

The PIOGA Press

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Pennsylvania Independent Oil & Gas Association
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Conventional Oil & Gas Act legislation introduced

By Jean Mosites, Esq.
Babst Calland

On March 19, two bills—House Bill 2154 and Senate Bill 1088—were introduced in the Pennsylvania Senate and House of Representatives that would create a separate statute, the Conventional Oil and Gas Act (COGA), to govern conventional oil and gas operations.

The General Assembly had adopted Act 13 of 2012 to replace and revise the 1984 Oil and Gas Act, adding substantial new provisions to address unconventional oil and gas operations. The scope of Act 13 currently includes both conventional and unconventional oil and gas operations. COGA would be limited to conventional operations and limit Act 13 to unconventional operations.

COGA is based on the framework of the 1984 act, amended as of 2011, including statement of purpose from the 1984 act to “permit optimal development of oil and gas resources.” Provisions related to unconventional formations like the Marcellus Shale have been deleted, as well as gas storage provisions that remain in Act



13. New provisions address how oil and gas regulation should interact with the Solid Waste Management Act, including the beneficial use of brine and wastewater treatment and disposal. COGA also addresses and incentivizes voluntary plugging of orphan wells. Updates to the 1984 act address permitting, notice obligations, site restoration, spill remediation, inspections, enforcement and penalties. COGA provides for the continuity of operations, permits, approvals and orders that were

Continues on page 3



Comments from COGA's sponsor	3
2018 PIOGA Spring meeting photo review	4
PIOGA comments against DRBC ban	6
Update on EPA's ban of "unconventional" POTW discharges	9
PIOGATech: Water & Waste Management Training	10
Ruling throws "rule of capture" into doubt	12
Severance tax would cost royalty owners millions.....	13
Second comment period opened on GP-5/5A	14
DEP speeds up Chapter 105 permitting.....	14
PIOGA at the IPAA Congressional Call Up	16
Thanks to our PIOGA Partners	17
Contractor safety: Who's responsible?.....	18
Tom Bartos steps down from board.....	18
New and returning members	18
Member news	18
2017 oil and gas activity recap	19
Oil & Gas Dashboard.....	20
March Spud Report	22
Calendar of Events	23



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COGA legislation *Continued from page 1*

developed under both the 1984 act and Act 13.

Before being introduced, the legislation was discussed and reviewed by the Pennsylvania Crude Oil Development Advisory Council (CDAC), which consists of members from industry (including two PIOGA representatives), the Pennsylvania Department of Environmental Protection, academia and legislators. The legislators considered input from all CDAC members to develop a legislative package that acknowledges the unique needs of the conventional industry while at the same time including essential environmental protections.

This legislative effort to provide a separate legal framework for the conventional oil and gas industry follows legislation in 2015 requiring the Environmental Quality Board (EQB) to develop separate regulations for the conventional industry, as well as subsequent legislation in 2016 abrogating a regulatory package that would have applied to the conventional industry. The EQB promulgated a new Chapter 78a in October 2016; Chapter 78 now applies exclusively to conventional operations.

The bills were referred on March 19 to the Environmental and Energy Committees in both the House and Senate. There have been no committee or floor votes on either as of the date of this article. If passed and signed by the governor, the statute will become effective immediately. ■

Comments from COGA's sponsor:

"The conventional oil and gas industry employs thousands of people and is a vital contributor, not only to our local economy but to our statewide economy as well," said Representative Martin Causer (R-Cameron/McKean/Potter), primary sponsor of the House version of the legislation. "The goal of this legislation is to ensure fair regulation of the industry that will effectively protect the environment while also protecting this valuable industry and the jobs it provides."

He continued: "Although Act 13 was intended to address new issues with the unconventional industry, it also placed an unbearable burden on the much smaller conventional producers. The operations are very different, and the regulations must be as well."

The companion version of the bill was introduced by Senator Scott Hutchinson (R-Butler/Clarion/Forest/Venango/Warren). Both measures have strong support, with 60 cosponsors signed onto HB 2154 and 22 cosponsors to SB 1088.

PIOGA strongly supports this legislation and encourages members to contact their representative and senator to urge quick passage.

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This page, from top:
Visiting with the
exhibitors; Mike
Hillebrand of Huntley
& Huntley (left) with
keynote speaker,
Assistant DOE
Secretary Steven
Winberg; Dr. Terry
Engelder expounds on
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Clockwise from above left: Peoples mascot Freddy the Flame give a thumbs-up to the ECI crew; UGI's Keefe Long presents during the midstream panel; Pennsylvania House Speaker Mike Turzai; catching up during the post-conference reception.

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PIOGA comments against DRBC hydraulic fracturing ban

The Delaware River Basin Commission's (DRBC) proposed ban on natural gas development within a 14,000-square-mile region that includes Pennsylvania's northeastern tip is unnecessary for protection of water resources or to protect public health and should be withdrawn, PIOGA said in March 29 comments. Instead the commission could protect the basin's water resources by adopting regulations similar to what has been done successfully by the Susquehanna River Basin Commission (SRBC).

A de facto ban on natural gas development has been in place in the four-state Delaware Basin since 2010. Last September, the DRBC voted to direct staff to draft regulations prohibiting horizontal drilling and hydraulic fracturing in the basin, asserting that unconventional natural gas development "presents risks, vulnerabilities and impacts to surface and ground water resources across the country." On November 30, the commission posted on its website draft amendments to its regulations and comprehensive plan, prohibiting high-volume hydraulic fracturing in hydrocarbon-bearing rock formations (*December PIOGA Press, page 13*). The proposed rules would allow the inter-basin transfer of water for use in natural gas well development as well as importation of produced water for treatment within the Delaware Basin. The public comment period on the proposal ran through March 30.

In its formal comments, PIOGA pointed out that the DRBC failed to consider the readily available alternative

of developing regulations on water management and use and potential impacts associated with hydraulic fracturing. The association urged the DRBC to look to regulations put in place by the SRBC as an example.

"Appropriate regulation of water withdrawals and consumptive use by the DRBC, as well as reliance on host state regulations addressing oil and gas development and associated hydraulic fracturing operations, will provide the necessary level of protection for the Basin's water resources," PIOGA wrote.

PIOGA also emphasized that many of the specific issues and concerns raised by the DRBC in the supplementary information accompanying the proposed regulations are either based on incomplete data or data presented with no context or fail to consider the role of appropriate regulation in mitigating potential impacts to water resources.

"By failing to consider all relevant information, the DRBC has developed Proposed Rules that will inappropriately and unreasonably limit economic growth within the Basin and deprive property owners of the opportunity to benefit from resources on their property, without providing justified environmental benefits beyond those that could be achieved by appropriate regulation of the oil and natural gas industry," PIOGA said in its comments.

Among other points raised by PIOGA:

- The proposed requirements for exporting water from the Delaware Basin do not make it clear whether water to be used for hydraulic fracturing would be treated differently than water exported for other uses. The DRBC should treat all exports consistently; setting a higher barrier for water to be exported for hydraulic fracturing would be inappropriate and unnecessary. Similarly, water associated with oil and gas activities that is imported into the basin should be treated no differently than wastewater imports by other industries or business sectors.

- A definition of "pollutants of concern" references a U.S. Environmental Protection Agency technical development document that lists a number of constituents that were not identified as pollutants of concern in wastewater generated in the Marcellus Shale or any other specific formation found within the basin. "The incorporation of irrelevant yet substantive information from a technical development document into a regulation is highly unusual, and in this case, inappropriate," PIOGA said.

