

# The PIOGA Press

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Pennsylvania Independent Oil & Gas Association  
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## House approves Conventional Oil & Gas Act

Legislation creating a separate oil and gas statute for conventional operations moves on to the Senate after the House of Representatives approved House Bill 2154 on June 5.

The 111-84 vote on the Conventional Oil and Gas Act (COGA) came after lengthy floor debate, with many Western Pennsylvania lawmakers speaking in favor of the legislation and a number of Democrats and representatives from the southeast part of the state commenting against the bill, often misrepresenting the industry and the intent of COGA.

HB 2154 (and the identical Senate Bill 1088) is, based on the framework of the Oil and Gas Act of 1984. The 1984 law was amended in 2011 and then replaced by Act 13 in 2012 to address unconventional operations. Provisions related to unconventional formations like the Marcellus Shale have been deleted in COGA, 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.

The legislation also addresses and incentivizes voluntary plugging of orphan wells. Updates to the 1984 law 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 developed under both the 1984 act and Act 13 (*April PIOGA Press, page 1*).

After being introduced in mid-March, HB 2154 was approved by the House Environmental Resources and Energy Committee on April 30 and the Appropriations Committee on May 1. The bill's primary sponsor, Representative Martin Causer (R-Cameron/McKean/Potter), applauded House passage of the legislation.

"The conventional oil and gas industry has long been



a cornerstone of the economy in my district and areas across the northern tier, providing thousands of good, family-sustaining jobs," Causer said. "This bill will help preserve those jobs by removing the threat of unreasonable and unnecessary regulations from the backs of our conventional producers in favor of rules that are relevant and appropriate to these shallow well operations."

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## COGA legislation *Continued from page 1*

The legislation was developed in large part by members of the Penn Grade Crude Development Advisory Council (CDAC), which was created by Act 52 of 2016 to advise and assist DEP with regulatory changes impacting conventional oil and gas operations and to help ensure the viability of the Commonwealth's conventional industry. PIOGA has worked vigorously to generate support for the legislation within the General Assembly, along with the Pennsylvania Grade Crude Oil Coalition and the Pennsylvania Independent Petroleum Producers.

### Floor debate

Wolf's legislative affairs secretary said in a letter to lawmakers sent the day of the House vote that the administration was strongly opposed, warning the bill would harm the environment and lessen landowner protections. "The administration acknowledges that the conventional industry is facing particular challenges and is in need of a legislative solution," the letter said. "However, the bill in its current form is unworkable, and a new product needs to be crafted." Environmental groups also came out against the legislation.

The June 5 floor debate heard misstatements and mischaracterizations by those opposed to the legislation, contrasted by informed, heartfelt comments by representatives who urged the bill's passage.

One of the wildest statements came from Representative Leanne Kruger-Braneky (D-Delaware), who wrongly asserted the bill rolls back environmental protections to 1984. Claiming that oil and gas are the biggest contributors to methane, she continued: "A spill of methane will endanger water supplies and should this bill pass, companies will not have to clean up their mess. We have lead and heavy metals in our water supplies from these drillers. Radium leaks are causing cancer in kids and I believe we need to strengthen not weaken regulations on 'grime' water from these drill sites."

Fortunately, a number of advocates like Representative Eli Evankovich (R-Westmoreland) provided balance, stating: "Let's be honest about what this bill does. It allows conventional gas operators to operate with the reasonable regulations up until Act 13 was wrongly applied to both conventional and non-conventional gas wells. These wells might only produce a barrel a day. These wells are not a danger."

Representative Kathy Rapp (R-Warren) said: "Members of our communities rely on conventional wells and a big part of the economy in Western Pennsylvania. This bill protects public resources and will benefit small-time well owners, and that is why I vote yes for this bill."

Not all Southeast lawmakers were opposed. Bucks County Republican Representative Katharine Watson stated: "Many are surprised I am up here for an environmental issue. When I get something like this, I look for answers. I am coming from a suburban district and need to look more into the problem. I support this bill and I met with people who own wells. Family owners

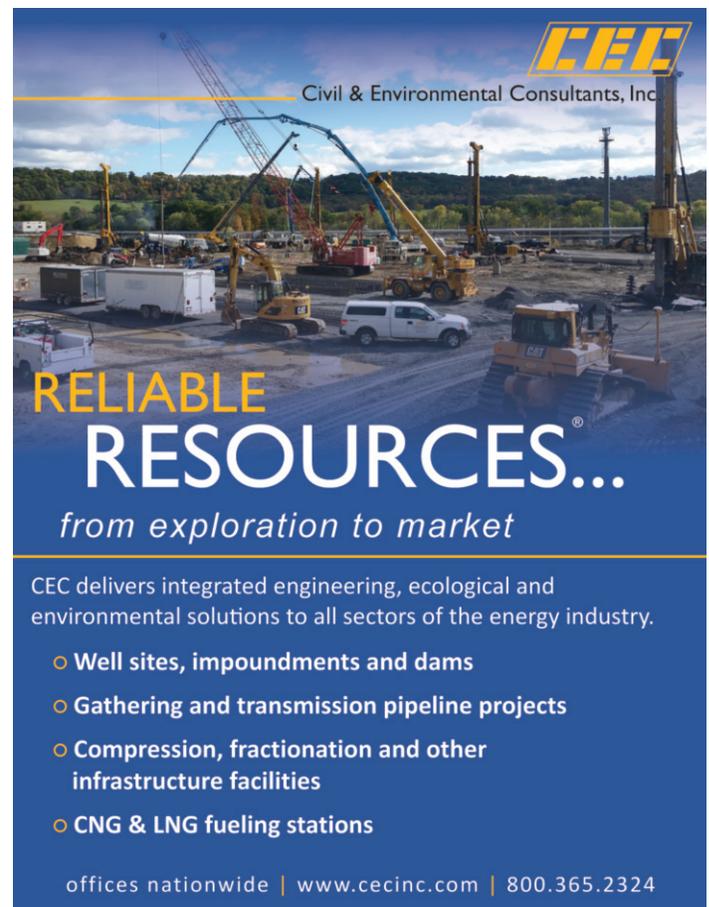
advocate for this and I believe we can help them.... The Department of Environmental Protection has no answers and did not participate in the making of this bill. We must vote based on information and just because some groups chose not to participate does not mean we have a bad bill."

### What's next?

HB 2154 now goes to the Senate for consideration. The companion SB 1088 is already before the Environmental Resources and Energy Committee, which has taken no action since the bill was referred there in mid-March. At this writing, neither bill was scheduled for consideration. The legislature is turning its attention to passing a budget for the 2018-19 fiscal year, which begins July 1.

PIOGA will continue to forcefully advocate for passage of this high-priority legislation.

"Today is a step in the right direction, but there are still challenges ahead, particularly once a bill arrives on the governor's desk," said President & Executive Director Dan Weaver just after the June 5 House vote. "If we can't get a set of rules that will fit the industry in another two of three years, we won't have a conventional industry." ■



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# PIOGA's 100<sup>th</sup> Anniversary Celebration

Find out more and register at [www.pioga.org](http://www.pioga.org)

**Wednesday, July 18**  
**Drake Well Museum and Park**  
**Titusville**  
**11:30 a.m. to 3 p.m.**

**Tuesday, July 17**  
**Reception and Excursion Train**  
**Ride benefitting PIOGA's**  
**Political Action Committee**



Come and celebrate 100 years of our trade association and the work of all our members over the years to make the oil and gas industry what it is today.

The celebration will include a short ceremony with special guests, a BBQ lunch celebration and free self-guided tours of the Drake Well Museum for all PIOGA guests.

