he Marcellus Shale has been described as the second largest natural gas field in the world, with production from the Marcellus predicted to continue for decades. Just as the development of new technologies for extracting natural gas from shale such as the Marcellus and Utica formations has sparked economic development in many rural areas of Pennsylvania, from the southwest to the northeast, so, too, has the need for lawyers trained in the sometimes arcane aspects of oil and gas law seen a burst of continuing legal education programs being made available to existing practitioners and an expansion of oil and gas law-related courses offered to students at Pennsylvania’s seven law schools.

Law School Curricula
The Penn State Dickinson School of Law has offered the basics of oil and gas law as part of an elective course in natural resources law, which I had the privilege of introducing to the curriculum as an adjunct faculty member in the early 1980s. Recently, with interest in the Marcellus piquing demand for a more in-depth course, professor Ross Pifer has added a three-credit oil and gas law course to the curriculum. Villanova, Widener and Temple law schools all offer a natural resources law course, and Pitt, Temple and Widener also offer courses in oil and gas law.
Before the fall semester began this past year, Pitt offered a special one-credit course titled Law of Shale Gas taught by visiting professor Hannah Wiseman. Wiseman, a full-time faculty member at the University of Tulsa College of Law, taught an intensive course (three-hour classes each evening for one week in late August), which covered gas development from seismic exploration through disposal of produced water and drill site reclamation. Her course dealt with state and federal statutory and regulatory requirements as well as common law issues affecting property rights. She reported having an enthusiastic group of 69 students, with several practicing lawyers auditing the course as well.

In addition to his law school teaching, Pifer, in his role as director of the Agricultural Law Center at Penn State, has crisscrossed the state offering legal education seminars for farmers and landowners and their lawyers in basic oil and gas leasing law, with more than 40 such presentations in 2011 alone. Penn State has also posted online resources for oil and gas lawyers and has established a blog, www.pennstatelawmarcellusblog.com, for those interested in keeping abreast of legal issues affecting gas development and related issues. Penn State has posted material online under its Marcellus Shale Resource Area, www.law.psu.edu/marcellus, that has a variety of legal resources, including links to recently decided Pennsylvania court opinions on oil and gas issues and a host of law review articles authored in the past 10 years on oil and gas legal developments both in Pennsylvania and nationally.

In states such as Texas that have a longer history of oil and gas production, law schools have developed industry-specific courses to serve the needs of students seeking to develop in-depth training in various aspects of oil and gas law.

For example, in the past two semesters alone the University of Houston Law Center has offered 10 courses specifically described as related to oil and gas, plus many other opportunities for scholarship in the field. The course names alone provide a picture of the depth of practical offerings in this field: Drafting and Negotiating Oil and Gas Agreements; Oil and Gas Tax; Oil and Gas Pipeline Regulation; Environmental Law in Oil and Gas Production and Refining; Practice of Law in the Oil and Gas Industry; International Petroleum Transactions; and Advanced Oil and Gas Contracts.

Continuing Legal Education
The Pennsylvania Bar Institute has also taken a lead role in providing continuing legal education for Pennsylvania lawyers seeking to expand their knowledge of oil and gas law. Currently PBI has posted on its website more than 36 hours of live and online seminars dealing with oil and gas issues. Additionally, many for-profit CLE providers have been offering programs on oil and gas law at locations across the state. Finally, law firms have been offering webinars on oil and gas law-related issues for their current and prospective clients. A summary of PBI’s recent oil and gas law-related CLE programs has been provided by Erin Tate, a PBI staff attorney. Tate reports the following:

PBI began offering continuing legal education seminars specifically focusing on oil and gas law in 2008. That year two programs were offered,

The need for lawyers trained in oil and gas law [has] seen a burst of continuing legal education programs and an expansion of courses at Pennsylvania’s law schools.
Both focusing on oil and gas law from both the company and landowner perspectives. A total of 1,100 individuals attended.

