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Budget and Policy Center

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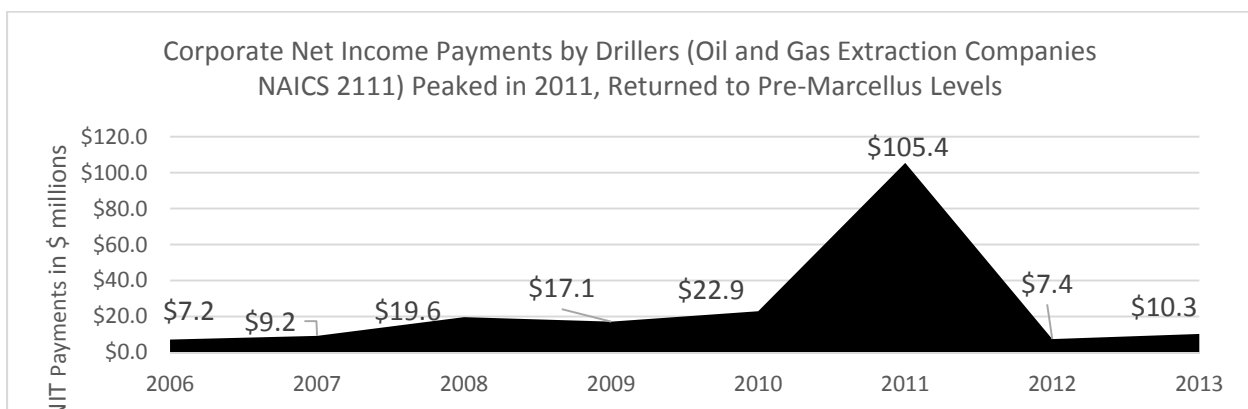
Gas Production Booms, Drillers' Corporate Tax Payments Plummet

The market value of natural gas produced in Pennsylvania exceeded \$11.8 billion in 2013 yet natural gas producers pay among the lowest effective production tax rates in the country.¹ Companies paid \$223 million in impact fee for gas produced in 2013,² for an effective tax rate of less than 1.9%.

Recent reports by the Pennsylvania Independent Fiscal Office³ and Headwaters Economics/Oklahoma Policy Institute⁴ both identified Pennsylvania as having the lowest effective production tax rate in the shale states the groups studied.

Even as gas production boomed, corporate net income tax (CNIT) payments made by drilling companies have fallen to pre-Marcellus drilling levels according to Department of Revenue compiled data. In 2013, oil and gas producers⁵ paid just \$10.3 million in corporate net income taxes. A big jump in CNIT in 2011 proved to be an anomaly, as more recent corporate tax payments have fallen to below 2008 levels. In 2013, oil and gas producers paid just 9% of corporate income taxes collected from the industry while drilling support companies, pipeline, distribution and other related companies paid the other 91%.⁶

Drilling companies in Pennsylvania operate in a favorable tax environment. They can take advantage of federal tax incentives to reduce both state and federal taxable income and can establish subsidiaries that allow their investors to pay Pennsylvania's low personal income tax rather than the CNIT. When they do pay corporate income taxes, Pennsylvania's leaky tax system allows for easy shifting of profits out of state. Pennsylvania's manufacturing sales tax exclusions make much of the equipment and supplies purchased by drillers tax-exempt. Companies do not pay property taxes on the value of oil and gas reserves here, taxes they pay in other states.



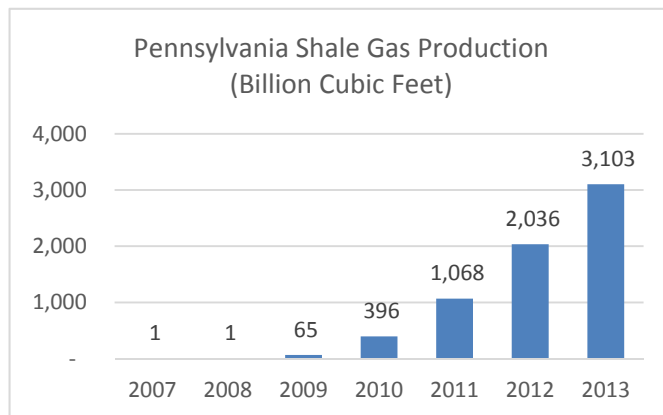
Source: Pennsylvania Budget and Policy Center analysis of Pennsylvania Department of Revenue data

With Pennsylvania facing a budget deficit of more than \$1.5 billion for 2014-15, new revenue is necessary to avoid new cuts to education, health care, and early childhood budgets. One idea, championed by a bipartisan group of lawmakers, is to enact a severance tax on natural gas. A 5% tax would raise almost \$400 million on top of the current impact fee.