Fee to attend the celebration event is \$40. Deadline to register is Wednesday, July 11.



Join us for a fun evening aboard the Oil Creek and Titusville Railroad and relive our region's rich oil history as you ride in vintage cars built by Pullman in 1930. The evening will also include a reception with cocktails and hors d'oeuvres on the train platform at the Drake Well Museum and Park.

This is a Political Action Committee (PAC) event with a minimum donation requested of \$150 that must be paid by *personal* or *corporate PAC checks only*. Donations may be mailed in advance or brought to the event, but an RSVP is required so we can plan for your attendance.

To RSVP, email Danielle Boston at [danielle@pioga.org](mailto:danielle@pioga.org) by Friday, July 13. A PAC form is available on the event webpage if sending a donation in advance.

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details



# Pennsylvania Supreme Court oil and gas action

## Court says zoning must specify drilling as a use

A 4-3 decision issued June 1 by the Pennsylvania Supreme Court sided with residents who challenged a Lycoming County township's decision to allow natural gas drilling in a residential/agricultural zone when the local zoning ordinance did not specifically authorize the activity.

In the 2014 case *Gorsline vs. Board of Supervisors of Fairfield Township*, a group of residents appealed the supervisors' decision to allow the drilling of a well. The township's zoning ordinance did not specifically allow drilling, but the supervisors believed its use was allowed because it was "similar to" other uses. The decision was eventually upheld by the Commonwealth Court (*March 2018 PIOGA Press, page 12*). The Supreme Court reversed that finding.

"Because the Ordinance does not expressly authorize a gas well's use in any of the Township's three zoning districts, such a use cannot enjoy any presumption of being 'similar to' uses that are permitted in those districts," wrote Justice Christine L. Donohue in the majority opinion. She went on to stipulate that drilling is not automatically prohibited a residential district, but that the municipality must amend its zoning to permit drilling with whatever limitations it wanted.

"What a governing body may not do, however, and what the Fairfield Township Board of Supervisors did in this case, is to permit oil and gas development in residential/agricultural districts without first enacting the necessary amendments," she wrote.

A dissent by Justice Kevin Dougherty said supervisors had properly allowed drilling as a conditional use and that the majority ruling was too restrictive. "The board is authorized to consider all the possible uses allowed in the district either as permitted uses or conditional uses," he wrote. ■

## Advisory regarding the MSC v. DEP decision

PIOGA is providing this advisory for members regarding the Chapter 78a regulations that the Commonwealth Court preliminarily enjoined in *MSC v DEP* in November 2016 (*December 2016 PIOGA Press, page 12*). On June 1, the Pennsylvania Supreme Court affirmed in part and reversed in part the order of the Commonwealth Court.

Please inform your environmental and regulatory personnel that the Supreme Court has affirmed the injunctive relief as to Counts I (Public Resources) and II (Area of Review), as well as Count IV, with respect to centralized impoundments, Section 78a.59c. These injunctions will remain in place until resolution of the litigation on the merits by the Commonwealth Court.



The Supreme Court reversed the grant of relief in Count IV with respect to freshwater impoundments, Section 78a.59b(b) and Count V, Section 78a.65(d) (restoration).

With this reversal, companies should immediately review the obligations in Sections 78a.59b(b) and 78a.65(d), including registration of freshwater impoundments and certification that such impoundments comply with requirements for liners, fencing and storing mine influenced water. Companies should also review site restoration obligations under Section 78a.65, which is generally implemented through the ESCGP-2.

Please consult with your counsel if you have specific questions about your company's operations. ■

## EQB advances permit fee increase for unconventional wells

With two dissenting votes, the Environmental Quality Board is formally moving forward with a proposal by the Department of Environmental Protection to significantly increase permit fees for unconventional wells by 250 percent. The fee will increase to \$12,500, from the current \$5,000 for non-vertical wells and \$4,200 for vertical wells.

The EQB is a 20-member independent board chaired by the secretary of the Department of Environmental Protection that adopts all of DEP's regulations. The vote on the permit fee increase came May 16. The next step will be a 30-day public comment permit on the rulemaking. According to one published report, an agency spokesman said DEP doesn't expect the fee increase to

be finalized until next year or in 2020.

Funding for DEP's oil and gas program comes from permit fees along with fines and penalties. DEP argues that although drilling—and as a result, permit fee income—is down, the department's oil and gas workload has been increasing.

During discussion at the EQB's May 16 meeting, two board members, Public Utility Commission Vice Chairman Andrew Place and House Environmental Resources and Energy Committee Executive Director Richard Fox, both stated that while they are in favor of the regulation, the method of funding the oil and gas program must change. The board, they said, cannot allow permit prices to continually increase every three years. ■



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# Pennsylvania Environmental Hearing Board continues analysis of the Environmental Rights Amendment

The Pennsylvania Environmental Hearing Board has issued several adjudications and opinions regarding challenges brought under Pennsylvania's Environmental Rights Amendment (ERA)<sup>1</sup> since the Pennsylvania Supreme Court decision in *Pennsylvania Environmental Defense Foundation v. Commonwealth (PEDF)* last June. *PEDF* set aside the long-standing three-part test in *Payne v. Kassab* used to analyze claims brought under the ERA and replaced it with a standard based on the text of the ERA and principles of Pennsylvania trust law. The *PEDF* decision addressed the allocation and use of royalties generated by leasing publicly owned oil and gas interests and did not provide a definitive test to be applied in the permitting context.

The board has addressed the obligations imposed by the ERA in *Friends of Lackawanna v. DEP and Keystone Sanitary Landfill, (FOL)*,<sup>2</sup> *Center for Coalfield Justice and Sierra Club v. DEP, (CCJ)*<sup>3</sup> and *Center for Coalfield Justice and Sierra Club v. DEP*<sup>4</sup>. The most recent opinion, issued on May 11 in the *Delaware Riverkeeper* case, reflects a continuation of the analysis provided by these earlier decisions.

## **Delaware Riverkeeper Network v. DEP**

In *The Delaware Riverkeeper, et. al. v. DEP and R.E. Gas Development, LLC*<sup>5</sup> the board upheld well permits and renewals issued by the Department of Environmental Protection in an appeal based in part on the ERA. Two citizens groups, the Delaware Riverkeeper and the Clean Air Council, along with several residents of Middlesex Township (collectively, Delaware Riverkeeper), appealed unconventional gas well permits and subsequent renewals issued to R.E. Gas Development, LLC (Rex). Among other arguments, Delaware Riverkeeper argued that the department violated its constitutional obligations under the ERA.

<sup>1</sup> The ERA, Article I, Section 27 of the Pennsylvania Constitution, provides:

The people have a right to clean air, pure water, and to the preservation of the natural, scenic, historic and esthetic values of the environment. Pennsylvania's public natural resources are the common property of all the people, including generations yet to come. As trustee of these resources, the Commonwealth shall conserve and maintain them for the benefit of all the people.

<sup>2</sup> *Friends of Lackawanna v. DEP and Keystone Sanitary Landfill*, EHB Dkt. No. 2015-063-L (November 10, 2017) (FOL).

<sup>3</sup> *Center for Coalfield Justice and Sierra Club v. DEP*, EHB Dkt. No. 2014-072-B (August 15, 2017).

<sup>4</sup> *Center for Coalfield Justice and Sierra Club v. DEP*, EHB Dkt. No. 2018-028-R (April 24, 2018).

<sup>5</sup> *The Delaware Riverkeeper, et. al. v. DEP and R.E. Gas Development, LLC*, EHB Dkt. No. 2014-142-B (consolidated with 2015-157-B) (May 11, 2018).