- PIOGA expressed concern about the process by which the DRBC rules are being developed, where the ultimate decision makers have already voiced their decision to impose a ban, regardless of the nature or extent of public comment or additional information that should be evaluated.

It's not certain when the DRBC will vote on the proposed regulations. Information can be found at www.nj.gov/drbc/meetings/proposed/notice_hydraulic-fracturing.html. ■

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EPA's ban on 'unconventional' wastewater discharges to POTWs

On June 28, 2016, the U.S. Environmental Protection Agency (EPA) published a rule entitled "Effluent Limitation Guidelines and Standards for the Oil and Gas Extraction Point Source Category," which prohibits the discharge of unconventional wastewater to publicly owned treatment works (POTWs). The rule went into effect on August 29, 2016.

The prohibition, now codified in 40 C.F.R. §§ 435.33 and 435.34, applies to "wastewater pollutants associated with production, field exploration, drilling, well completion or well treatment for unconventional oil and gas extraction." The phrase "unconventional oil and gas extraction" (UOG) is defined in the rule to mean oil and natural gas produced from "a shale and/or tight formation (including, but not limited to, shale gas, shale oil, tight gas, tight oil)."

Subsequently, the rule was challenged in court and has been remanded to EPA for review and possible revision. The legal challenge to the rule, described in detail below, relates to its applicability to Pennsylvania-defined "conventional" oil and gas operators. However, EPA's administrative review of the rule could affect oil and gas wastewater disposal options for both conventional and unconventional operators in Pennsylvania.

Implementation deadline extension

In the preamble to the publication of the final rule, EPA stated that no operators subject to the rule were currently discharging to POTWs. Based on this understanding, the rule was to go into effect within 60 days of publication. Following promulgation of the rule, EPA received letters indicating that there were facilities likely discharging UOG wastewater to POTWs in Pennsylvania. As a result, EPA issued a final rule on December 7, 2016, to extend the implementation deadline for existing sources that were lawfully discharging wastewater to POTWs between April 17, 2015, and June 28, 2016. For such existing sources, the compliance date for the rule is now August 29, 2019.

Legal challenge to the rule

At the time of publication, EPA stated that the rule was not intended to address standards for conventional oil and gas extraction facilities and that EPA would consider standards for the conventional industry in a future rulemaking.

In Pennsylvania, the rule's definition of UOG (i.e., including "tight gas" and "tight oil") likely draws in the majority of conventional oil and gas operations because EPA identified the Berea-Murrysville, Bradford-Venango-Elk and Clinton/Medina-Tuscarora formations as "UOG resources." Pennsylvania's conventional operators have

been extracting oil and natural gas from these formations for more than 100 years and are not considered to be part of the "unconventional oil and gas extraction" industry by the Pennsylvania Department of Environmental Protection (DEP). Conventional operators suddenly risked violating EPA's effluent limitations for discharging to POTWs, despite the fact that such discharges were never considered by EPA during rule development and were being lawfully conducted under the oversight of DEP.

In November 2016, the Pennsylvania Grade Crude Oil Coalition (PGCC) filed a petition for review of the rule in the U.S. Court of Appeals for the Third Circuit. PGCC sought a revision of the rule's definition (or other form of clarification) that would exclude tight oil and gas formations in Pennsylvania from the definition of UOG resources. Such an exclusion would be consistent with Pennsylvania law, which provides separate rules for Pennsylvania-defined conventional operators and unconventional operators. It also would allow Pennsylvania-defined conventional operators to continue discharging wastewater to POTWs, consistent with past practice and DEP approvals. In the lawsuit, PGCC argued that EPA made a number of fundamental errors in the rule's development, including incorrectly finding that there were no existing discharges to POTWs by the entities subject to the rule and failing to consider costs and burdens imposed on small businesses affected by the rule.

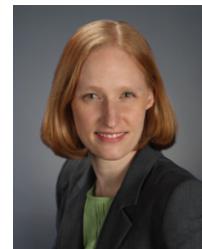
Pennsylvania-defined conventional operators, some of whom had ongoing discharges to POTWs at the time the rule was finalized, were the impetus for EPA's final rule extending the compliance date in December 2016. However, because the implementation extension applies only to operators who were discharging during a certain period of time (i.e., between April 17, 2015, and June 28, 2016), and because the ban remains in effect for those operators beginning in 2019, the extension does not address or alleviate concerns about the rule.

In August 2017, EPA filed a motion for a voluntary remand of the rule to the agency, without vacating the rule. The stated purpose of the remand was to allow EPA to "further develop the administrative record to consider new information received after the close of rulemaking." The motion also noted that a remand would allow EPA to seek public comments on new information and "take other actions as appropriate." Because the rule was not vacated as part of the remand, it remains in effect in its current form (with the delayed implementation date for a subset of operators) during EPA's review.

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Administrative review of the rule

According to status reports filed with the Third Circuit Court of Appeals, EPA's administrative proceedings reviewing the rule are ongoing. In a February 2018 status report, EPA indicated that it was continuing "its data collection efforts." In the same month, EPA sent out information request letters under Section 308 of the Clean Water Act to nine Pennsylvania conventional operators. The letters requested information about the operators' wells, wastewater disposal methods and disposal costs. Responses are being compiled by EPA and will likely inform EPA's review of the rule.

In addition to filing the lawsuit described above, PGCC also filed a petition with EPA in August 2017 requesting a rulemaking to reconsider and administratively stay the rule. EPA responded in December 2017, declining to commit to a rulemaking to stay the rule. Rather, EPA noted that there was "no imminent need for such a stay." Because of the three-year compliance period allowed for existing facilities, EPA believes that it has "sufficient time to consider the new information" before compliance is required for operators currently discharging to POTWs.

PIOGA and other trade groups have also submitted requests to EPA related to the rule. In September 2017,

the American Petroleum Institute, the Independent Petroleum Association of America and the American Exploration & Production Council submitted a joint letter to EPA supporting PGCC's petition and arguing that a true pre-treatment rule is more appropriate than a ban, which forecloses the development of technologies that in the future may be more environmentally friendly than current disposal options. In December 2017, PIOGA submitted a request for rulemaking to EPA, asking that the agency reconsider the rule and administratively stay or suspend its enforcement for Pennsylvania-defined conventional oil and gas operators. In response to all letters and petitions, EPA has engaged in meetings and conversations with various industry representatives.

The timeline for EPA's administrative review of the rule remains uncertain, but it appears to be targeting August 2019, the extended compliance deadline, to complete its review and propose revisions, if any, to the rule. Opportunities for public comment may be forthcoming, and all stakeholders in both conventional and unconventional industries can assist or seek additional information through PIOGA's Environmental Committee, which is closely monitoring the situation. ■



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April 26 Water & Waste Management Training

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Rule of capture doesn't apply to fracking, Superior Court says

The rule of capture, which precludes trespass liability for drillers where oil and gas drains from surrounding lands in the course of conventional extraction from an underground pool, does not apply where shale gas is extracted through hydraulic fracturing, the Pennsylvania Superior Court has ruled in an apparent case of first impression.

In a published opinion issued April 2 in *Briggs v. Southwestern Energy Production*, a two-judge panel of the court reversed a Susquehanna County trial judge's decision granting summary judgment to defendant Southwestern Energy Production Co. on claims of trespass and conversion by a group of property owners.