Producers Tax Payments Plummet

The Pennsylvania Department of Revenue (DOR) regularly publishes data on taxes paid by the oil and gas production companies, other companies related to oil and gas activity, and their employees.⁷ Pennsylvania has had a long history of oil and gas activity, and in 2006, well before unconventional gas production took off in the Marcellus Shale, 869 companies paid a total of \$158 million in corporate taxes (CNIT and capital stock and franchise tax (CSFT)), sales taxes, and personal income taxes withheld from their employees.

After a large increase in payments in 2011, corporate income tax revenue from production companies (the companies that pay the impact fee or a production-based severance tax) has plummeted to pre-



Sources: EIA and PA DEP

shale drilling levels. Total tax payments grew to \$443 million in 2011, declining to \$265 million in 2013, the last full year of data.

In 2013 all corporate tax payments from the oil and gas industry, as defined and identified by DOR, were just 4.3% of total corporate income and capital stock tax revenue. Payments from the drilling companies, themselves, equalled only 0.5% of total collections.⁸ See Appendix 1 for complete list.

Oil and Gas Companies Use Many Strategies to Lower Tax Liability

The natural gas industry opposes the enactment of a severance tax, arguing that it pays a considerable amount in taxes and that it simply cannot afford any more than the current impact fee, enacted in Act 13 of 2012.⁹

However, a closer examination shows this worry is an exaggeration, particularly regarding corporate income taxes.


A myriad of federal and state energy and manufacturing tax credits and deductions allow companies to dramatically reduce their taxable income at the federal and state levels, so much so that some may avoid income taxes altogether. Range Resources, the third largest natural gas producer in Pennsylvania, has acknowledged this for several years in its annual filings with the Security and Exchange Commission (SEC).

*We are subject to state and federal income taxes but are currently not in a cash taxpaying position for federal income taxes, primarily due to the current deductibility and/or accelerated amortization of intangible drilling costs (“IDC”). At this time, we generally do not pay significant state income taxes due to our state net operating loss carryovers and our ability to follow the federal treatment of deducting IDC in most of the states in which we operate.*¹⁰ (Emphasis added)

Major subsidies at the federal level include the immediate write-off of intangible drilling costs, permitting oil and gas production to qualify for domestic production deductions, and the use of special percentage depletion rates that allow drillers to deduct expenses in excess of their actual costs. These

three incentives are projected to cut federal tax collections by \$37 billion over a decade.¹¹ Since Pennsylvania's corporate income tax is based on federal taxable income, drillers are able to reduce Pennsylvania taxable income, and consequently corporate income tax payments, as Range Resources acknowledged.

Drilling companies are also able to take advantage of state tax incentives, which include the Research and Development,¹² Job Creation, and Educational Improvement Tax Credits¹³ and the CSFT and sales tax manufacturing exemptions. In future years, they will be eligible for the Pennsylvania Resource Manufacturing Tax Credit from the proposed Shell cracker plant.



AT THIS TIME, WE GENERALLY DO NOT PAY SIGNIFICANT STATE INCOME TAXES. – Range Resources, Form 10-K, 2013 Annual Report

Most Shale Well Operating Drilling Companies are Structured as Partnerships to Help Reduce Taxation

Oil and gas companies operating in Pennsylvania often set up subsidiary companies in the state for a variety of reasons, including attracting investors and lowering tax bills. Many of these subsidiaries are structured as non-corporate entities, or what is known as pass-through entities. This means that state income taxes flow directly to owners rather than being paid by the partnership. Owners can be individuals or corporations. When the taxes flow to individuals, they pay Pennsylvania's low 3.07% personal income tax rate, rather than at the corporate net income tax rate of 9.99% - a reduction of state income tax of over two-thirds.

In the most recent reporting period (2nd half of 2013), over two-thirds (67.4%) of drillers had set up their drilling operations as pass through entities for tax purposes (see Appendix 2 for the full list). In each of these companies, it seems likely that a share of the partnership income is now being taxed at the 3.07% PIT rate. However, there is currently no way to identify how much partnership income in Pennsylvania comes from oil and gas drillers.

