

## Pennsylvania climate change initiatives

**O**n January 8, Governor Tom Wolf issued the first executive order (EO) of 2019 entitled: *Commonwealth Leadership in Addressing Climate Change and Promoting Energy Conservation and Sustainable Governance*. The six-page EO is the current administration's most recent action to address climate effects from greenhouse gas (GHG) emissions.

The EO consists of the following four components, with the majority of the order applying only to Pennsylvania executive agencies:

- Committing Pennsylvania to a GHG emissions goal
- Setting energy performance goals for Pennsylvania agencies
- Reestablishing the GreenGov council
- Detailing specific responsibilities for Pennsylvania agencies to achieve the energy performance and GHG goals

### Statewide climate reduction goals

The EO includes an important, statewide goal within an order that otherwise applies only to state agencies. The EO commits Pennsylvania to a goal to achieve a 26 percent reduction of GHG from 2005 by 2025 and an 80 percent reduction by 2050. The directive places Pennsylvania in a league with 20 other states with specific GHG reduction targets. Pennsylvania's goal is more stringent in the short term compared to states like Michigan and less stringent in the long term than goals set by California and New York. Of the states with GHG reduction targets, Pennsylvania is the leading net energy producer and the leading natural gas producer, according to the U. S. Energy Information Agency.

The EO comes during a time when the Trump administration has been critical of climate change initiatives. President Trump announced in 2017 that the U.S. would withdraw from the Paris Accord, and the EPA under his administration is considering rolling back regulation of methane emissions from onshore natural gas production. States are free to commit to their own climate plans, but the EO does not specify precisely how the Commonwealth will achieve the GHG reduction commitment.

### Executive agencies' energy performance

Under the EO, executive agencies must reduce energy consumption by 3 percent per year, and 21 percent by 2025 from 2017 levels. They must replace 25 percent of state cars with electric and hybrid vehicles. Agencies must also procure renewable energy to offset 40 percent of Pennsylvania's energy use through direct purchase of Pennsylvania-sourced renewable energy or Certified Tier I renewable energy credits (solar, wind, low-impact hydropower, geothermal, biologic methane, fuel cells, biomass energy or coal mine methane sources). In addition, new buildings and certain renovations must achieve a 10 percent reduction of energy consumption over the U.S Department of Energy's ANSI/ASHRAE/IES Standard 90.1-2016.

It is unclear to what extent the renewable energy focus in general and the reduction in the use of oil and gas in agency vehicles and infrastructure in particular will have on the oil and gas industry.

### GreenGov Council and specific state requirements

The EO reestablishes the GreenGov Council as the central coordinating body to implement the EO. The council will consist of the secretaries of the departments of General Services, Environmental Protection (DEP), and Conservation and Natural Resources (DCNR) as well as other individuals appointed by Governor Wolf. The EO requires the council to encourage sustainable practices in the government's policy, planning, operation, procurement and regulatory functions. Addition ally, the Council will be involved in trainings and certification of conservation and efficiency policies, including maintaining a certification checklist of approved measures and strategies that state agencies could implement.

Specific requirements for state agencies include the development and incorporation of policies to meet energy performance and GHG goals. DEP must develop cost-effective conservation, sustainability and efficiency strategies to implement the order, as well as assist in developing long-range conservation plan goals for agency facilities. DCNR is to provide technical assistance on these

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plans and invest in green projects and buildings.

Tracking agency implementation of these energy saving policies and strategies could be instructive to predict potential regulatory actions on the private sector. The GreenGov Council is required to encourage sustainable practices in executive agency regulatory functions. While ambiguous as to what this will actually require, such energy-saving measures may reappear in policies or proposed regulations going forward.

### **A continuing trend**

Executive orders remain effective until rescinded by a governor, so this EO does not automatically expire when Governor Wolf leaves office in 2023. It signals an ongoing trend under the Wolf administration to regulate GHG and promote climate change initiatives. The EO follows closely the most recent update of Pennsylvania's Climate Action Plan (CAP), a report required under Pennsylvania's Climate Change Act of 2008. Pennsylvania's CAP was most recently updated in November 2018. Under the draft CAP update, one identified climate action strategy is for executive agencies to take a lead-by-example role in implementing energy-saving practices and policies promoting sustainability. Governor Wolf's EO implements this CAP initiative, and is arguably symbolic of his commitment to continue addressing climate change, as it is the first EO of 2019.

Additional components of the CAP target the energy industry and include: (1) increasing clean electricity generation; (2) creating a diverse portfolio of clean, utility-scale electricity generation; (3) reducing upstream impacts of fossil fuel energy production; and (4) increasing production and use of alternative fuels. Governor Wolf already announced his Methane Reduction Strategy, targeting methane emissions from natural gas well sites, compressor stations and pipelines on January 19, 2016. In June 2018, DEP finalized a new general permit and revised an existing general permit regulating methane emissions for the first time from natural gas compression, transmission, and processing sites and unconventional wells. In addition to the revised general permits, the CAP states that DEP could expand verification processes of methane emissions reported to DEP and expand utilization of remote sensing technologies like vehicle and air-craft mounted detection equipment, as well as hand-held detection technology like FLIR cameras. DEP unveiled a draft rule to regulate methane from existing oil and gas wells in December 2018 (*January 2019 PIOGA Press, page 8*).

The EO's effect on the oil and gas industry is unclear. With Pennsylvania agencies now under a mandate to reduce GHG emissions, regulators may continue to scrutinize how this and other industries could provide additional reductions to meet Pennsylvania's new climate goals. The Wolf administration's response to the recent cap and trade petition submitted to the Environmental Quality Board will reveal even more in the coming months about the state's climate change initiatives.

*Babst Calland is actively monitoring these and other such initiatives within both state and federal administrations. If you have any questions about the topics discussed in this article or how they may affect your operations, contact Jean M. Mosites at 412-394-6468 or [jmosites@babstcalland.com](mailto:jmosites@babstcalland.com), or Casey J. Snyder at 412-394-5438 or [csnyder@babstcalland.com](mailto:csnyder@babstcalland.com)*