The department reviewed whether the permit applications complied with Act 13 and other relevant statutes and regulations, considered objections from a group of concerned citizens, Mars Parent Group, and held a Section 3251(a) conference with Mars Parent Group and Rex. Rex agreed to take several actions to address the objections, and the department issued the permits on September 12, 2014, with special conditions to address the public concerns. After Rex applied to renew the permits in August 2015, the department became aware of potential abandoned wells near the proposed wellsite and requested additional information from Rex. Rex provided a report summarizing its investigation of abandoned wells, and the department renewed the permits.

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## Analysis

Writing for the board, Judge Steven Beckman reiterated the standard for analyzing ERA challenges to permit actions set out in *CCJ* and *FOL*. According to these precedents, the board must first determine whether the department considered the environmental effects of its permitting action and, second, whether the department correctly concluded that its action will not result in unreasonable degradation, diminution, depletion or deterioration of the environment. Finally, the board must determine whether the department satisfied its trustee duties of prudence, loyalty and impartiality toward the beneficiaries of the natural resources affected by the permitting decision.

The Delaware Riverkeeper argued the department's review of Rex's application fell short of this standard of review because the department did not properly consider the environmental effects of drilling authorized by the permits. The board disagreed and also clarified that the:

discussion in *CCJ* was not intended to suggest that there was some minimum requirement under Article 1, Section 27 governing the amount of review time that must be undertaken by the Department and the amount of information that must be considered by the Department. The Department's consideration of the environmental effect of its permitting actions is, we believe, intended to be a flexible standard based on the nature of the activity and the potential impact of the activity on the environmental interests protected under Article 1, Section 27.

The board stated that "[t]he fact that the consideration did not involve a full blown risk assessment and was not as extensive as Delaware Riverkeeper believes was necessary does not, in our opinion, violate the requirements of Article 1, Section 27."

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The board next addressed whether the department's decision to issue the permits resulted in the unreasonable degradation, diminution, depletion or deterioration of the environment. The Delaware Riverkeeper argued that drilling would result in water contamination, fire and explosion risks, and air emissions in violation of the ERA. The board rejected this argument, finding that these risks were speculative and that the Delaware Riverkeeper failed to meet its burden to prove the likelihood that adverse effects would occur.

Finally, the board addressed the department's trustee duties under the ERA, finding the department's pre-action analysis to be consistent with its duties of prudence and impartiality. The board stated:

Our understanding of the trustee responsibility does not require the Department to deny permits to any and all activity that will negatively impact the public natural resources and/or the people who use those resources. To hold otherwise would essentially prevent any permitting activity since it is nigh impossible to have development without some environmental impact.

The Delaware Riverkeeper also argued the department breached its duty of impartiality by "treating this wellsite as if it were no different than any other wellsite" because it failed to consider the children in proximity to the wellsite and the local air quality that was already

degraded. The board found the department did not violate its duty of impartiality because it considered the interests of various beneficiaries of the public natural resources near the proposed site.

### ***Siri Lawson v. DEP and Hydro Transport LLC***

On May 17, the board dismissed an appeal of a brine spreading plan approval as moot. *Lawson v. DEP*, EHB Dkt. No. 2017-051 B (May 17, 2018). Siri Lawson, a township resident, appealed the department's approval of Hydro Transport LLC's plan to spread brine from conventional oil and gas operations for dust control and stabilization on dirt roads in Sugar Grove and Farmington townships in Warren County. Among her arguments, Lawson claimed the department violated the ERA when it failed to impose adequate operating requirements to protect the waters or the air of the Commonwealth. Both Lawson and Hydro Transport filed motions for summary judgment, including arguments related to the applicability of and obligations under the ERA.

The May 17 decision, however, dismissed the appeal as moot without addressing the legal merits of the appeal because the approval had expired at the end of 2017. The board found that there was no effective relief it could grant and that this type of approval was not capable of repetition. In its motion to dismiss, the department repudiated its authority to issue brine

## **More about road spreading of brine**

As described in the accompanying article, the Department of Environmental Protection has ended approvals for spreading brine from conventional oil and gas wells on dirt roads for dust suppression and anti-icing. PIOGA reacted this way after the Environmental Hearing Board (EHB) dismissed an appeal of one road-spreading approval in Warren County:

"Municipalities in areas of the state where conventional oil and gas drilling has taken place for decades rely on free or low-cost brine water as a safe and proven solution to prevent dust in the summer and improve traction in the winter on their dirt roads. DEP's decision will eliminate nearly all of the brine-producing wells in the state currently used for this purpose, without justification or any evidence of benefits to the environment.

"Limiting the sources of this brine will create financial hardships in cash-strapped municipalities that can least afford it, and will also increase costs for conventional oil and gas producers struggling to compete against larger companies. Municipalities may not be able to obtain brine water from the smaller number of wells now eligible under DEP's rules, resulting in the generation of more particulate matter from dust and negative impacts to crops and plants. The primary alternative to brine water for dust suppression, the use of a version of kerosene, is far more expensive and like-

ly out of reach for most of these municipalities.

"This decision by DEP is a loser for the environment, a loser for municipalities in many parts of the state and a loser for common sense."

It's unclear where the department's decision to stop contesting the appeal before the EHB will leave conventional producers and the many rural townships that relied on this beneficial, economic use of brine.

Legislation known as the Conventional Oil and Gas Act pending before the General Assembly specifically would direct DEP to approve the use of brine for dust control, road stabilization, anti-icing and de-icing, consistent with the provisions of the Solid Waste Management Act. The House of Representatives approved House Bill 2154 on June 5, shifting attention now to the Senate (*see page 1*).

DEP also is said to be reviewing the road spreading approval process in light of the EHB case.

However, that doesn't help municipalities facing dusty roads in the next few months. "The townships' only recourse right now is to buy commercial brine, and that's an expense they did not budget for," an official with the Pennsylvania State Association of Township Supervisors (PSATS) told the *Pittsburgh Post-Gazette*. Previously, townships had brine from conventional oil and gas wells spread on their roads at little or no cost to them.

"Some people are happy with the change and some are not, but a lot of people will see a dustier difference in the roads this year," the PSATS official said.

spreading approvals to haulers such as Hydro Transport. The board declined to reach or opine on the department's authority under the Solid Waste Management Act or otherwise.

### What's next?

In *Delaware Riverkeeper*, the board followed the ERA analytical approach taken in *CCJ* and *FOL*, examining the record to evaluate both the department's consideration of the effect of the permitted activity on public natural resources, as well as the actual or potential adverse effects of the permitted activity on the environment. Consistent with board decisions issued before *PEDF*, as well as the 2013 Pennsylvania Supreme Court decision in *Robinson Township v. Commonwealth*, the board's opinion reaffirms that the ERA "should not be read as preventing all impacts to the environment nor does it call for a stagnant landscape."

Several other ERA questions remain pending before the board. ■

For more information regarding interpretation of the ERA, please contact Kevin J. Garber at 412-394-5404 or [kgarber@babstcalland.com](mailto:kgarber@babstcalland.com), or Jean M. Mosites at 412-394-6468 or [jmosites@babstcalland.com](mailto:jmosites@babstcalland.com).

## DEP finalizes GP-5 and 5A

The Department of Environmental Protection announced on June 7 that it was releasing final versions of General Permit 5 and 5A to control methane emissions from unconventional natural gas operations at well sites, compressor stations, and processing and transmission facilities. The permits go into effect on August 8.

As of the date of the announcement, the final permits had not been posted on DEP's website. Consequently, members of the Air Quality/Emissions Subcommittee of PIOGA's Environmental Committee were unable to immediately determine whether the department had made any changes to the March 2018 draft-final versions in the three weeks since a second comment period ended.