Drillers Get Special Property Tax Break in Pennsylvania

In 1998, the oil and gas industry sued Fayette County and in 2002, a Pennsylvania Supreme Court ruling struck down local assessment of property taxes on oil and gas reserves.¹⁴ This exemption does not apply to coal or other minerals, nor does it apply to other Pennsylvania industries. The Court stated that the General Assembly could remedy the situation by specifically codifying that oil and gas reserves are assessable property. To date, this has not occurred.

It is common for gas producers to pay both production taxes and property taxes on reserves in large gas-producing states. In Texas, the nation's largest producer of both oil and gas, producers paid \$3.7 billion in local property taxes, roughly equal to the severance taxes paid on oil and gas.¹⁵

Pennsylvania's Impact Fee Shortchanges Pennsylvania

The citizens of Pennsylvania and a growing number of lawmakers believe it is time to re-examine the tax deal drillers are receiving in our state. Several analyses, including recent studies by Platts Gas Daily¹⁶ and graduate students Parth Vaishnav and Nathaniel Horner at Carnegie Mellon University,¹⁷ find that severance tax rates have little impact in industry decisions or profitability.

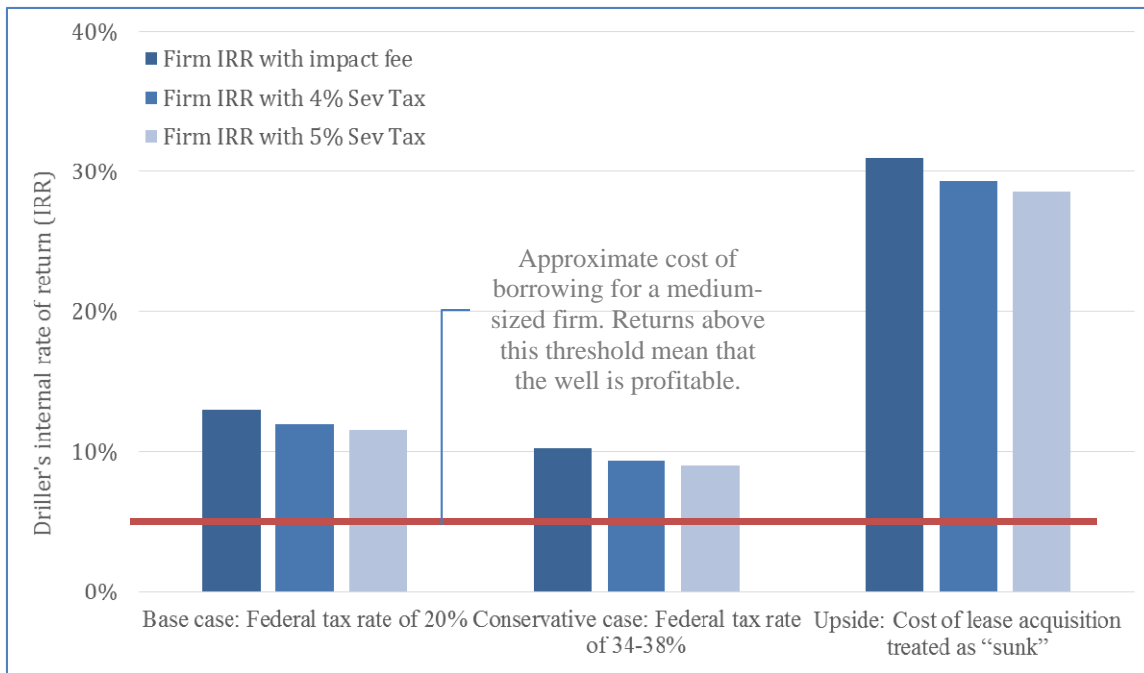
Platts used recent prices and well costs reported by big Marcellus producers to model the impact of a severance tax. They concluded “producers will howl, but Marcellus Shale gas is so inexpensive to produce and so close to premium markets that most of the region’s producers are making well above the 15% internal rate of return benchmark.” And that “nobody’s going to go anywhere.”¹⁸



NOBODY’S GOING TO GO ANYWHERE – Platts’ assessment of driller behavior if severance tax enacted, January 2014

Vaishnav and Horner looked at how replacing the current impact fee with a severance tax would affect the internal rate of a typical well in Pennsylvania. After examining a number of scenarios and conducting a sensitivity analysis, they concluded “under our conservative base assumptions and in the current price environment, the returns from unconventional natural gas production from the Marcellus shale are significantly greater than the cost of capital. The salient point is that, even with the introduction of a severance tax, drilling in the Marcellus Shale will remain too attractive for drillers to ignore. The goose that lays the golden eggs stays put.”¹⁹

This can easily be seen in the following chart, where drilling investment returns are clearly higher than the cost of borrowing (the red line).



