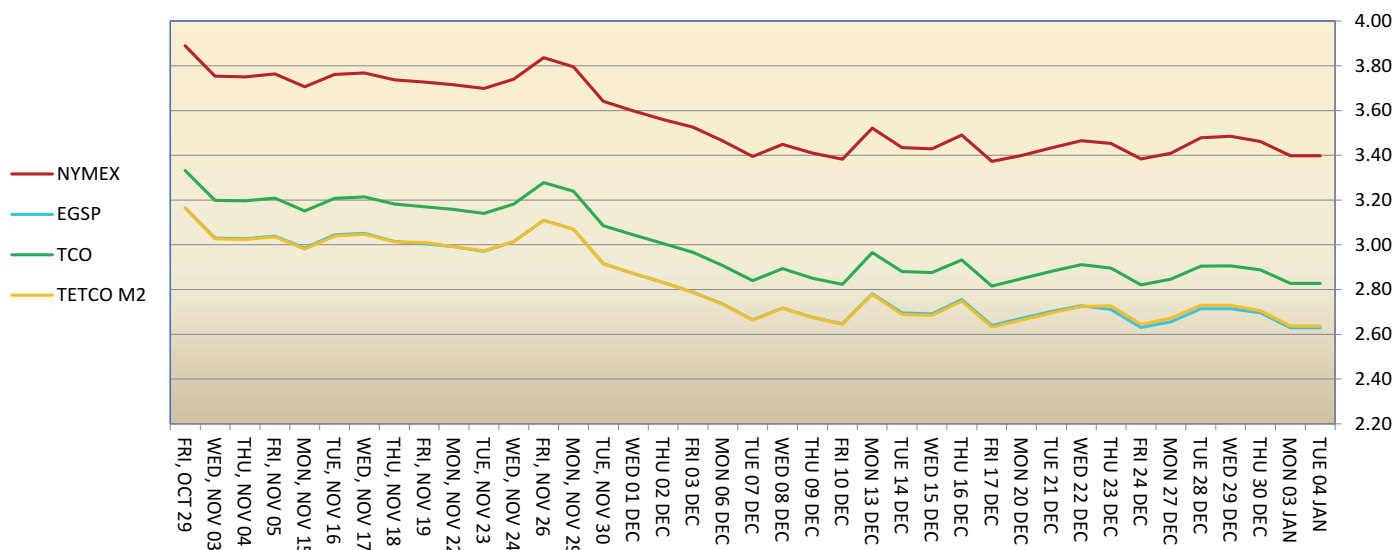
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Location	Natural Gas Basis Future Pricing		
	Pricing Term		
	1/2022	1/2022-12/2022	1/2022-12/2026
Algonquin	15.97	4.08	2.47
Dominion South #	-0.87	-0.88	-0.75
TETCO M3 #	1.91	-0.05	0.12
Transco Z6	3.19	0.44	0.44
Transco Leidy #	-0.85	-0.89	-0.76