A webinar on the final permits was to be held on June 8. DEP often archives such presentations on its website for later viewing.

The newly revised GP-5 and GP-5A will be required for new compression, processing and transmission stations along pipelines, and new natural gas wells, respectively. In addition to the methane controls, the permits also set thresholds on other emissions. Operators will be required to meet federal new source standards and state Best Available Technology (BAT) included in the permit conditions for equipment and processes.

*Continues on page 19*



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# Marginal well credit for 2017 natural gas production announced

By Arnett Carbis Toothman LLP  
Oil & Gas Industry Services Group

The Internal Revenue Service announced May 26 in Notice 2018-52 that the Marginal Well Production Credit (MWC) for natural gas production from qualifying wells in calendar year 2017 is \$.51 per Mcf for the first 18 Mcf of daily production. The following is a summary of this credit and its source and application.

Marginal well working interest owners have not experienced much in their favor in the past several years with lower production, lower natural gas sales prices, and increased operating, transportation and regulatory costs. Surprisingly, a very positive current item for marginal well working interest owners may be found in the federal income tax area with a tax credit for 2017 natural gas production.

## ***The MWC for natural gas production from qualifying wells in 2017 is \$.51 for the first 18 Mcf of daily production.***

Internal Revenue Code Section 45I was passed by Congress as part of the American Jobs Creation Act of 2004. This MWC was based on production from qualified marginal wells. Qualified marginal oil wells are those with an average production of not more than 15 barrels per day, those wells producing heavy oil or wells producing not less than 95 percent water with average production of not more than 25 barrels per day of oil. Qualified marginal natural gas wells are those producing not more than 90 Mcf per day.

The first step in determining wells that qualify for this credit is making certain they qualify as marginal wells, combining oil and natural gas equivalent units to determine marginal well status. This tax provision allows a \$3 per barrel tax credit for the first three barrels of daily oil production from an existing marginal well and a \$.50 per Mcf tax credit for the first 18 Mcf of daily natural gas production from a marginal well.

The second step is determining the actual average daily production from the qualified wells and limiting that production to a daily combined three barrels of oil and 18 Mcf of natural gas in equivalent units of production. If oil produced from qualifying wells is not allowed in a year due to oil's reference price being too high—which was the case for 2017 production—it should be appropriate to include only natural gas in your 18 Mcf of qualifying production calculation. The qualified average daily production under this limitation would then be applied to the number of days that the working interest owner actually owned that well interest.

The third step in determining the dollar amount of federal tax credit available is to apply the qualifying production in a year to the approved dollar amount per unit of production. For oil production, the original \$3 credit per barrel was to be proportionately eliminated

as the inflation adjusted average price of oil increased from \$15 to \$18 per barrel. For 2017 oil production, the inflation adjusted maximum credit of \$3.76 per barrel was eliminated as the average allowable sales price of oil in 2016 increased from \$18.00 to \$22.53 per barrel and the 2016 reference price for oil was above \$38.29 per barrel.

For 2017 natural gas production, there is an MWC for the first 18 Mcf of daily production from qualifying wells of \$.51 per mcf. The original maximum MWC of \$.50 per mcf has now increased due to inflation to a maximum of \$.6259 per Mcf. The original \$.50 per mcf credit was reduced as the average price of natural gas in the year prior to the production year increased from \$1.67 to \$2.00. With inflation, the 2017 natural gas maximum credit of \$.6259 per Mcf is reduced as the reference price of natural gas in 2016 increases from \$2.09 to \$2.50 per Mcf. In other words, if the reference price for natural gas production is less than \$2.50 per Mcf in 2016, there will be a MWC for 2017 natural gas production.

The Internal Revenue Service is the agency that is to calculate and publish the 2016 natural gas reference price. This average natural gas price will determine the amount of credit per Mcf of qualifying production no matter what producers actually sell their natural gas for in 2017. The IRS issued Notice 2018-52 listing the 2017 inflation adjustment factor of 1.2518 and the 2016 applicable reference price of \$2.17 per Mcf. Based on these factors, the MWC for 2017 natural gas production from “stripper wells” is \$.51 per mcf.

This natural gas federal income tax credit for 2017 qualifying production is definitely good news. One additional limitation on use of this credit is that it may only offset regular income tax in excess of Alternative Minimum Tax (AMT). An offsetting benefit to this AMT limit is that any MWC not used in a year due to total tax or AMT limits may be carried back 5 years and over up to 20 years. This extended number of years to utilize this credit hopefully ensures a significant amount of Section 45I credit for 2017 natural gas production will be realized by those with qualifying marginal well production.

We will continue to monitor and update information about this credit as its specific application become better defined. If you have any questions concerning the above information or how this credit may be applied to benefit you, please contact the following Arnett Carbis Toothman LLP associates at 800-924-0729 or email at don.nestor@actcpas.com; marlin.witt@actcpas.com, bill.phillips@actcpas.com; ryan.nestor@actcpas.com or wanda.bailey@actcpas.com. You may also contact any of our Arnett Carbis Toothman LLP offices and we will respond to your requests concerning this valuable credit or other planning needs you may have. ■

## Donnie Connor races off into retirement

**D**onnie Connor of Open Flow Energy has been around the association for a long time. He has been on PIOGA's Board of Directors since the organization was formed in April 2010, and before that served as a director of our predecessor, the Pennsylvania Oil & Gas Association (POGAM). He also was active with the other PIOGA predecessor, the Independent Oil & Gas Association of Pennsylvania (IOGA-PA), and before that, Pennsylvania Natural Gas Associates (PNGA). As he leaves for retirement, we asked him to reflect on his time in the industry and with the associations, as well as what's next for him.

### Q. Tell us a bit about your career.

Returning home after leaving college, one of the first things I did was join the volunteer fire service in DuBois and became very active not only as a firefighter, but also by taking on a lot of administrative and managerial functions in both my company, GoodWill Hose No. 5, and the DuBois Volunteer Fire Department.

Actually, that experience and the recognition, along with some sales experience in another industry, opened the door for my career in our industry. In the mid-1980s, I was recruited by a childhood friend who was the energy manager for a local company who wanted to start a natural gas marketing company. It was a pretty risky proposition at the time, as natural gas marketing was not yet even an industry. Eventually we worked out an arrangement, called ourselves Open Flow, secured local production and marketed it to local industry.

Everything grew from there. I am extremely proud of where we are as a company, from our humble begin-

nings to a regional leader in the industry. In the mid-2000s we were acquired by SJI and I had to sell my interest in the company and I went to work for what is now Open Flow Energy, a division of South Jersey Energy.

### Q. How long were you on the PIOGA/POGAM board? How did you end up serving?

I've served on the board since 2006, before the merger, and I am one of only two remaining directors from the former POGAM board. Starting in the late 1980s, I became very active working with PNGA/IOGA and POGAM and continued through the years. Like my start in the industry, I was recruited, this time by the executive director, Steve Rhoads, to fill a vacated POGAM board seat immediately after we had successfully litigated a very important case before the Pennsylvania Public Utility Commission.

### Q. Why is it important to you and your company to be involved in PIOGA and on the Board of Directors?

I've always felt that it is very important to have a "seat at the table" if you're a stakeholder in any matter. In my case involvement is self-explanatory.

### Q. What have been the highlights of your involvement over the years?

We were very successful early on, especially with the PNGA Transportation & Marketing Committee, in effecting changes at both the federal and state levels to ensure the natural gas marketing industry's ultimate survival. Initially we were not well received by the utility companies who attempted to make it nearly impossible for us to operate. The efforts of both of the trade associations at that time were invaluable.