Source. Vaishnav and Horner

Pennsylvania should move ahead with a severance tax that is comparable to that imposed by neighboring West Virginia.

General Fund tax collections are \$600 million below estimate in the current fiscal year, and resources available for the 2014-15 budget are now expected to be \$1.3 billion lower than a few short months ago.²⁰ A reasonable severance tax could not only help bridge this gap, but provide needed resources for schools, early childhood, healthcare, and other critical investments into the future.

¹ Over 3.1 trillion cubic feet of gas was produced in 2013, according to DEP unconventional gas production reports. At an average Henry Hub price of \$3.81 per MCF for the year, this equates with \$11.8 billion of sales for the extraction companies.

² Pennsylvania Public Utility Commission, “Impact Fees by Producer for Reporting Year 2013,” accessed May 5, 2014, http://www.puc.state.pa.us/NaturalGas/xls/Impact_Fees_by_Producers_RY2013-040414.xls.

³ Pennsylvania Independent Fiscal Office, *Natural Gas Extraction: An Interstate Tax Comparison*, Special Report 2014-2, March 2014, <http://www.ifo.state.pa.us/getfile.cfm?file=/resources/PDF/SR2014-02.pdf>.

⁴ Headwaters Economics and the Oklahoma Policy Institute, *Unconventional Oil and Natural Gas Production Tax Rates: How Does Oklahoma Compare to Peers?* August 2013, http://okpolicy.org/wp-content/uploads/2013/08/State_tax_comparison_study_final.pdf.

⁵ Defined as companies assigned to NAICS 2111: Oil and Gas Extraction category by the Bureau of Labor Statistics. Companies in this category pay Pennsylvania’s impact fee.

⁶ Figures are based on Department of Revenue reports on tax payments made by the oil and gas industry.

⁷ Pennsylvania Department of Revenue, “Drilling Industry Paid More Than \$1 Billion in State Taxes Since 2006,” May 2, 2011, [http://files.painterinteractive.org/pr/Revenue/2011/2011-05/Drilling%20Industry%20Paid%20More%20Than%20\\$1%20Billion%20in%20State%20Taxes%20Since%202006.pdf](http://files.painterinteractive.org/pr/Revenue/2011/2011-05/Drilling%20Industry%20Paid%20More%20Than%20$1%20Billion%20in%20State%20Taxes%20Since%202006.pdf).

⁸ This compares DOR identified CNIT and CSFT payments from oil and gas related taxpayers in 2013 to total CNIT and CSFT collections in 2012-13.

⁹ Andrew Staub, “Critics: Proposed tax could derail natural gas industry in Pa.” Pennsylvania Independent, reposted by the Philadelphia Inquirer, http://www.philly.com/philly/news/Critics_Proposed_tax_could_derail_natural_gas_industry_in_Pa.html.

¹⁰ Range Resources Corporation, Form 10-K, *Annual Report for the Fiscal Year Ended December 31, 2013*, submitted to the SEC on February 26, 2014, p. 37, <http://services.corporate-ir.net/SEC/Document.Service?id=P3VybD1hSF1wY0RvdkwYRndhUzUwWlc1cmQybDZlZWZWEprTG1OdmJlTOWtiM2R1Ykc5aFpDNXdhSEEvWVdOMGFxOXVQVkJFUmlacGNHRm5aVDA1TkRJeE5qSXdkKbk4xWW5OcFpEMDFOdz09JnR5cGU9MiZmbj1SYW5nZVJlc291cmNlc18xMEtMjAxNDYmYmYucGRm>.

¹¹ Estimates from the Office of Management and Budget, republished by Joseph Aldy, “15 Ways to Rethink the Federal Budget: Proposal 5: Eliminating Fossil Fuel Subsidies,” The Hamilton Project/Brookings, February 2013, http://www.hamiltonproject.org/files/downloads_and_links/THP_15WaysFedBudget_Prop5.pdf.