The property owners alleged that Southwestern had unlawfully extracted gas from beneath their property while drilling on an adjoining property.

While Southwestern invoked the rule of capture in its defense, the Superior Court said the rule was inapplicable to hydraulic fracturing (also known as fracking), a process by which high-pressure liquid is used to forcibly extract natural gas from shale.

"In light of the distinctions between hydraulic fracturing and conventional gas drilling, we conclude that the rule of capture does not preclude liability for trespass due to hydraulic fracturing," Judge John L. Musmanno Jr. wrote for the panel. "Therefore, hydraulic fracturing may constitute an actionable trespass where subsurface fractures, fracturing fluid and proppant cross boundary

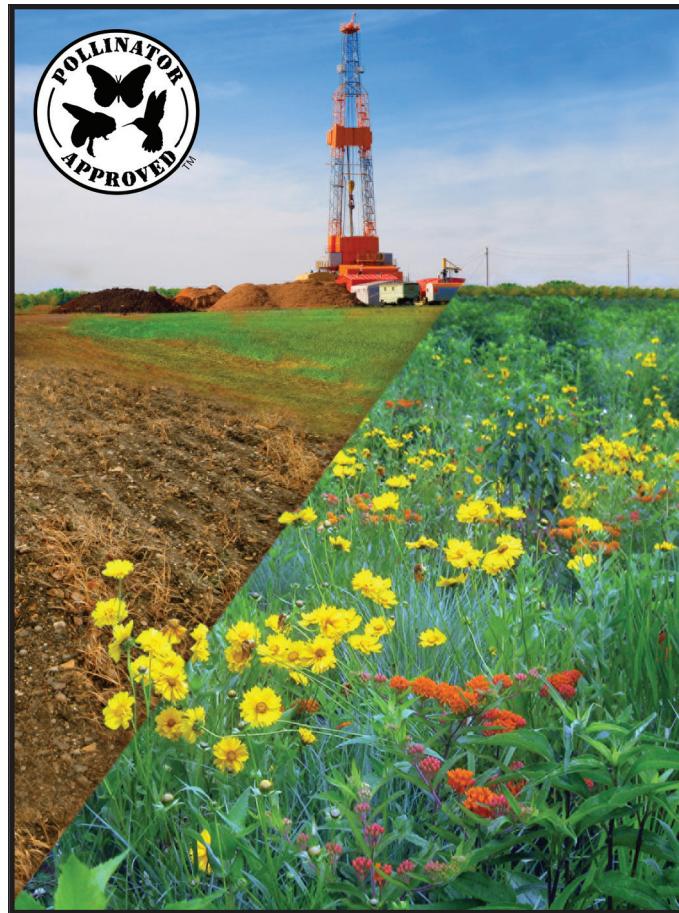
lines and extend into the subsurface estate of an adjoining property for which the operator does not have a mineral lease, resulting in the extraction of natural gas from beneath the adjoining landowner's property."

"In light of the distinctions between hydraulic fracturing and conventional gas drilling, we conclude that the rule of capture does not preclude liability for trespass due to hydraulic fracturing."

Musmanno was joined by President Judge Susan Peikes Gantman. Judge Mary Murray was also listed as a member of the panel but the opinion said she did not participate in the consideration or decision of the case.

In considering whether hydraulic fracturing that extracts gas from beyond the boundaries of a leased property could be considered a trespass, the Superior Court looked to rulings by the Texas Supreme Court and the U.S. District Court for the Northern District of West Virginia for guidance.

In the 2008 case *Coastal Oil & Gas v. Garza Energy Trust*, the Texas Supreme Court held that the rule of capture barred liability for drainage by hydraulic fracturing, just as it did for drainage by conventional oil and gas production methods. But Justice Phil Johnson dissented, arguing that "[t]he gas at issue ... did not migrate to



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Coastal's well because of naturally occurring pressure changes in the reservoir" and stating that he "would not apply the rule [of capture] to a situation ... in which a party effectively enters another's lease without consent, drains minerals by means of an artificially created channel or device, and then 'captures' the minerals on the trespasser's lease."

In the 2013 case *Stone v. Chesapeake Appalachia*, the U.S. District Court for the Northern District of West Virginia, persuaded by Johnson's dissent in *Coastal Oil*, found the rule of capture was inapplicable to hydraulic fracturing and criticized the *Coastal Oil* majority's opinion as giving "oil and gas operators a blank check to steal from the small landowner."

"Under such a rule, the companies may tell a small landowner that either they sign a lease on the company's terms or the company will just hydraulically fracture under the property and take the oil and gas without compensation," the *Stone* court said.

Musmanno said the Superior Court found both Johnson's *Coastal Oil* dissent and the *Stone* ruling persuasive, noting the fundamental difference between fracking and conventional oil and gas production, which the rule of capture was originally intended to cover.

"Unlike oil and gas originating in a common reservoir, natural gas, when trapped in a shale formation, is non-migratory in nature," he said. "Shale gas does not merely 'escape' to adjoining land absent the application of an external force. Instead, the shale must be fractured through the process of hydraulic fracturing; only then may the natural gas contained in the shale move freely through the 'artificially created channel[s].'"

Like Johnson and the *Stone* court, the Superior Court disagreed with the *Coastal Oil* court's rationale that a landowner could protect his interests by drilling his own well to prevent drainage into adjacent properties.

"Hydraulic fracturing is a costly and highly specialized endeavor, and the traditional recourse to 'go and do likewise' is not necessarily readily available for an average landowner," Musmanno said.

Musmanno also echoed Johnson's and the *Stone* court's concerns "that precluding trespass liability based on the rule of capture would effectively allow a mineral lessee to expand its lease by locating a well near the lease's boundary line and withdrawing natural gas from beneath the adjoining property, for which it does not have a lease."

"Such an allowance would nearly eradicate a mineral lessee's incentive to negotiate mineral leases with small property owners, as the lessee could use hydraulic fracturing to create an artificial channel beneath an adjoining property, and withdraw natural gas from beneath the neighbor's land without paying a royalty," Musmanno said.

In reversing the lower court's grant of summary judgment and remanding the case, the Superior Court said the plaintiffs must be given an opportunity to develop their trespass and conversion claims.

—*The Legal Intelligencer/www.law.com*

IFO analysis says severance tax would cost royalty owners tens of millions of dollars

A report by the state's Independent Fiscal Office (IFO) estimates the natural gas severance tax advocated by Governor Tom Wolf would cost royalty owners \$28 million in its first year of operation and \$51 million by the third year.

Senator Lisa Baker (R-Luzerne) asked the IFO to analyze how the severance tax proposed in the governor's FY 2018-19 budget would impact landowner royalty payments when apportioned as a post-production cost. In response, IFO Director Matthew Knittel provided a four-page analysis on March 16.

The IFO attempted to establish a baseline for statewide natural gas royalties over the past five years, pointing out that royalty income is not reported separately on Pennsylvania tax returns and it's also unknown how many royalty owners are out-of-state residents. The analysis estimates natural gas royalty payments totaled \$919 million in the 2012 tax year, peaked at \$1.62 billion in 2014 and then declined to \$639 million in the 2016 tax year. The IFO expects statewide royalty payments will increase "appreciably" in 2017 due to rebounding natural gas prices.