### Q. What do you think are PIOGA's strengths as an organization?

Diversity. POGA represents the entire Pennsylvania oil and gas industry. Other associations in the Commonwealth only represent specific factions, sometimes to the detriment of, or even in conflict with, other factions.



Left: Donnie Connor received a plaque commemorating his many years of service at PIOGA's June 4 golf outing. Above: Donnie's race car circa 2011. Note the PIOGA logo on the left-rear panel.

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**Q. What have been the organizations' biggest accomplishments?**

I know for a fact that the natural gas marketing industry would not be what it is today without PIOGA and its predecessor organizations (PNGA/IOGA and POGAM), or if it were to exist at all. Over my 30-plus years there have been too many accomplishments to list individually.

**Q. What challenges lie ahead for the association and the industry that we serve?**

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Unfortunately, there are way too many specific issues to detail here. I see PIOGA continuing to take the lead in all relevant issues as they present themselves. As I see it, PIOGA's main overall mission is to continue promulgating accurate facts to refute the radicals trying to completely remove fossil fuels from the energy mix, as a future without fossil fuels can only be a regression to the past, in my opinion.

**Q. What's next for you personally?**

I am going to finally marry my longtime fiancée, spend some quality time with family and do some traveling.

**Q. Is there anything else you'd like to mention?**

I was fortunate enough to raise two wonderful and successful daughters, now with wonderful families of their own.

I cannot stress enough the importance of my years of service with the DuBois Volunteer Fire Department, of which I am now a life member, as I am absolutely certain that I would not be where I am today without that total experience. I truly believe that community service pays off for everyone. (I seldom speak much about it these days, but you can visit newspaperarchive.com/dubois-courier-express-feb-12-1985-p-1/ for one of the many interesting events in my fire service career. I was gung ho...and much younger then!)

I'm also very proud of the nearly two decades I spent racing dirt late models in west-central PA. We didn't win much, but we were always prepared, very competitive and everyone knew we were there. ■

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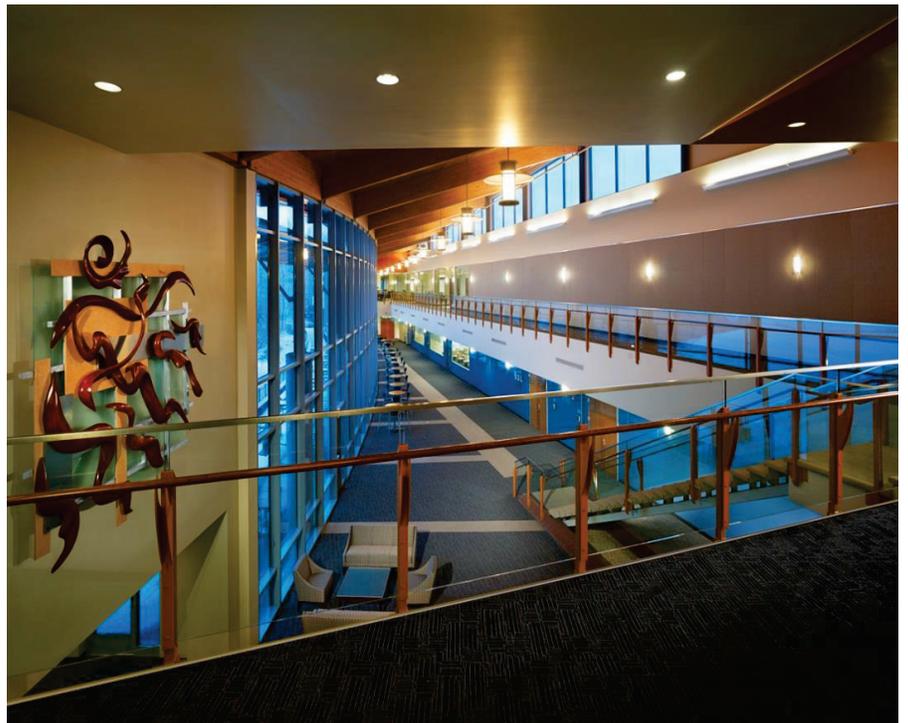
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# Heat related illnesses

By Chris Walton

SE Technologies, LLC

With summertime arriving, it's time for a refresher on identifying, preventing and responding to heat-related illnesses.

## Heat rash (prickly heat)

- Clusters of red bumps on skin

## Heat cramps (loss of body salts and fluid in muscles)

- Painful, intermittent spasms or voluntary muscles following hard physical work in a hot environment
- Usually occur after heavy sweating and often begin at end of work shift

## Heat exhaustion

- Headaches and dizziness
- Lightheadedness, weakness or fainting
- Moist skin
- Mood changes such as irritability or confusion
- Upset stomach or vomiting
- Thirst
- Fast heart beat

## Heat stroke (most serious—body unable to regulate its core temperature)

- Dry, hot skin with NO sweating
- Mental confusion
- Seizures or convulsions
- Loss of consciousness
- Very high body temperature

## Risk factors

- High temp and humidity
- Direct sun or heat
- Limited air movement
- Physical exertion
- Poor physical condition
- Some medicines
- Dehydration due to alcohol and caffeine
- Inadequate tolerance for hot workplaces
- Low liquid intake



## Prevention

- Know signs/symptoms of heat-related illnesses
- Block out direct sun or other heat sources
- Increase ventilation—use cooling fans/air conditioning
- Rest regularly
- Drink lots of cool, not cold, water—1 cup every 15-20 minutes.
- **Avoid alcohol, caffeinated drinks** or heavy meals
- Implement work-rest regimen
- Rotate workers
- Modify work schedule
- Keep an eye on each other

## Safety Committee Corner

### Response to heat related illnesses

- Call 911 immediately
- Move person to cool, shaded area
- Loosen or remove heavy clothing
- Provide cool drinking water
- Fan and mist person with water

### Heat stress resources

- OSHA's Heat Stress Guide – [www.osha.gov/SLTC/emergencypreparedness/guides/heat.html](http://www.osha.gov/SLTC/emergencypreparedness/guides/heat.html)
- OSHA's Quick Card – Protecting Workers from Heat Stress – [www.osha.gov/Publications/osa3154.pdf](http://www.osha.gov/Publications/osa3154.pdf)
- OSHA Occupational Heat Exposure – [www.osha.gov/SLTC/heatstress](http://www.osha.gov/SLTC/heatstress)
- Heat Illness Training Poster – [www.osha.gov/SLTC/heatillness/3431\\_wksiteposter\\_en.pdf](http://www.osha.gov/SLTC/heatillness/3431_wksiteposter_en.pdf)
- OSHA/NIOSH Info Sheet – Protecting Workers from Heat Illness – [www.osha.gov/Publications/osa-niosh-heat-illness-infosheet.pdf](http://www.osha.gov/Publications/osa-niosh-heat-illness-infosheet.pdf)
- OSHA Fact Sheet – Protecting Workers from the Effects of Heat – [www.osha.gov/OshDoc/data\\_Hurricane\\_Facts/heat\\_stress.pdf](http://www.osha.gov/OshDoc/data_Hurricane_Facts/heat_stress.pdf) ■

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## PIOGA partners with MultiView to offer new digital marketing for members

As a member-driven organization that serves multiple facets of the Pennsylvania oil and gas industry, we've talked to a lot of members about the challenges they face in marketing their business. They're inundated with terms like site retargeting, pay-per-click, content marketing, social media marketing, video, etc. And as much as they'd like to keep up with the trends, they also have a business to run. And so, we're excited to announce that we have found a solution to help our members market their business to others within the industry.