¹² Pennsylvania Department of Revenue, Bureau of Research, Report to the Pennsylvania General Assembly on the Research and Development (R&D) Tax Credit, March 14, 2014 http://www.portal.state.pa.us/portal/server.pt/document/1403781/2014_rd_report_pdf.

¹³ Drillers verified of receiving credits and grants from the Department of Community and Economic Development’s Investment Tracker, <http://www.dced.state.pa.us/investmenttracker/Default.aspx>.

¹⁴ Pennsylvania Supreme Court, IOGA of PA v. Assessment Appeal Board of Fayette County, December 9, 2002, <http://www.lexisnexis.com/Community/workerscompensationlaw/cfs-file.ashx...>

¹⁵ Texas Oil & Gas Association (TXOGA), *Fueling the Texas Economy, the Texas Oil & Gas Industry*, 2013, <http://www.txoga.org/resources/economic-impact/>.

¹⁶ Bill Holland, “Court cases and severance taxes: some dark clouds out there for Pennsylvania natural gas producers,” Platts, *The Barrel: The essential perspective on global energy*, January 1, 2014, <http://blogs.platts.com/2014/01/01/pa-tax/>.

¹⁷ Parth Vaishnav and Nathaniel Horner, *Apocalypse Not: Severance Taxes and Industry Exit in the Marcellus Shale*, March 25, 2014, <http://pennbpc.org/apocalypse-not-severance-taxes-and-industry-exit-marcellus-shale>.

¹⁸ Holland.

¹⁹ Vaishnav and Horner.

²⁰ Pennsylvania Independent Fiscal Office, *Initial Revenue Estimate, Fiscal Year 2014-15*, May 1, 2014, http://www.ifo.state.pa.us/download.cfm?file=/resources/PDF/Initial_Estimate_May_2014.pdf.

Appendix 1: Tax Payments from Oil & Gas Companies and their Affiliates

(\$ millions)

Capital Stock and Franchise Tax (CSFT)										Corporate Net Income Tax (CNIT)							
Number of Companies Remitting Payments										Number of Companies Remitting Payments							
NAICS4 Title	2006	2007	2008	2009	2010	2011	2012	2013		2006	2007	2008	2009	2010	2011	2012	2013
2111 Oil and Gas Extraction	\$5.0	\$4.8	\$5.1	\$6.3	\$11.7	\$8.9	\$4.7	\$3.4		\$7.2	\$9.2	\$19.6	\$17.1	\$22.9	\$105.4	\$7.4	\$10.3
2131 Support Activities for Mining	2.7	2.9	2.0	1.8	3.7	6.3	7.2	3.0		5.4	5.8	6.5	4.2	12.7	32.8	39.2	27.7
4862 Pipeline Transportation of Natural Gas	7.0	7.9	7.3	2.6	3.0	2.1	2.0	2.1		24.0	32.9	17.7	13.6	13.6	57.3	7.4	13.3
2212 Natural Gas Distribution	4.5	6.1	4.8	4.8	5.3	5.0	6.9	2.5		20.2	30.0	23.9	26.4	28.1	59.2	32.7	20.1
OTHER All Other	7.4	9.8	9.8	14.7	9.2	12.3	15.9	4.9		25.2	19.5	24.7	25.4	38.3	31.7	46.4	43.4
GRAND TOTAL	\$26.6	\$31.5	\$29.1	\$30.2	\$32.9	\$34.5	\$36.7	\$15.9		\$82.0	\$97.4	\$92.5	\$86.7	\$115.6	\$286.3	\$133.1	\$114.7
Share from Gas Producers	19%	15%	18%	21%	36%	26%	13%	21%		9%	9%	21%	20%	20%	37%	6%	9%
Share from Pipelines and Support	53%	54%	49%	30%	36%	39%	44%	48%		60%	71%	52%	51%	47%	52%	60%	53%
Share from All Other	28%	31%	34%	49%	28%	36%	43%	31%		31%	20%	27%	29%	33%	11%	35%	38%