Wolf's budget would impose a volume-based severance tax ranging from 4.2 cents per Mcf at an average NYMEX price of \$3.00/Mcf or less and up to 5.3 cents if the NYMEX average is between \$3.00 and \$5.00. Assuming a tax rate of 4.2 cents/Mcf, the IFO assumes the proposed severance tax would generate \$210 million in its first year. By the third year, the analysis assumes the tax rate would increase to 5.3 cents/Mcf, with the tax bringing in \$379 million.

States that levy a natural gas severance tax allow it to be treated as a post-production cost. Assuming an average royalty rate of 13.5 percent, the IFO calculates \$28 million of the tax would be shared with royalty owners in the levy's first year, increasing to \$51 million by the third year.

Following release of the IFO analysis, the Wolf administration pushed back about the ability of producers to deduct the tax as a post-production expense and provided this language from the governor's budget proposal: "A producer may not make the tax imposed under this section on natural gas severed under a lease an obligation, indebtedness or liability of the lessor and may not otherwise require the lessor to reimburse the producer for the amount of the tax." In a footnote added to the analysis after its initial release, the IFO stated, "If this language is enacted and can be enforced, it would imply that current landowners would be held harmless from any pass back of the new severance tax" (*emphasis added*). Looking ahead, it wrote, "it is possible that royalty rates for new leases could be reduced to reflect a portion of the new tax." ■

Second comment period opened for GP-5/5A permits

The Department of Environmental Protection is accepting public comments on the draft final general permits that address methane emissions from unconventional well sites and from midstream and natural gas transmission facilities.

The 45-day public comment period is to receive input on the updated draft final versions of GP-5, which is applicable to midstream and natural gas transmission facilities, and the proposed GP-5A for unconventional well sites and pigging stations. Both general permits incorporate the most current state and federal requirements.

DEP received more than 10,000 comments on the proposed general permits during the initial comment period in 2017. Based on these comments, DEP made several changes to the general permits and the Air Quality Permit Exemptions List, which can be found at www.depgreenport.state.pa.us/elibrary/GetFolder?FolderID=3632.

Interested persons may submit written comments on the Draft General Permits and Air Quality Permit Exemption List by May 15. Comments, including those submitted by e-mail, must include the originator's name and address. Commentators are encouraged to review the proposed General Permits and Air Quality Permit Exemption List and submit comments using DEP's online eComment system at www.ahs.dep.pa.gov/eComment or by e-mail to ecom-

ment@pa.gov. Written comments should be submitted to the Policy Office, Department of Environmental Protection, Rachel Carson State Office Building, P.O. Box 2063, Harrisburg, PA 17105-2063.

PIOGA's Environmental Committee is reviewing the draft final GPs and will develop comments on behalf of the association. ■

DEP announces changes to speed up Chapter 105 permit reviews

As part of efforts to reduce permit backlogs, the Department of Environmental Protection has announced revisions to the instructions and forms for Chapter 105 General Permit Registrations relating to water obstructions and encroachments. DEP says the revisions will improve the quality of General Permit registration requests, eliminate unnecessary redundancies and reduce review times. The new forms and instructions went into effect beginning March 26.

The new documents are available at www.depgreenport.state.pa.us/elibrary/GetFolder?FolderID=4070.

The main changes to the forms and instructions were to condense forms and eliminate unnecessary information. More information on the type of eliminated information can be found in the February 24 Pennsylvania Bulletin (www.pabulletin.com/secure/data/vol48/48-8/294.html).

An informational webinar was held on March 6 for potential permit applicants and others in the regulated community to review the changes. A recording of that webinar is available at www.dep.pa.gov/DataandTools/Webinars/Pages/Water-Management.aspx.

DEP has been working to reduce permit backlogs across the department through a variety of means outlined in the Permitting Reform White Paper released in January (*February PIOGA Press, page 1*). These reforms have included investments in technology, reassigning workloads across regional offices and new technical guidance for permit reviews. ■



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PIOGA at the 2018 IPAA Congressional Call Up

By Dan Weaver

President & Executive Director

PIOGA was represented by five members, including four from our Board of Directors, and two staff members at this year's Independent Petroleum Association of America (IPAA) Congressional Call Up, held March 6 in Washington, D.C. We had the opportunity to meet with the staff of both of our senators, the staff of four House members and six members directly.



PIOGA members and staff take time out for dinner.

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In 2017, congressional members were cautiously optimistic as the new administration had been in office less than 100 days. This year overall there was a positive outlook on the part of staffers and members. There seemed to be a candidness in the discussions, which was missing under the prior administration. The main topics of discussion were the codifying of regulatory reform, infrastructure, federal-state balance and endangered species.

Congress plays a key role when it comes to oversight and placing limits on the executive branch. IPAA supports legislation to expand access and streamline permitting, such as the *SECURE American Energy Act* (H.R. 4239) and the *ONSHORE Act* (S. 2319). These and other commonsense initiatives help foster an environment that allows states to work in partnership with the Bureau of Land Management and other federal agencies to manage the development and production of oil and natural gas on available public land. Furthermore, IPAA supports legislative efforts by Congress to limit broad, one-size-fits-all regulations that provide no net safety gain or environmental protection, such as a

nationwide regulation on hydraulic fracturing for public lands. IPAA continues to believe that states are in the best position to safely and effectively regulate these activities given their own unique geologic and hydrologic makeups.

A strong, safe energy infrastructure network is vital to America's independent oil and natural gas producers. While much of the discussion regarding infrastructure focuses on traditional projects such as bridges, highways and roads, the importance of oil and natural gas pipelines cannot be overlooked. The benefits of clean-burning, reliable natural gas will continue only if pipelines can be built to deliver energy to American consumers safely and efficiently. For example, as recent as January, a tanker carrying Russian gas was imported to a ter-

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minal in Boston Harbor because of a lack of domestic infrastructure to get American gas where it is needed. Most pipeline projects are supported through private investment, not government funding. But these private-sector projects would still benefit from legislative action that curbs lengthy and aggressive permitting processes.

Most federal environmental laws hinge on the balance between the federal role and the state role. States have the dominant responsibility to develop the regulation and permitting of facilities under their jurisdiction. Past efforts to federalize these actions undermine the states' role. Congress needs to work with federal agencies to assure that federal laws provide for appropriate delegation to states and to assure that adequate funds are available. At the same time, Congress needs to assure that states are not abusing delegation of federal authority to undermine activity that is federal in nature, such as the recent abuses of Section 401 of the Clean

Water Act to hamper interstate pipeline development.

While IPAA members are located throughout the nation, the single largest hindrance stifling independent producers is the application and enforcement of the Endangered Species Act (ESA). IPAA members take species conservation seriously and work actively to protect species and their ecosystems, but the ESA is not a successful tool in achieving that goal. IPAA supports efforts to update and improve the ESA through targeted legislation. Along the same lines, IPAA supports current legislation that clarifies criminal liability for the accidental take of unlisted migratory birds by oil and natural gas producers.

Thanks to the following PIOGA members for taking part in this year's Call Up: Sara Blascovich, HDR, Inc.; Gary Slagel, Steptoe & Johnson, PLLC; Ben Wallace, Pennco Oil Company, Inc.; and Shane Kriebel and Jim Kriebel, Kriebel Companies. ■

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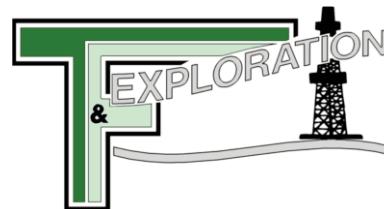
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Find out how to become a PIOGA Partner: www.pioga.org/publication_file/PIOGA-Partners-2018.pdf

Contractor safety: Are you responsible when they are on site?