PIOGA and MultiView have worked closely together to establish a new, unique member marketing services program. We have partnered with MultiView for over five years for various association digital advertising initiatives. During that time, the company has learned about our industry and the trends that drive it. It's this data and market expertise that become the foundation of all successful digital campaigns—expertise that we want to pass on to our valued membership.

If you are a Service Provider or Professional Firm member, by now you may have received a brochure in the mail listing the wide variety of digital advertising services we are offering under this new program. If you haven't seen it, click on "Join PIOGA" link at the top of our homepage, [www.pioga.org](http://www.pioga.org), and look for the link in the member services list.

You also may be contacted by an experienced MultiView marketing consultant. They can map out a solution that can fit your business's needs and budget, complete with end-to-end account management, creative and content services, and unmatched data monitoring—guaranteeing your message gets to the right decision-maker, at the right time, in a digital environment that's safe for your company's brand.

Please note that MultiView is reaching out to you with PIOGA's full knowledge and cooperation. If you prefer not to be contacted further, let them know and they will honor that request. If you feel they are not being com-



pletely courteous to you or respectful of your time, please let us know.

We value your membership and look forward to offering you benefits that can help your business grow. And as always, thanks for your support of PIOGA. ■

## Wage and Hour Division offers video resources for employers

*The following article was provided by the U.S. Labor Department's Wage and Hour Division.*

The Wage and Hour Division provides the tools employers need to comply with the law. Tired of poring through regulations and dense text trying to figure out your legal responsibilities under federal labor law as an employer? We have a solution. As part of our ongoing commitment to help employers understand their legal obligations, we have launched a new series of brief, plain-language videos to help explain those responsibilities.

We cut through the legalese and are providing these videos as a source for employers who simply want and need to understand their responsibilities. We consulted a variety of employers and other stakeholders during the production of these Fair Labor Standards Act (FLSA) tutorials and incorporated their feedback to provide these user-friendly, straightforward primers, delivered in a language and format that's engaging and easy to understand.

We recognize that most employers want to do the right thing—they value their employees, and they want to operate in compliance. We're modernizing our tools to help them along that path. Please visit [www.dol.gov/whd/flsa/videos.htm](http://www.dol.gov/whd/flsa/videos.htm) to check out the videos, along with the many other compliance assistance tools we offer.

If you have questions or concerns, you can contact us at 866-487-9243 or visit [www.wagehour.dol.gov](http://www.wagehour.dol.gov). You will be directed to the nearest WHD office for assistance. ■



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## NV Advantage plays role in successful winter peaking project

**N**G Advantage, the pioneer in virtual pipeline CNG service, which is majority-owned by Clean Energy Fuels, successfully served National Grid with a three-month winter peaking project at a facility in New York State. During this winter's extremely low temperatures, NG Advantage offered the utility a CNG solution capable of delivering 15,000 Mcf a day to support spikes in demand and ensure reliable heat for New York residents.

"Based on the limited availability of natural gas supplies in the Northeast, National Grid determined that for this past winter, working with a virtual pipeline energy company was a necessary short-term fix to help meet our customers need through the use of this non-pipeline solution," said John Vaughn, Vice President of Energy Procurement at National Grid. "NG Advantage demonstrated a strong commitment to safety and was poised to provide the relief for winter peaks when we needed it." ■

## GP-5 and 5A finalized *Continued from page 9*

The permit revisions, which have been under development since December 2016, are the first step in the Wolf administration's Methane Reduction Strategy. When initially unveiled, the permit requirements were particularly onerous, although improvements have been made in subsequent revisions.

The Wolf methane strategy revolves around a four-point plan:

1. To reduce leaks at new unconventional natural gas well pads, DEP will develop a new general permit for oil and gas exploration, development, and production facilities, requiring BAT for equipment and processes, better record-keeping, and quarterly monitoring inspections.

2. To reduce leaks at new compressor stations and processing facilities, DEP will revise its current general permit, updating BAT requirements and applying more stringent LDAR, other requirements to minimize leaks. A new condition will require the use of Tier 4 diesel engines that reduce emissions of particulate matter and nitrous oxide by about 90 percent.

3. To reduce leaks at existing oil and natural gas facilities, DEP will develop a regulation for existing sources for consideration by the Environmental Quality Board.

4. To reduce emissions along production, gathering, transmission and distribution lines, DEP will establish best management practices, including leak detection and repair programs. ■



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## State Senate approves ‘critical infrastructure’ trespass bill

The Senate late last month passed bipartisan legislation increasing penalties for trespassing on critical infrastructure facilities, including oil and gas production and pipeline facilities. The sponsor, Senator Mike Regan (R-Cumberland and York), said Senate Bill 652 closes a gap in current law to differentiate between trespassing on everyday property or buildings and trespassing on critical infrastructure facilities.

“It is important to understand that trespassing and damaging facilities is currently illegal,” said Regan. “This legislation is not banning activity that is already against the law but instead it specifies exactly what level of crime a person can be charged with when they partake in such illegal activities.”

SB 652 would make trespassing on a critical infrastructure facility a third-degree felony and doing damage or inhibiting business a second-degree felony. Each would carry a maximum prison term of one year and a minimum fine of \$5,000.

“Businesses that operate critical infrastructure facilities simply want to be able to do so without the interference from trespassers,” said Regan. “In the event that someone does trespass—despite signage or fences—they want Pennsylvania law to have teeth in order to hold those individuals accountable.”

Among the 21 types of facilities are included in the definition of “Critical Infrastructure Facility,” are these from our industry:

- Natural gas or natural gas liquids transmission, distribution facility or pipeline, pipeline interconnection, metering station, pipeline compressor station, terminal or storage facility, gas processing, treatment or fractionation of natural gas or natural gas liquids;
- Oil and gas production facilities, well sites, separation and dehydration facilities, storage and meter stations;
- Petroleum refinery; crude oil or refined products storage and distribution facility, chemical or polymer manufacturing facility; and
- Any equipment and machinery stored on location or at a storage yard used to construct critical infrastructure.

SB 652 now goes to the House for consideration. ■

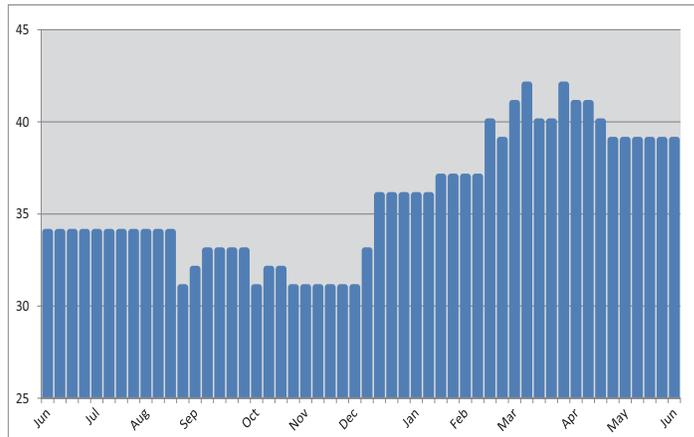
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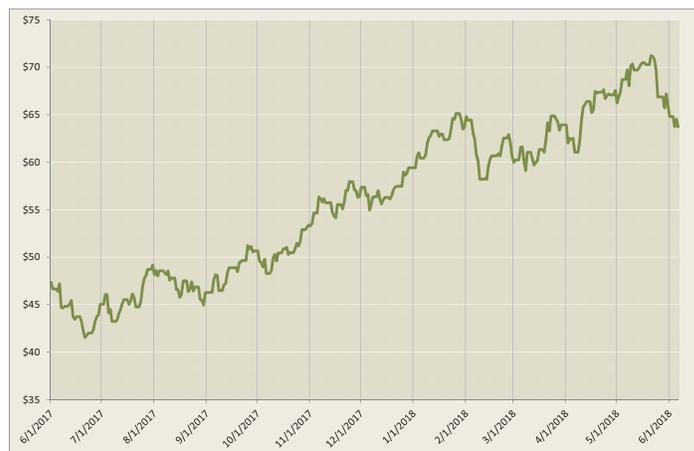
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## Oil & Gas Dashboard