Sales and Use Tax										Personal Income Tax - Employer Withholding							
Number of Companies Remitting Payments										Number of Companies Remitting Payments							
NAICS4 Title	2006	2007	2008	2009	2010	2011	2012	2013		2006	2007	2008	2009	2010	2011	2012	2013
2111 Oil and Gas Extraction	\$0.9	\$1.0	\$1.3	\$1.8	\$3.4	\$4.9	\$6.1	\$4.2		\$3.3	\$3.4	\$4.4	\$5.9	\$15.7	\$14.9	\$15.3	\$13.1
2131 Support Activities for Mining	2.0	2.1	2.6	4.3	7.8	9.5	15.9	18.7		5.7	6.5	7.6	8.3	12.8	19.4	22.9	22.1
4862 Pipeline Transportation of Natural Gas	0.8	1.3	1.9	1.2	1.1	1.6	1.7	1.3		2.2	2.3	2.6	2.6	2.9	3.1	3.6	4.2
2212 Natural Gas Distribution	0.0	0.0	NR	NR	NR	NR	NR	NR		5.8	6.4	9.2	9.8	10.3	9.8	9.7	11.8
OTHER All Other	11.1	10.9	18.0	22.5	29.6	29.2	30.8	29.5		17.1	19.1	22.7	21.0	25.2	29.7	27.3	28.9
GRAND TOTAL	\$14.8	\$15.3	\$23.8	\$29.8	\$41.8	\$45.2	\$54.5	\$53.8		\$34.1	\$37.7	\$46.4	\$47.5	\$66.9	\$76.9	\$78.8	\$80.1
Share from Gas Producers	6%	7%	6%	6%	8%	11%	11%	8%		10%	9%	9%	13%	23%	19%	19%	16%
Share from Pipelines and Support	19%	22%	19%	19%	21%	25%	32%	37%		40%	40%	42%	43%	39%	42%	46%	48%
Share from All Other	75%	71%	76%	75%	71%	65%	57%	55%		50%	51%	49%	44%	38%	39%	35%	36%

TOTAL TAXES ACCOUNTED FOR BY DEPARTMENT OF REVENUE

Number of Companies Remitting Payments									
NAICS4 Title	2006	2007	2008	2009	2010	2011	2012	2013	
2111 Oil and Gas Extraction	\$16.4	\$18.4	\$30.5	\$31.1	\$53.7	\$134.0	\$33.6	\$31.1	
2131 Support Activities for Mining	15.8	17.3	18.7	18.6	37.0	67.9	85.1	71.5	
4862 Pipeline Transportation of Natural Gas	34.0	44.4	29.5	20.0	20.6	64.1	14.6	20.9	
2212 Natural Gas Distribution	30.5	42.5	38.0	41.0	43.7	73.9	49.3	34.4	
OTHER All Other	60.8	59.3	75.2	83.6	102.3	102.9	120.4	106.6	
GRAND TOTAL	\$157.5	\$181.9	\$191.8	\$194.2	\$257.2	\$442.9	\$303.1	\$264.5	
Share from Gas Producers	10%	10%	16%	16%	21%	30%	11%	12%	
Share from Pipelines and Support	51%	57%	45%	41%	39%	47%	49%	48%	
Share from All Other	39%	33%	39%	43%	40%	23%	40%	40%	

Source: Pennsylvania Department of Revenue

Notes:

The 2014 figures represented payments received through February 2014, so not included in analysis.

Collections represent monthly tax collections, regardless of tax period. Refunds are not included.

Payments were pulled for companies:

- (1) with NAICS 2111, 2131, 4862, and 2212
- (2) Collections of subsidiaries of these companies are also shown above
- (3) Subsidiaries with NAICS that are not related to natural gas have been removed (gas stations)
- (4) Companies listed as having drilled a Marcellus Shale well (as shown on the DEP website) are included regardless of NAICS

U.S. Census Definitions for NAICS Classifications:

- 2111 <https://www.census.gov/cgi-bin/sssd/naics/naicsrch?code=21111&search=2012%20NAICS%20Search>
- 2131 <https://www.census.gov/cgi-bin/sssd/naics/naicsrch?code=21311&search=2012%20NAICS%20Search>
- 4862 <https://www.census.gov/cgi-bin/sssd/naics/naicsrch?code=486210&search=2012%20NAICS%20Search>
- 2212 <https://www.census.gov/cgi-bin/sssd/naics/naicsrch?code=221210&search=2012%20NAICS%20Search>

Appendix 2: Natural Gas Producers Operating in Pennsylvania as "Pass Through" Entities