By Carol C. Delfino, CIH, CSP

SE Technologies, LLC

Dealing with contractors onsite and assuring that they adhere to your safety procedures can be tedious and risky. With safety legislation and compliance processes in place for your own employees, who is accountable for your contractors?

Although there are no International Labor Organization instruments that specifically address contractors' and subcontractors' safety and health at work, those concerning Occupational Safety and Health (OSH) in general emphasize the importance of OSH training for all workers. This safety training should focus on supporting preventive action and finding practical solutions.

The Occupational Safety and Health Administration (OSHA) offers Safety and Health Regulations for Construction. According to the rules of construction, "In

Safety Committee Corner

no case shall the prime contractor be relieved of overall responsibility for compliance with the requirements of the part for all work to be performed under the contract."

Additionally, OSHA indicates that "to the extent that a subcontractor of any tier agrees to perform any part of the contract, he also assumes responsibility for complying with the standards with respect to this part, with respect to that part... With respect to subcontracted work, the prime contractor and any subcontractor or subcontractors shall be deemed to have joint responsibility."

For more information see www.blacklinesafety.com/contractor-safety-are-you-responsible-when-they-are-on-site. ■

Board change for ABARTA



Tom Bartos of ABARTA Energy has stepped down as a member of our Board of Directors after many years on PIOGA's board and before that the Independent Oil & Gas Association of Pennsylvania. We thank Tom for his long service to our industry. Ken Fleeman, who serves as co-chairman of the Environmental Committee, is taking over ABARTA's seat on the board.

New/returning PIOGA members Welcome, and welcome back!

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Member News: Vanderhoof joins RETTEW

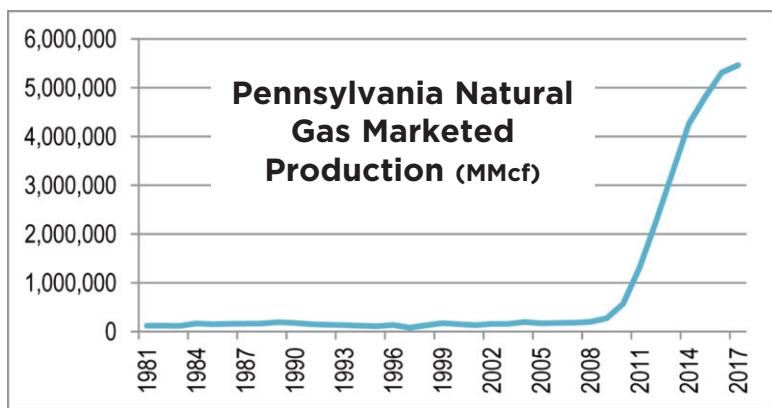
Formerly the owner of RJR Safety, Wayne Vanderhoof recently joined RETTEW. He will lead the firm's safety consulting efforts in Western Pennsylvania, Ohio and West Virginia, focusing on the energy, industrial and construction markets. Vanderhoof has more than 25 years' experience advising clients on safe practices and procedures and serves as the chairman of PIOGA's Safety Committee. ■

2017 oil and gas activity recap

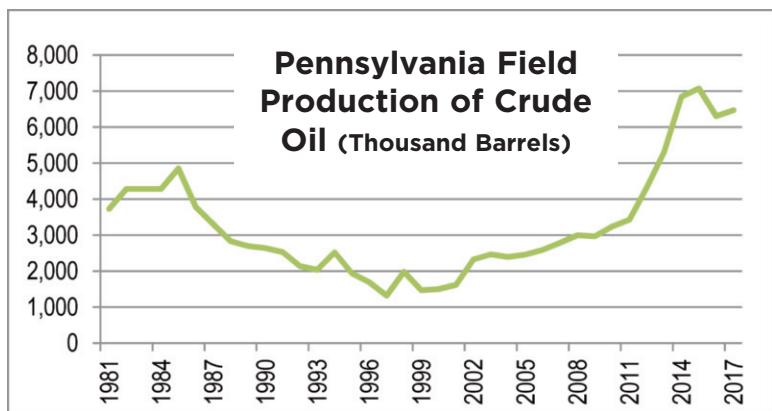
Wells drilled by county

County	Conventional	Unconventional	2017 Total	2016 Total
Allegheny	0	26	26	14
Armstrong	1	20	21	8
Beaver	0	20	20	13
Bradford	0	64	64	17
Butler	0	67	67	31
Cameron	0	0	0	1
Clarion	2	4	6	1
Clinton	0	0	0	3
Elk	2	19	21	13
Forest	6	0	6	4
Greene	2	156	158	100
Lawrence	0	1	1	0
Lycoming	0	32	32	3
McKean	37	0	37	40
Potter	0	20	20	16
Sullivan	0	16	16	6
Susquehanna	0	94	94	84
Tioga	0	41	41	31
Venango	15	0	15	13
Warren	40	0	40	50
Washington	0	209	209	138
Westmoreland	0	7	7	3
Wyoming	0	8	8	7
Totals	105	808	913	596

Pennsylvania Natural Gas Marketed Production (MMcf)



Pennsylvania Field Production of Crude Oil (Thousand Barrels)



Date sources: PA Dept. of Environmental Protection, US Energy Information Administration

Wells drilled by operator

Operator	Conventional	Unconventional	Total
Apex Energy (PA) LLC	0	4	4
ARD Operating LLC	0	7	7
Blackhawk Energy LLC	8	0	8
Branch John D	1	0	1
Bull Run Energy LLC	8	0	8
Cabot Oil & Gas Corp	0	54	54
Cameron Energy Co	14	0	14
Catalyst Energy Inc	7	0	7
Chesapeake Appalachia LLC	0	7	7
Chief Oil & Gas LLC	0	58	58
CNX Gas Co LLC	0	20	20
Davidson Roger D	1	0	1
Dunham Energy Partners LLC	3	0	3
Elder Oil & Gas Co	2	0	2
EM Energy Pa LLC	0	10	10
EQT Production Co	0	136	136
Gas & Oil Mgmt Assoc Inc	6	0	6
Hilcorp Energy Co	0	1	1
Howard Drilling Inc	1	0	1
Huntley & Huntley Energy Expl	0	1	1
Inflection Energy (PA) LLC	0	5	5
JKLM Energy LLC	0	20	20
Laurel Mountain Production	0	4	4
Mead Oil LLC	3	0	3
MSL Oil & Gas Corp	5	0	5
PA Gen Energy Co LLC	0	2	2
PennEnergy Resources LLC	0	49	49
Pennfield Energy LLC	8	0	8
Pennhills Resources LLC	8	0	8
PVE Oil Corp Inc	6	0	6
Range Resources Appalachia	0	154	154
RE Gas Dev LLC	0	13	13
Repsol Oil & Gas USA LLC	0	28	28
Rice Drilling B LLC	2	96	98
Robinson Richard A	1	0	1
Russ Holden Well Svc	3	0	3
Seneca Resources Corp	0	34	34
Snyder Bros Inc	0	14	14
Stateside Energy Group LLC	3	0	3
SV ABS Interest Wetmore Proj	2	0	2
SWEPI LP	0	15	15
SWN Production Co LLC	0	61	61
Weldbank Energy Corp	7	0	7
WGM Gas Co Inc	1	0	1
Whilton Brooks A	1	0	1
William H Brawand	2	0	2
Wilmoth Interests Inc	2	0	2
XTO Energy Inc	0	15	15
Totals	105	808	913

Are you taking advantage of PIOGA's online Members' Only system?