Pricing as of January 2022 Future contract only; Source ICE End of Day Report

36-Month Appalachian Fixed Price Moving Averages



Spud Report: December 2021



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

OPERATOR	WELLS	SPUD	API #	COUNTY	MUNICIPALITY
Apex Energy (PA) LLC	2	12/13/21	129-29095	Westmoreland	Hempfield Twp
		12/15/21	129-29097	Westmoreland	Hempfield Twp
Bull Run Resources LLC	1	12/13/21	083-57361*	McKean	Lafayette Twp
Cameron Energy Co	2	12/9/21	123-48510*	Warren	Sheffield Twp
		12/27/21	123-48509*	Warren	Sheffield Twp
Chief Oil & Gas LLC	3	12/13/21	113-20448	Sullivan	Fox Twp
		12/13/21	113-20449	Sullivan	Fox Twp
		12/13/21	113-20450	Sullivan	Fox Twp
Coterra Energy Inc	8	12/26/21	115-22919	Susquehanna	Dimock Twp
		12/26/21	115-22920	Susquehanna	Dimock Twp
		12/26/21	115-22921	Susquehanna	Dimock Twp
		12/26/21	115-22922	Susquehanna	Dimock Twp
		12/26/21	115-22923	Susquehanna	Dimock Twp
		12/26/21	115-22924	Susquehanna	Dimock Twp
		12/26/21	115-22925	Susquehanna	Dimock Twp
		12/26/21	115-22926	Susquehanna	Dimock Twp
Gas & Oil Mgmt Assoc Inc	1	12/22/21	123-48519*	Warren	Mead Twp
LA Oil & Gas LLC	1	12/13/21	123-48563*	Warren	Pleasant Twp
Olympus Energy, LLC	6	12/1/21	129-29117	Westmoreland	Murrysville Boro
		12/1/21	129-29116	Westmoreland	Murrysville Boro
		12/1/21	129-29120	Westmoreland	Murrysville Boro
		12/1/21	129-29119	Westmoreland	Murrysville Boro
		12/1/21	129-29118	Westmoreland	Murrysville Boro
		12/1/21	129-29111	Westmoreland	Murrysville Boro
Pennhills Resources LLC	3	12/8/21	083-57296*	McKean	Hamilton Twp
		12/13/21	083-57335*	McKean	Hamilton Twp
		12/22/21	083-57334*	McKean	Hamilton Twp
Range Resources Appalachia	12	12/16/21	081-21911	Lycoming	Cogan House 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
		12/16/21	081-21912	Lycoming	Cogan House Twp
		12/16/21	081-21913	Lycoming	Cogan House Twp
		12/17/21	081-21910	Lycoming	Cogan House Twp
		12/27/21	125-28951	Washington	Mt. Pleasant Twp
		12/27/21	125-28966	Washington	Mt. Pleasant Twp
		12/27/21	125-28968	Washington	Mt. Pleasant Twp
		12/28/21	125-28967	Washington	Mt. Pleasant Twp
		12/20/21	125-28921	Washington	N. Strabane Twp
		12/20/21	125-28920	Washington	N. Strabane Twp
		12/20/21	125-28919	Washington	N. Strabane Twp
		12/20/21	125-28918	Washington	N. Strabane Twp
Seneca Resources Co LLC	8	12/14/21	117-22141	Tioga	Delmar Twp
		12/14/21	117-22146	Tioga	Delmar Twp
		12/15/21	117-22142	Tioga	Delmar Twp
		12/15/21	117-22144	Tioga	Delmar Twp
		12/15/21	117-22145	Tioga	Delmar Twp
		12/15/21	117-22153	Tioga	Delmar Twp
		12/16/21	117-22143	Tioga	Delmar Twp
		12/16/21	117-22154	Tioga	Delmar Twp
Wilmoth Interests Inc	2	12/22/21	123-48547*	Warren	Mead Twp
		12/8/21	123-48539*	Warren	Sheffield Twp

	December	November	October	September	August	July
Total wells	49	62	76	59	52	53
Unconventional Gas	39	58	62	43	35	37
Conventional Gas	0	0	0	0	1	0
Oil	7	4	7	6	14	14
Combination Oil/Gas	3	0	7	10	2	2

VOC rulemaking *Continued from page 1*

§ 129.126. Compressors

- Changed the applicability for reciprocating compressors to require rod packing changes for reciprocating compressors located at well sites.
- Allowed routing the VOC emissions from a reciprocating compressor to a control device in addition to a process.

§ 129.127. Fugitive emissions components

- Well sites producing, on average, equal to or greater than 15 (barrels of oil equivalent) BOE per day, with at least one well producing, on average, equal to or greater than 15 BOE per day, must perform quarterly LDAR inspection.
- Well site producing, on average, equal to or greater than 15 BOE per day, and at least one well producing, on average, equal to or greater than 5 BOE per day but less than 15 BOE per day must perform annual LDAR inspections. Operators in this category can request an exemption from the annual instrument-based LDAR inspection on a case-by-case basis.
- Removed 2-percent leak step-down provision and replaced it with the following production-based provision:

—Well site production and individual well production must be calculated on an annual basis.