In 2009 only one seminar was offered, the Oil and Gas Law Colloquium. This seminar has since become a yearly event held in September and has expanded from one to two days, with a variety of topics and presenters added. The colloquium is PBI’s premier event for oil and gas law attorneys and draws a nationwide audience. A good mix of topics is covered, both legal and geological, to provide attorneys with both an overview and an in-depth understanding of the issues surrounding the Marcellus play in Pennsylvania. In 2009 the colloquium drew 274 individuals in two locations. In 2010 it drew 244 individuals in two locations. In 2011, the first year it was presented in its new format, two days in one location, the colloquium drew 284 individuals. In 2012 the event will continue with the two-day format.

PBI continues to expand its curriculum of oil and gas law-focused seminars, offering four such programs in 2010. In addition to the Oil and Gas Law Colloquium, we offer a day-long seminar showcasing the best sessions from the colloquium. The “best of” program, begun in 2010, is now a yearly event held in two live locations. In 2010 it drew a total of 262 registrants. PBI also added an estate planning seminar to the curriculum focused specifically on issues related to Marcellus landowners. Two of these seminars were held in 2010 and drew a total of 383 registrants.

As the impact from the Marcellus play continues, PBI is attempting to identify issues that attorneys need to know about to keep up with this developing area of the law. In 2011 a greater variety of educational seminars was offered, including the Best of the Oil and Gas Law Colloquium (266 registrants); the annual Oil and Gas Law Colloquium (284 registrants in the new two-day format); a Hot Topics in Oil and Gas Law summer session (119 registrants); a program focused on the environmental impacts related to oil and gas law (177 registrants); a comparative law program titled Ideal Gas Law, which compared Pennsylvania’s law (or lack thereof) to the law of four other major oil-producing states (204 registrants); a small program held in Clarion for only seven registrants titled 21st Century Energy Vitalization: Marcellus Shale Bust or Boom; and a seminar focusing on Marcellus Shale planning techniques (72 registrants).

PBI’s curriculum continues to expand to meet the demands of

Several Texas [law] firms have opened offices in Pennsylvania to serve their gas industry clients.

One has to wonder how long it will take before an oil and gas question appears on the Pennsylvania bar exam.
attorneys in this growing area, and 2012 will see even more programs targeting attorneys of all levels of experience. The “best of” seminar was held in January in Pittsburgh and Mechanicsburg. A new program, Fundamentals of Oil and Gas Law, is being presented in March (Mechanicsburg, March 9; Pittsburgh, March 14; Philadelphia, March 22; Williamsport, March 29). Environmental Issues Affecting Oil and Gas Development will be repeated in April (Mechanicsburg, April 12; Philadelphia, April 23); the Marcellus-related estate planning seminar will be held in May (Pittsburgh, May 9; Mechanicsburg, May 16; Williamsport, May 22); the Oil and Gas Title Workshop will be held in June; Hot Topics in Oil and Gas Law will be repeated July 19 in Mechanicsburg; and the 4th Annual Oil and Gas Law Colloquium will be held Sept. 11-12 in State College at the Penn Stater Conference Center.

Increased Demand for Oil and Gas Lawyers
Not only are law students and lawyers seeking education in oil and gas law. Lawyers with experience in oil and gas law are migrating to Pennsylvania from other states to practice both in-house with companies in the energy business and in law firms. In the past year several Texas firms have opened offices to serve their gas industry clients in Pennsylvania, including Fulbright & Jaworski; Burleson Cooke; and the Sadler Law Firm. Additionally, many large Pennsylvania-based firms now tout their energy practices on webpages or send out their energy lawyers to teach CLE courses. Finally, small-town lawyers in solo or small-firm practices find that their landowner clients have Marcellus-related legal issues involving, for example, leases, taxation, inheritance and environmental damages.

A final anecdote: In the early ’80s I received a note from a former student who wrote to thank me for preparing him for the Texas bar exam, where one of the questions was directly related to the oil and gas law I taught as part of the natural resources law course at Dickinson. One has to wonder how long it will take before an oil and gas law question appears on the Pennsylvania bar exam.

John Carroll is a partner with Pepper Hamilton LLP where he chairs the firm’s Environmental Practice Group. He currently serves as vice chair of the PBA’s Section on Environmental and Energy Law and chair of the section’s Oil and Gas Committee.

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