The screenshot shows the PIOGA website's Members' Only section. At the top, there are links for Print Page, Contact Us, Report Abuse, and Sign Out. Below that is a navigation bar with links for HOME, COMMITTEES, DIRECTORIES, EVENTS, ADVOCACY/RESOURCES, and EDUCATION. A search bar with the placeholder "Enter search criteria..." is also present. On the left, there's a sidebar titled "Membership Directory" with links for Producer Members, Service Providers, Professional Firms, Pipeline Members, End-User Members, Associate Members, Royalty Members, and Membership - ALL Categories. The main content area displays sections for "MY PROFILE" (with links to Profile Home, Manage Profile, Create Resume/CV, Groups, Networks, Files & Links, Photos, Messages (NEW), Connections, and Refer a Friend) and "EVENTS" (listing POGO Committee's Fall Mixer on 10/20/2016 and POGO's Annual Meeting and Retirement Celebration for Lou D'Amico on 11/3/2016). There's also a "LATEST NEWS" section with links to POGO eWeekly 10/10/16 and Weekly News Clips 10/10/16.

- Connect with other members
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Here are some of the things you can do:

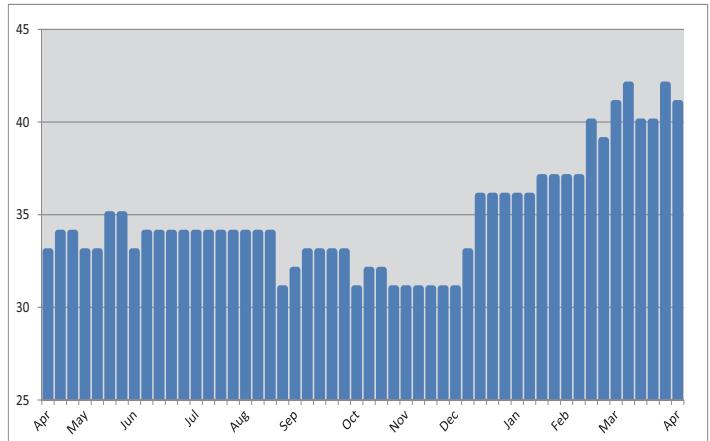
It's easy and fast to log into your account!

Just click on the Members Only link at the top of our homepage, www.pioga.org, and input your username (usually your email address) and password. If you don't remember your password, just click *Reset my password* and you'll receive a new one via email.

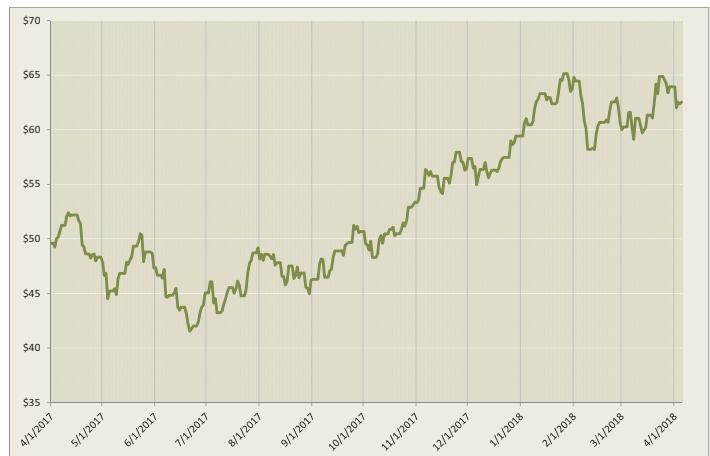
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Oil & Gas Dashboard

Pennsylvania Rig Count



Penn Grade Crude Oil Prices



Natural Gas Futures Closing Prices

Month	Price
May	\$2.679
June	2.729
July	2.788
August	2.809
September	2.799
October	2.812
November	2.861
December	2.985
January 2019	3.075
February	3.040
March	2.933
April	2.657

Prices as of April 6

Sources

American Refining Group: www.amref.com/Crude-Prices-New.aspx
Ergon Oil Purchasing: www.ergon.com/prices.php
Gas futures: quotes.ino.com/exchanges/?r=NYMEX_NG
Baker Hughes rig count: phx.corporate-ir.net/phoenix.zhtml?c=79687&p=irol-reportsother
NYMEX strip chart: Emkey Energy LLC, emkeyenergy.com

