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Chapter 2

Recent Developments in the Law and Regulation of Oil and Gas Pipeline Infrastructure

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Synopsis

§ 2.01. Introduction and Organization of the Chapter.

Section 2 of this chapter will discuss the urgent need for additional gas and oil pipeline infrastructure within the continental United States. Section 3 of this chapter will briefly touch on some large-scale gas pipeline infrastructure development that is currently underway in the Marcellus and Utica shale plays. Section 4 will discuss some early policy moves made by the Trump administration that will likely have an effect on the oil and natural gas pipeline development. Section 5 will discuss recent developments in the regulation of oil and natural gas pipeline infrastructure. Finally, Section 6 will discuss recent legal developments concerning eminent domain for oil or gas pipeline infrastructure.

§ 2.02. The Need for Additional Gas and Oil Pipeline Infrastructure Within the Continental United States.

The recent shale boom, particularly in the Appalachia area,[1] has necessitated not only the expansion of pipeline infrastructure, but also the updates to and reconfiguration of existing pipeline infrastructure.[2] The increased production of natural gas, natural gas liquids and oil has exceeded the capacity of the existing infrastructure to accept the resources and deliver them to market for further processing and sale.[3] The insufficient oil and gas pipeline infrastructure throughout the Northeast is costing both developers and residential and commercial consumers billions each year.[4]

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1 Jude Clemente, "More Northeast Natural Gas Pipeline Capacity Brings Questions," *Forbes* (Oct. 23, 2016), https://www.forbes.com/sites/judeclemente/2016/10/23/more-northeast-natural-gas-pipeline-capacity-brings-questions/#4aeb1f11c940 ("Led by the surge in Appalachia's Marcellus and Utica plays, U.S. natural gas production has increased over 50% since 2005 . . . .").

2 *Id.* (stating that gas pipeline infrastructure is lagging behind the rise in gas production).

3 *See id.*

4 *See* Mark Green, "Infrastructure and Harnessing U.S. Shale Energy," *Energy Tomorrow* (Jan. 28, 2016), http://www.energytomorrow.org/blog/2016/01/28/infrastructure-and-harnessing-us-shale-e ("EIA estimates that Northeast residents paid up to 68 percent more for electricity than the national average in the winter of 2014, while industrial users paid up to 105 percent more for electricity than the national average.").