### Pennsylvania Rig Count



### Penn Grade Crude Oil Prices



### Natural Gas Futures Closing Prices

Month	Price
July 2018	\$2.900
August	2.914
September	2.898
October	2.906
November	2.951
December	3.055
January 2019	3.138
February	3.101
March	3.000
April	2.638
May	2.596
June	2.620

Prices as of June 6

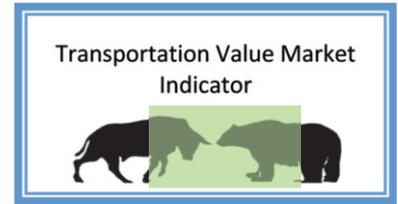
### Sources

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

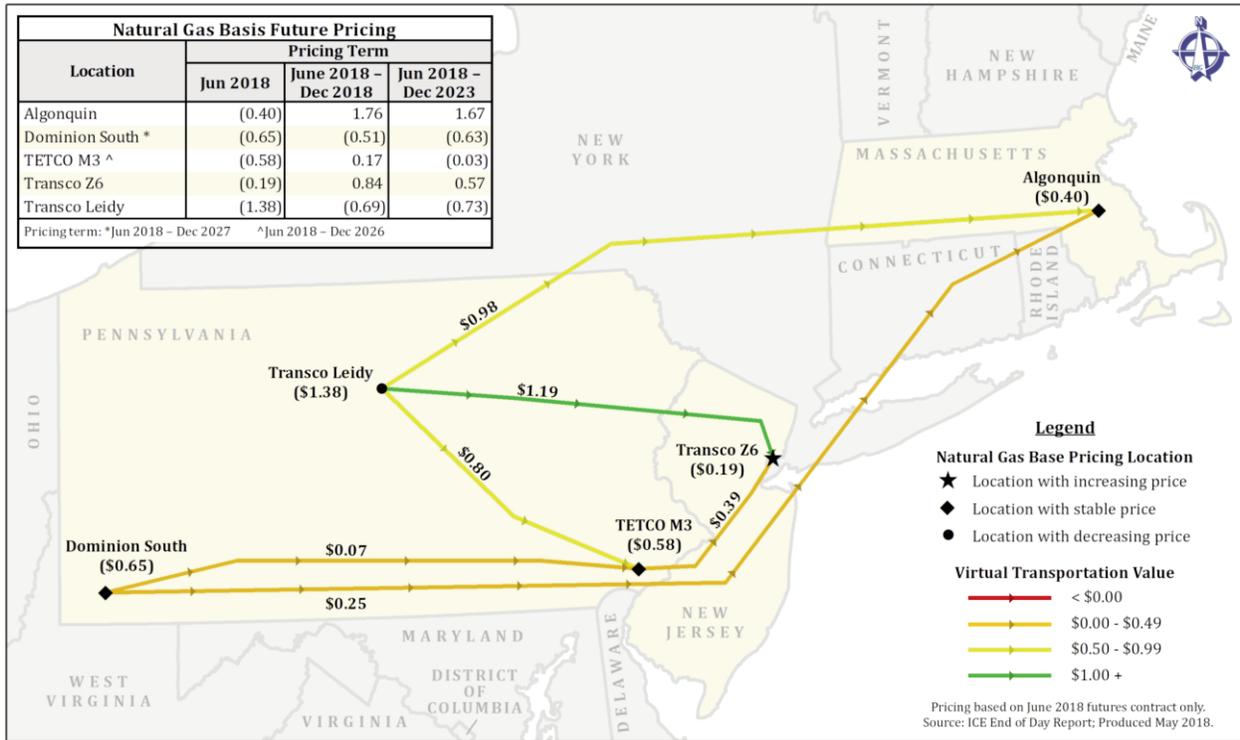
# Northeast Pricing Report – May 2018

Front month pricing was down for every trading point. Transco Z6 had the lowest decrease of \$0.19 per MMBtu, while Transco Leidy saw the highest decrease of \$1.38 per MMBtu. The one-year trading term had increases that ranged from a decrease of \$0.69 per MMBtu for Transco Leidy to an increase of \$1.76 per MMBtu for Algonquin. The entire trading term had a similar variance as the one-year term. Transco Leidy decreased the greatest amount of \$0.73 per MMBtu and Algonquin had the greatest increase of \$1.67 per MMBtu. The market obviously expects Algonquin to strengthen over time due to the lack of infrastructure.

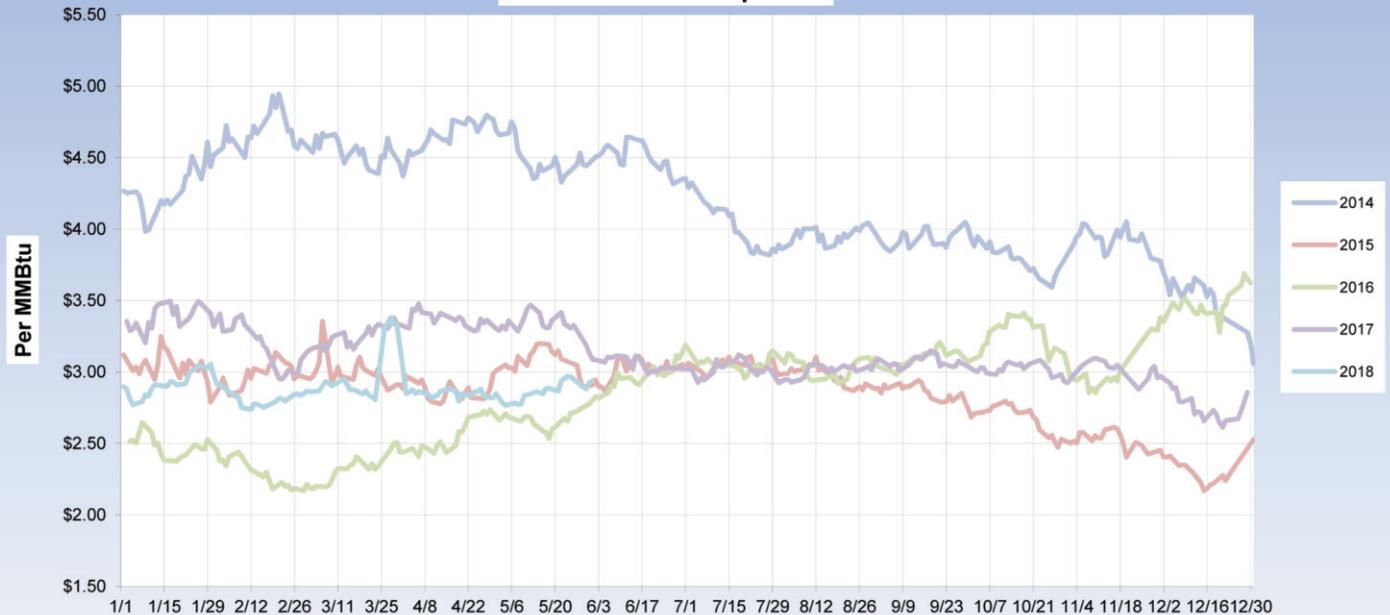
Transportation values increased across all routes. Transportation from Transco Leidy to Transco Z6 had the largest increase in value of \$1.19 per MMBtu. Transco Leidy to Algonquin had the second largest increase of \$0.98 per MMBtu. Interestingly rare month where Dominion South to TETCO M3 and Algonquin had the lowest increases of \$0.07 and \$0.25 per MMBtu.