—If the result of the calculation would allow the well site to inspect at a lower frequency, the owner or operator may adopt the less frequent inspections after two consecutive calculations.

—If the result of the calculation would require the well site to inspect at a higher frequency, the owner or operator shall adopt the higher frequency of inspection immediately.

§ 129.128. Covers and closed vent systems

- The requirements for initial AVO (audio, video or olfactory) inspections were changed from 30 days to 60 days after the effective date of the final-form rulemaking.

§ 129.129. Control devices

- Minor clarifications are made to performance testing requirement.

§ 129.130. Recordkeeping and reporting

- Minor edits were made to reflect the reduction to 2.7 TPY threshold for storage vessels and refer to natural gas continuous bleed pneumatic controllers.

The presentation made by DEP to AQTAC and the draft final-form rule itself (referred to as Annex A) can be found in the December 9, 2021, meeting material on the committee's webpage—

www.dep.pa.gov/Business/Air/BAQ/AdvisoryGroups/Air-Quality-Technical-Advisory-Committee/Pages/default.aspx.

What's next

DEP plans to present the rulemaking to its Citizens Advisory Council and Small Business Compliance Advisory Committee this month before seeking final approval from the Environmental Quality Board in the

first quarter of the year. DEP then hopes to promulgate the final rule in the second quarter of 2022.

DEP's proposal is more stringent than the federal guidelines it is based on. However, EPA is proposing another set of rules to cut the oil and gas industry's methane emissions further. If they are finalized, Pennsylvania facilities will have to comply with those stricter standards. ■

Calendar of Events

PIOGA events

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

Cigar networking event

January 27, BURN by Rocky Patel, Pittsburgh

PIOGATech: First-Aid/CPR/AED Training

February 24, venue TBA

Axes & Ales networking event

March 9, Lumberjaxes, Pittsburgh

Spring Meeting

April 6, Rivers Casino, Pittsburgh

Sporting clays networking event

May 5, venue TBA

PIOGATech: environmental topic TBA

May 17, venue TBA

Oil Patch Classic Golf Outing

June 16, Wanango Country Club, Reno

Pins & Pints with Beach Party networking event

July 14, Paradise Island Bowl & Beach, Pittsburgh

PIOGATech: safety topic TBA

August 3, venue TBA

25th Annual Divot Diggers Golf Outing

August 18, Tam O'Shanter Golf Course, Hermitage

PIOGATech: Water and Waste Management

September 15, Seven Springs Mountain Resort, Champion

Fall Festival and Marcellus to Manufacturing

October 19, Seven Springs Mountain Resort, Champion

Annual Meeting and clay shoot

October 20, venue TBA

Annual Oil & Gas Tax and Accounting Seminar

November 16, venue TBA

PIOGATech: Air Quality

December 15, venue TBA

Mix, Mingle & Jingle Holiday Party

December 15, venue TBA

Other events

GO-WV Winter Meeting

January 19-20, Charleston, WV

Info: gowv.com/events/2022-winter-meeting

OOGA Annual Meeting

March 2-4, Columbus, OH

Info: www.ooga.org/events

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Save the date!

PIOGA Spring Meeting

Wednesday, April 6
Rivers Casino, Pittsburgh



Watch your email or check the PIOGA Events section at www.pioga.org for these other upcoming events:

PIOGA's Lunch & Learn Series: Cultural Diversity

Tuesday, January 25 – webinar

Cigar Networking Event

Thursday, January 27

BURN by Rocky Patel, Pittsburgh

PIOGATech – First-Aid/CPR/AED Training

Thursday, February 24 – venue TBA

Axes & Ales Networking Event

Wednesday, March 9

Lumberjaxes, Pittsburgh (Millvale)