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**Local Government Law and Regulations Continue to Spawn Debate and Legal Challenges** which continue to increase throughout the Appalachian Basin. However, the industry has successfully challenged overly-restricted ordinances. In contrast to municipalities that have adopted ordinances that permit reasonable oil and gas development, some local governments continued in 2017 to test their regulatory authority by enacting strict regulations for uses ancillary to well site development. Operators impacted by these regulations likewise continued to push back on these local regulations that severely impede, if not entirely prohibit, development or operation.

**Downstream Opportunities** include exciting developments for production and midstream companies with new emerging markets for consumption of natural gas and natural gas liquids, such as power generation, export, and the petrochemical and related manufacturing industries. The U.S. petrochemical industry is undergoing tremendous growth, including the Northeast which is a prime target for more niche markets, and an opportunity to repurpose industrial assets for this regionalized growth.

As market conditions evolve for the oil and gas industry in the Appalachia Basin and throughout the United States, Babst Calland's multidisciplinary team of energy attorneys continues to stay abreast of the many legal and regulatory challenges currently facing producers and midstream operators.

To request a copy of the report, contact [info@babstcalland.com](mailto:info@babstcalland.com).

# LEGAL PERSPECTIVES ON SHALE DEVELOPMENT

Joseph K. Reinhart, Shareholder and Co-chairman,  
Energy and Natural Resources Group of Babst Calland



It was only a year or so ago that the oil and gas industry had experienced what could be considered a market correction, with low commodity prices and inadequate pipeline capacity prompting energy companies to recalibrate their business plans. Even producers with strong financial reserves reduced their capital spending, which led to fewer new wells being developed. In 2016, we saw the beginning of a rebound as energy companies increased spending. Thus far in 2017, rig count has significantly expanded in the Appalachian Basin.

As the volume of natural gas and natural gas liquids produced in the Appalachian Basin grows, new downstream opportunities are being created for manufacturing industries. Shell's 2016 announcement of plans to construct a cracker plant in Beaver County, Pa. represents just one example of the expanding market for natural gas. Many other manufacturing firms are expected to enter the region and establish businesses drawn by the energy and raw materials associated with natural gas and natural gas liquids from the Marcellus and Utica shales.

Significant changes occurring in the political landscape are expected to affect the energy industry. President Donald Trump's administration is signaling a fundamental shift in energy policies established by former President Barack Obama. New executive orders and policies promise to lead to more pipeline development, reduced federal oversight of the oil and gas industry and increased access to oil and natural gas reserves. However, many non-governmental organizations have vowed to challenge the Trump administration's initiatives while many state and local governments have signaled their intention to take greater measures in regulating the oil and gas industry.

**Important legal developments for industry to watch include:**

- Shortly after President Trump issued an executive order requiring that for every regulation passed by an administrative agency, two additional regulations must be repealed, environmental

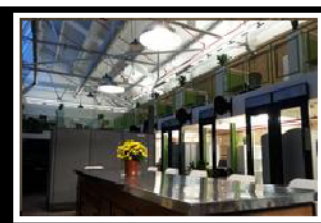


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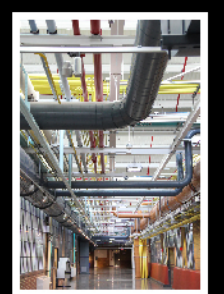
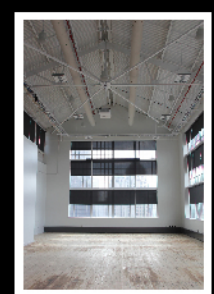


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groups filed suit in federal court challenging this action.

- As the Trump administration acted to reverse course on Obama climate change initiatives, Pennsylvania Governor Tom Wolf and other local leaders promised to continue to implement methane reduction strategies, including more rigorous air permitting standards for unconventional natural gas well site operations and remote pigging stations.

- During 2016, the U.S. Congress passed legislation reauthorizing the federal pipeline safety program and providing the Pipeline and Hazardous Materials Safety Administration (PHMSA) with new authority to issue industry-wide emergency orders.

- In April of 2016, PHMSA issued a proposed rule that is expected to cause significant changes to federal regulations governing gas transmission and gathering lines, including expanding the scope of gathering line rules, proposing strict requirements for verifying the maximum allowable operating pressure of certain pipelines and establishing new record keeping requirements.

- Shortly after the Pennsylvania Environmental Quality Board (EQB) promulgated new

Chapter 78a regulations in 2016 governing unconventional shale development, the Marcellus Shale Coalition successfully challenged certain of the regulations in court and secured injunctive relief, a decision which the EQB and Pennsylvania Department of Environmental Protection (DEP) have appealed to the Pennsylvania Supreme Court.

- The degree to which local government may regulate the oil and gas industry continues to be refined and left uncertain by the judicial fallout from the Pennsylvania Supreme Court's 2013 decision in Robinson Township v. Commonwealth of Pennsylvania.

- Local land use proceedings have become battles of health and safety experts, as anti-industry advocates, citing one-sided peer-reviewed literature, have asserted that adverse health effects have been caused by air emissions from unconventional natural gas development, notwithstanding the absence of actual air monitoring data demonstrating exceedances of regulatory standards.

As the natural gas market has rebounded, many new opportunities and approaches to regulation, asset optimization and infrastructure are underway. In any case, the strength of the shale industry continues to

provide the tri-state region with significant economic opportunities.

The attorneys of Babst Calland are committed to staying ahead of understanding the legal impacts of change and regulation on energy operators and the economic benefits of the industry's growth. Babst Calland released its seventh annual energy industry report entitled *The 2017 Babst Calland Report - Upstream, Midstream and Downstream: Resurgence of the Appalachian Shale Industry; Legal and Regulatory Perspective for Producers and Midstream Operators*. This annual review of shale gas development activity acknowledges the continuing evolution of this industry in the face of economic, regulatory, legal and local government challenges.

**About the Author**

*Joseph K. Reinhart is a shareholder and co-chairman of the Energy and Natural Resources Group of Babst Calland. His environmental practice focuses on areas of environmental law that concern oil and gas well development, Marcellus Shale, coal bed methane, coal mining and non-coal mining. He can be reached at [jreinhart@babstcalland.com](mailto:jreinhart@babstcalland.com).*

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