Rank	Producer	Active Wells	Production (MCF)
1	CHESAPEAKE APPALACHIA LLC	620	376,146,808
2	CABOT OIL & GAS CORP	320	231,384,595
3	RANGE RESOURCES APPALACHIA LLC	679	139,876,886
4	EQT PRODUCTION CO	226	123,598,286
5	SOUTHWESTERN ENERGY PROD CO	172	107,729,570
6	ANADARKO E&P ONSHORE LLC	261	98,874,869
7	TALISMAN ENERGY USA INC	351	91,476,921
8	SENECA RESOURCES CORP	136	60,977,573
9	CHEVRON APPALACHIA LLC	207	59,029,737
10	CHIEF OIL & GAS LLC	94	56,658,132
11	SWEPI LP	278	55,565,142
12	PA GEN ENERGY CO LLC	111	31,841,414
13	EXCO RESOURCES PA LLC	115	30,521,407
14	CNX GAS CO LLC	178	26,292,452
15	WPX ENERGY APPALACHIA LLC	113	25,443,410
16	CARRIZO (MARCELLUS) LLC	59	24,022,389
17	XTO ENERGY INC	139	23,123,291
18	RICE DRILLING B LLC	25	20,348,239
19	CITRUS ENERGY CORP	27	16,184,203
20	ATLAS RESOURCES LLC	243	15,258,572
21	ALPHA SHALE RES LP	16	15,027,058
22	RE GAS DEV LLC	77	14,427,704
23	ENERGY CORP OF AMER	86	14,155,905
24	EOG RESOURCES INC	89	11,938,508
25	INFLECTION ENERGY LLC	8	4,397,951
26	ULTRA RESOURCES INC	38	3,887,001
27	VANTAGE ENERGY APPALACHIA LLC	11	2,960,215
28	VANTAGE ENERGY APPALACHIA II LLC	2	2,899,589
29	NOBLE ENERGY INC	7	2,567,230
30	TENASKA RES LLC	12	2,136,467
31	SNYDER BROS INC	88	1,444,448
32	HUNT MARCELLUS OPERATING CO LLC	7	1,068,826
33	HILCORP ENERGY CO	8	1,010,502
34	STONE ENERGY CORP	3	823,476
35	BURNETT OIL CO INC	4	719,837
36	NORTHEAST NATURAL ENERGY LLC	4	648,215
37	ANTERO RESOURCES CORP	2	491,621
38	MDS ENERGY LTD	27	393,812
39	MDS ENERGY DEV LLC	11	359,536
40	BLX INC	12	251,361
41	FLATIRONS DEVELOPMENT LLC	2	211,806
42	TRIANA ENERGY LLC	3	198,969
43	GREAT PLAINS OPER LLC DBA GREAT MTN OPER	1	192,450
44	SM ENERGY CO	3	190,983
45	DOMINION TRANS INC	7	121,304
46	SAMSON RES CO	2	95,309
47	HALCON OPR CO INC	4	88,960
48	ENDEAVOUR OPERATING CORP	5	66,571
49	REDMILL DRILLING	7	55,338
50	EM ENERGY PA LLC	4	29,947
51	BAKER GAS INC	1	16,901
52	JJ BUCHER PRODUCING CORP	3	13,600
53	AMER OIL & GAS LLC	1	12,222
54	THE PRODUCTION CO LLC	1	10,928
55	GREAT OAK ENERGY INC	1	9,218
56	TEXAS KEYSTONE INC	7	7,123
57	TRUE OIL LLC	2	6,576
58	MIEKA LLC	1	5,132

Rank	Producer	Active Wells	Production (MCF)
59	PDC MOUNTAINEER LLC	1	4,007
60	DL RESOURCES INC	1	2,978
61	JM BEST INC	1	1,447
62	M & M ROYALTY LTD	2	1,173
63	CAMPBELL OIL & GAS INC	1	330
64	WILLIAM MCINTIRE COAL OIL & GAS	1	212
65	PENN VIRGINIA OIL & GAS CORP	3	92
66	WILMOTH INTERESTS INC	1	44
67	BELDEN & BLAKE CORP	-	-
67	CARRIZO OIL & GAS INC	-	-
67	ENERPLUS RES (USA) CORP	-	-
67	HESS CORP	-	-
67	PENNENERGY RESOURCES LLC	-	-
Total Reported		4,932	1,697,306,778
Total from "Pass Through" Operators		3,469	1,143,952,220
		70.3%	67.4%

Source. PBPC analysis of Pennsylvania Department of Environmental Protection Statewide Unconventional Gas Production Report, 2013-2, accessed May 5, 2014, https://www.paoilandgasreporting.state.pa.us/publicreports/Modules/DataExports/ExportProductionData.aspx?PERIOD_ID=2013-2

May 5,2014