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## NYMEX Annual Strip Price



# Spud Report: May 2018



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

OPERATOR	WELLS	SPUD	API #	COUNTY	MUNICIPALITY
BF Adventures LLC	2	5/16/18	123-48069*	Warren	Mead Twp
		5/23/18	123-48068*	Warren	Mead Twp
Blackhawk Energy LLC	1	5/30/18	083-56952*	McKean	Hamilton Twp
Cabot Oil & Gas Corp	20	5/6/18	115-22291	Susquehanna	Brooklyn Twp
		5/6/18	115-22295	Susquehanna	Brooklyn Twp
		5/19/18	115-22293	Susquehanna	Brooklyn Twp
		5/20/18	115-22296	Susquehanna	Brooklyn Twp
		5/22/18	115-22290	Susquehanna	Brooklyn Twp
		5/23/18	115-22292	Susquehanna	Brooklyn Twp
		5/25/18	115-22294	Susquehanna	Brooklyn Twp
		5/22/18	115-22392	Susquehanna	Jessup Twp
		5/22/18	115-22393	Susquehanna	Jessup Twp
		5/22/18	115-22394	Susquehanna	Jessup Twp
		5/22/18	115-22395	Susquehanna	Jessup Twp
		5/18/18	115-22470	Susquehanna	Lathrop Twp
		5/18/18	115-22471	Susquehanna	Lathrop Twp
		5/18/18	115-22472	Susquehanna	Lathrop Twp
		5/18/18	115-22474	Susquehanna	Lathrop Twp
		5/18/18	115-22473	Susquehanna	Lathrop Twp
		5/18/18	115-22475	Susquehanna	Lathrop Twp
5/18/18	115-22477	Susquehanna	Lathrop Twp		
5/18/18	115-22476	Susquehanna	Lathrop Twp		
5/18/18	115-22478	Susquehanna	Lathrop Twp		
Chesapeake Appalachia LLC	5	5/19/18	115-22446	Susquehanna	Auburn Twp
		5/19/18	115-22447	Susquehanna	Auburn Twp
		5/23/18	115-22426	Susquehanna	Auburn Twp
		5/23/18	115-22427	Susquehanna	Auburn Twp
		5/24/18	115-22428	Susquehanna	Auburn Twp
Chevron Appalachia LLC	12	5/7/18	051-24661	Fayette	Luzerne Twp
		5/7/18	051-24662	Fayette	Luzerne Twp
		5/7/18	051-24663	Fayette	Luzerne Twp
		5/7/18	051-24652	Fayette	Luzerne Twp

available at [www.dep.pa.gov/DataandTools/Reports/Oil and Gas Reports](http://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
CNX Gas Co LLC	8	5/7/18	051-24653	Fayette	Luzerne Twp
		5/7/18	051-24654	Fayette	Luzerne Twp
		5/7/18	051-24655	Fayette	Luzerne Twp
		5/7/18	051-24656	Fayette	Luzerne Twp
		5/7/18	051-24657	Fayette	Luzerne Twp
		5/7/18	051-24658	Fayette	Luzerne Twp
		5/7/18	051-24659	Fayette	Luzerne Twp
		5/7/18	051-24660	Fayette	Luzerne Twp
		5/6/18	059-27646	Greene	Richhill Twp
		5/6/18	059-27647	Greene	Richhill Twp
EM Energy PA LLC	2	5/30/18	019-22733	Butler	Parker Twp
		5/31/18	019-22734	Butler	Parker Twp
		5/8/18	125-28451	Washington	Fallowfield Twp
		5/8/18	125-28453	Washington	Fallowfield Twp
EQT Production Co	6	5/8/18	125-28452	Washington	Fallowfield Twp
		5/8/18	125-28454	Washington	Fallowfield Twp
		5/8/18	125-28455	Washington	Fallowfield Twp
		5/8/18	125-28456	Washington	Fallowfield Twp
		5/1/18	003-22461	Allegheny	Plum Boro
		5/25/18	123-48158*	Warren	Glade Twp
Huntley & Huntley Energy Expl	1	5/4/18	083-56651*	McKean	Hamilton Twp
		5/10/18	083-56650*	McKean	Hamilton Twp
Kylander Oil Inc	1	5/25/18	123-48158*	Warren	Glade Twp
MSL Oil & Gas Corp	2	5/30/18	105-21910	Potter	Sylvania Twp
		5/17/18	125-28328	Washington	Amwell Twp
PA Gen Energy Co LLC	6	5/17/18	125-28330	Washington	Amwell Twp
		5/18/18	125-28253	Washington	Amwell Twp
		5/18/18	125-28329	Washington	Amwell Twp
		5/18/18	125-28331	Washington	Amwell Twp
		5/19/18	125-28332	Washington	Amwell Twp
		5/21/18	117-21992	Tioga	Delmar Twp
		5/22/18	117-21991	Tioga	Delmar Twp
Seneca Resources Corp	6	5/24/18	117-21990	Tioga	Delmar Twp
		5/24/18	117-21971	Tioga	Delmar Twp
		5/24/18	117-21972	Tioga	Delmar Twp
		5/25/18	117-21973	Tioga	Delmar Twp
		5/14/18	131-20548	Wyoming	Eaton Twp
SWN Production Co LLC	5	5/17/18	131-20549	Wyoming	Forkston Twp
		5/18/18	131-20547	Wyoming	Forkston Twp
		5/19/18	131-20551	Wyoming	Forkston Twp
		5/20/18	131-20550	Wyoming	Forkston Twp
Wilmoth Interests Inc	1	5/24/18	123-48150*	Warren	Mead Twp

	May	April	March	February	January	December
Total wells	79	76	113	59	71	67
Unconventional Gas	72	72	104	52	63	63
Conventional Gas	0	0	3	0	0	0
Oil	7	4	6	7	8	4

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## Calendar of Events

### PIOGA events

Info: [www.pioga.org/events](http://www.pioga.org/events)

#### PIOGA's 100th Anniversary Celebration

July 18, Drake Well Museum and Park, Titusville

#### 21st Annual Divot Diggers Golf Outing

August 23, Tam O'Shanter Golf Club, Hermitage

#### Oktoberfest, Conference and Annual Meeting

October 17-18, Seven Springs Mountain Resort, Champion

### Other association & industry events

#### 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](http://marcelluscoalition.org/get-involved/training-and-events)

#### IPAA Midyear Meeting

June 25-27, Austin, TX

Info: [www.ipaa.org/events](http://www.ipaa.org/events)

#### IOGANY Summer Meeting

July 19, Peek n' Peak, Clymer NY

Info: [www.iogany.org/events.php](http://www.iogany.org/events.php)

#### IOGAWV Summer Meeting

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

Info: [iogawv.com/2018-summer-meeting-registration](http://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](http://www.ooga.org/events/event_list.asp)

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

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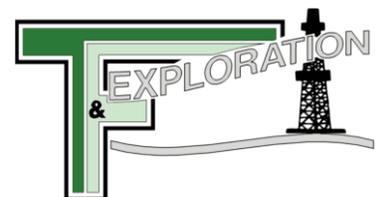


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