Northeast Pricing Report — April 2018

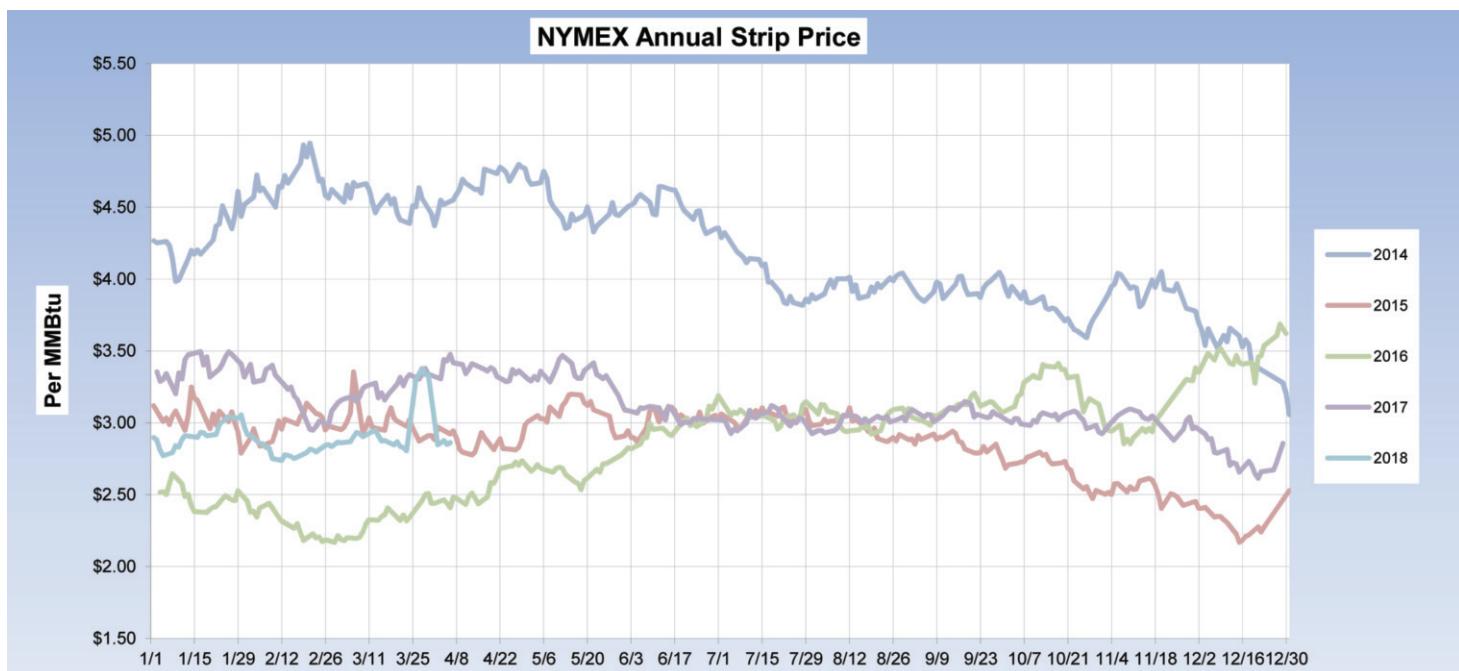
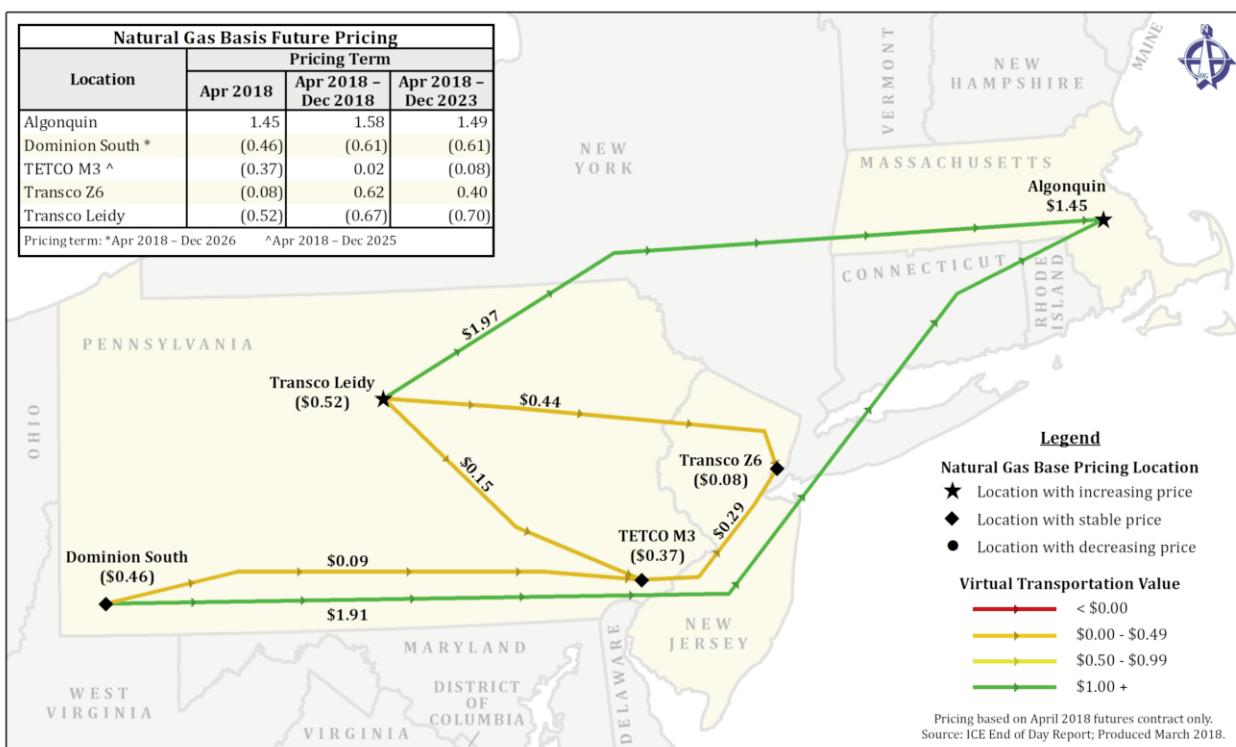
Front month pricing was mixed. Algonquin, Dominion South, and Transco Leidy saw increases ranging from \$0.08 to \$0.063 per MMBtu. While TETCO M3 and Transco Z6 both decreased by \$0.17 and \$0.37 per MMBtu respectively. All indexes increased over the one-year trading term. However, the increases were very muted with Algonquin having the greatest increase of \$0.13 per MMBtu. Long-term, each trading point was mixed, but again saw little change from March. Transco Leidy had the greatest increase of \$0.03 per MMBtu and Transco Z6 had the greatest reduction of \$0.04 per MMBtu.

Transportation from Dominion South and Leidy to Algonquin both had increases of \$0.55 and \$0.49 per MMBtu. All other transportation routes decreased from March. TETCO M3 to Transco Z6 had the smallest decrease of \$0.20 per MMBtu, while Transco Leidy to Transco Z6 had the greatest decrease of \$0.51 per MMBtu. Traders are expecting some support for front month Henry Hub (HH) pricing between \$2.60 to \$2.80 per MMBtu. However, should HH break \$2.50, the next support level is at \$2.25 per MMBtu. Expect transportation to Algonquin to stay strong and Transco Z6 to change little over the next month.

Transportation Value Market Indicator



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



Spud Report: March



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

OPERATOR	WELLS	SPUD	API #	COUNTY	MUNICIPALITY
ARD Operating LLC	7	3/20/18	081-21728	Lycoming	Cogan House Twp
		3/20/18	081-21711	Lycoming	Cogan House Twp
		3/20/18	081-21708	Lycoming	Cogan House Twp
		3/20/18	081-21712	Lycoming	Cogan House Twp
		3/20/18	081-21729	Lycoming	Cogan House Twp
		3/20/18	081-21730	Lycoming	Cogan House Twp
		3/20/18	081-21731	Lycoming	Cogan House Twp
Cabot Oil & Gas Corp	11	3/14/18	115-22313	Susquehanna	Lathrop Twp
		3/14/18	115-22314	Susquehanna	Lathrop Twp
		3/14/18	115-22315	Susquehanna	Lathrop Twp
		3/14/18	115-22316	Susquehanna	Lathrop Twp
		3/14/18	115-22317	Susquehanna	Lathrop Twp
		3/14/18	115-22318	Susquehanna	Lathrop Twp
		3/14/18	115-22319	Susquehanna	Lathrop Twp
		3/6/18	115-22455	Susquehanna	Springville Twp
		3/23/18	115-22453	Susquehanna	Springville Twp
		3/25/18	115-22454	Susquehanna	Springville Twp
		3/30/18	115-22456	Susquehanna	Springville Twp
Chevron Appalachia LLC	1	3/12/18	059-27632	Greene	Dunkard Twp
Chief Oil & Gas LLC	5	3/8/18	015-23390	Bradford	Leroy Twp
		3/8/18	015-23389	Bradford	Leroy Twp
		3/8/18	015-23388	Bradford	Leroy Twp
		3/2/18	015-23372	Bradford	Overton Twp
		3/2/18	015-23373	Bradford	Overton Twp
CNX Gas Co LLC	7	3/22/18	059-27487	Greene	Richhill Twp
		3/22/18	059-27488	Greene	Richhill Twp
		3/22/18	059-27492	Greene	Richhill Twp
		3/22/18	059-27489	Greene	Richhill Twp
		3/22/18	059-27490	Greene	Richhill Twp
		3/22/18	059-27491	Greene	Richhill Twp
		3/22/18	059-27592	Greene	Richhill Twp
EQT Production Co	7	3/10/18	003-22452	Allegheny	Forward Twp
		3/10/18	003-22454	Allegheny	Forward Twp
		3/10/18	003-22505	Allegheny	Forward Twp
		3/10/18	003-22449	Allegheny	Forward Twp
		3/10/18	003-22450	Allegheny	Forward Twp
		3/10/18	003-22444	Allegheny	Forward Twp
		3/9/18	059-27616	Greene	Washington Twp
Howard Drilling Inc	1	3/14/18	083-56926*	McKean	Wetmore Twp
Huntley & Huntley Energy Expl	1	3/27/18	129-28953	Westmoreland	Upper Burrell Twp
Johnson Well Svc LLC	2	3/20/18	123-48063*	Warren	Mead Twp
		3/26/18	123-48064*	Warren	Mead Twp
PennEnergy Resources LLC	12	3/3/18	007-20462	Beaver	Marion Twp
		3/3/18	007-20536	Beaver	Marion Twp
		3/3/18	007-20537	Beaver	Marion Twp
		3/3/18	007-20538	Beaver	Marion Twp
		3/3/18	007-20539	Beaver	Marion Twp
		3/4/18	007-20540	Beaver	Marion Twp
		3/21/18	007-20520	Beaver	Marion Twp
		3/21/18	007-20521	Beaver	Marion Twp
		3/22/18	007-20522	Beaver	Marion Twp
		3/22/18	007-20523	Beaver	Marion Twp
PVE Oil Corp Inc	3	3/22/18	007-20524	Beaver	Marion Twp
		3/23/18	007-20525	Beaver	Marion Twp
		3/22/18	083-57056*	McKean	Sergeant Twp
PVE Oil Corp Inc	3	3/17/18	083-57056*	McKean	Sergeant Twp
		3/22/18	083-57055*	McKean	Sergeant Twp

