

Chapter 11

State and Local Regulation of Oil and Gas Operations: Drilling Through the Maze of Preemption, Severed Mineral Estates and Surface Owner Rights

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§ 11.01. Introduction.

As the demand for energy production increases, so too do the numbers of oil and gas wells drilled across the country.² These increases are consistent throughout portions of the northern and central Appalachian Basin region and have generated tension between operators and owners and local and state governments.

This chapter examines the states in the northern and central Appalachian Basin and addresses two major legislative trends that stem from increasing oil and gas development in the region: state preemption of oil and gas production and new and proposed legislation governing surface use.³

² In 2007 the Pennsylvania Department of Environmental Protection permitted 7,241 new oil and gas wells. This is more than five times the amount of wells that were drilled in 2000. *See*, Pennsylvania Department of Environmental Protection, Permit & Rig Activity Report 2007, <http://www.dep.state.pa.us/dep/deputate/minres/OILGAS/RIG07.htm> (last visited Apr. 28, 2008); Pennsylvania Department of Environmental Protection, Rig Activity Report 2000, <http://www.dep.state.pa.us/dep/deputate/minres/OILGAS/2000%20Wells%20Drilled%20by%20County.htm> (last visited Apr. 28, 2008). In West Virginia, the number of oil and gas wells has tripled in the last twenty years. *See*, West Virginia Surface Rights Organization, <http://www.wvsoro.org> (last visited Apr. 28, 2008).

³ The states included in this survey are New York, Ohio, West Virginia, Virginia, Kentucky and Pennsylvania. Although references are more frequently made to Pennsylvania cases as a point of reference, many of the same principles are applicable to the other jurisdictions surveyed.