available at www.dep.pa.gov/DataandTools/Reports/Oil and Gas Reports.

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
Range Resources Appalachia	12	3/28/18	083-57054*	McKean	Sergeant Twp
		3/12/18	125-28469	Washington	Buffalo Twp
		3/12/18	125-28468	Washington	Buffalo Twp
		3/12/18	125-28470	Washington	Buffalo Twp
		3/15/18	125-28533	Washington	Buffalo Twp
		3/15/18	125-28532	Washington	Buffalo Twp
		3/27/18	125-28285	Washington	Donegal Twp
RE Gas Dev LLC	2	3/27/18	125-28279	Washington	Donegal Twp
		3/27/18	125-28280	Washington	Donegal Twp
		3/27/18	125-28281	Washington	Donegal Twp
		3/27/18	125-28282	Washington	Donegal Twp
		3/28/18	125-28283	Washington	Donegal Twp
		3/28/18	125-28284	Washington	Donegal Twp
		3/28/18	125-28284	Washington	Donegal Twp
Repsol Oil & Gas USA LLC	3	3/2/18	019-22293	Butler	Connquenessing
		3/2/18	019-22294	Butler	Connquenessing
		3/5/18	115-22450	Susquehanna	Apolacon Twp
Rice Drilling B LLC	21	3/5/18	115-22451	Susquehanna	Apolacon Twp
		3/16/18	059-27435	Greene	Richhill Twp
		3/16/18	059-27436	Greene	Richhill Twp
		3/16/18	059-27431	Greene	Richhill Twp
		3/16/18	059-27432	Greene	Richhill Twp
		3/16/18	059-27433	Greene	Richhill Twp
		3/16/18	059-27434	Greene	Richhill Twp
Seneca Resources Corp	9	3/18/18	059-27370	Greene	Springhill Twp
		3/18/18	059-27373	Greene	Springhill Twp
		3/18/18	059-27371	Greene	Springhill Twp
		3/18/18	059-27372	Greene	Springhill Twp
		3/18/18	059-27368	Greene	Springhill Twp
		3/18/18	059-27369	Greene	Springhill Twp
		3/16/18	059-27546	Greene	Whiteley Twp
Snyder Bros Inc	3	3/16/18	059-27526*	Greene	Whiteley Twp
		3/16/18	059-27551*	Greene	Whiteley Twp
		3/16/18	059-27552*	Greene	Whiteley Twp
		3/16/18	059-27547	Greene	Whiteley Twp
		3/16/18	059-27545	Greene	Whiteley Twp
		3/16/18	059-27548	Greene	Whiteley Twp
		3/16/18	059-27549	Greene	Whiteley Twp
SWN Production Co LLC	6	3/16/18	059-27550	Greene	Whiteley Twp
		3/5/18	047-25013	Elk	Jones Twp
		3/5/18	047-25014	Elk	Jones Twp
		3/26/18	047-25009	Elk	Jones Twp
		3/26/18	047-25010	Elk	Jones Twp
		3/26/18	047-25012	Elk	Jones Twp
		3/26/18	047-25011	Elk	Jones Twp
TREC	3	3/26/18	047-25007	Elk	Jones Twp
		3/26/18	047-25008	Elk	Jones Twp
		3/21/18	081-21676	Lycoming	Eldred Twp
		3/15/18	005-31302	Armstrong	Boggs Twp
		3/15/18	005-31303	Armstrong	Boggs Twp
		3/15/18	005-31304	Armstrong	Boggs Twp
		3/18/18	115-22140	Susquehanna	Great Bend Twp
TREC	3	3/18/18	115-22141	Susquehanna	Great Bend Twp
		3/28/18	115-22324	Susquehanna	Oakland Twp
		3/29/18	115-22327	Susquehanna	Oakland Twp
		3/30/18	115-22323	Susquehanna	Oakland Twp
		3/24/18	117-21952	Tioga	Liberty Twp

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Info: www.pioga.org/events

PIOGATech: Water & Waste Management Training

April 26, The Chadwick, Wexford (*note venue change*)

Cinco de Mayo Shoot

May 3, Promised Land Sporting Clays, Freeport

Ted Cranmer Memorial Golf Outing & Steak Fry

June 4, Wanango Golf Club, Reno

21st Annual Divot Diggers Golf Outing

August 23, Tam O'Shanter Golf Club, Hermitage

Fall Oktoberfest and Annual Meeting

October 17-18, Seven Springs Mountain Resort, Champion

Other association & industry events

WVONGA Spring Meeting

May 1-2, Oglebay Resort in Wheeling, WV

Info: www.wvonga.com/events/upcoming-events.html

MSC Successfully Managing Horizontal Directional Drilling, Slope Stabilization and Landslide Mitigation

June 20, Hilton Garden Inn, Canonsburg

Info: marcelluscoalition.org/get-involved/training-and-events

IPAA Midyear Meeting

June 25-27, Austin, TX

Info: www.ipaa.org/events

IOGANY Summer Meeting

July 19, Peek n' Peak, Clymer NY

Info: www.iogany.org/events.php

IOGAWV Summer Meeting

August 5-7, The Greenbrier, White Sulphur Springs, WV

Info: iogawv.com/2018-summer-meeting-registration

OOGA Summer Meeting

August 6-7, Zanesville Country Club, Zanesville, OH

Info: www.ooga.org/events/event_list.asp

Find more events at [>>](http://www.pioga.org)

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- ▶ **Ted Cranmer Memorial Golf Outing and Steak Fry**
June 4 / Wanango Golf Club, Reno
- ▶ **21st Annual Divot Diggers Golf Outing**
August 23, Tam O'Shanter Golf Club, Hermitage
- ▶ **Fall Oktoberfest and Annual Meeting**
October 17-18 / Seven Springs Mountain Resort, Champion
- ▶ **Annual Oil & Gas Tax and Accounting Seminar**
November 28 / Location TBA

PLUS:

- ▶ **PIOGATech technical training on critical environmental and safety topics**
- ▶ **Mixers and other fun networking events**

*Mark your calendars and watch your email for more information,
or visit www.pioga.org > PIOGA Events*