

Opportunities for Action

Environmental Permits

Energy production facilities must obtain permits, licenses or certificates to construct and operate. Such authorization is granted by the federal, state or municipal government in which the facility is located. The first step in the process is the submission of an application by the owner or operator of the proposed facility. The agency granting the license must follow certain procedures before giving its approval.

These license procedures present activists with opportunities for action because it's never a done deal before all permits are approved.

Knowing about these procedures is the key to slowing, altering and even preventing the construction, operation, modification or expansion of a given facility. This fact sheet highlights some of the basic permit types.

Air Permits

Permits to emit air pollutants are authorized under the federal Clean Air Act. Although the law is national, states are granted the ability to administer their own permit programs, allowing them to process, monitor and enforce the permits they issue. There are three basic air permits: Acid Rain, New Source Review and Operating Permit.

Acid rain: This program is a market-based system designed to lower sulfur dioxide and nitrogen dioxide pollution levels. Reductions in emissions are obtained through a program of emission allowances. The allowance that each facility owns must be reflected in its acid rain permit, which also includes emissions monitoring and other requirements.

New Source Review: The program requires that industrial sources install good pollution control technology when they construct or significantly modify their facilities.

Operating Permit: This program requires that major industrial sources and certain other sources obtain a permit that consolidates all of the applicable requirements for the facility into one document. The purpose of these Title V permits is to reduce violations of air pollution laws and improve enforcement.

Water Permits

The National Pollutant Discharge Elimination System (NPDES) is based on the Federal Clean Water Act. The program requires permits for the discharge of treated municipal waste water, industrial effluent including thermal discharges from power plants and storm water. The permits establish the conditions under which the discharge may occur and establish monitoring and reporting requirements. Like air quality permitting, this federal program is delegated to the states.

Section 316(b) of the Clean Water Act requires EPA to issue regulations on the design and operation of intake structures, in order to minimize adverse environmental impacts. The



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requirements are included in the NPDES permit regulations, 40 CFR Parts 122 and 125 (Subparts I, J, and N).

Utility Permits

Companies seeking to build interstate natural gas pipelines must first obtain certificates of public convenience and necessity from the Federal Energy Regulatory Commission (FERC). FERC must act in accord with the Natural Gas Act of 1938 to issue certificates for the construction or extension of any facilities ... for the transportation in interstate commerce of natural gas. The Energy Policy Act of 2005 (EPAct) designates FERC as the lead agency for reviewing pipeline certificate applications including compliance with the National Environmental Policy Act.



The interstate pipeline process involves multiple steps: a voluntary pre-filing phase, an application phase, and a post-authorization phase. FERC coordinates with federal, state, and local agencies that have authority over various environmental laws and regulations.

Natural gas certificate processes include consulting with stakeholders, identifying environmental issues through scoping, and preparing environmental documents such as Environmental Assessments or Environmental Impact Statements. A pre-filing process allows FERC staff to review the scoping of environmental issues before the applicant files its application. For example, the pre-filing environmental review includes:

1. Applicant assesses market need and considers project feasibility
2. Applicant requests use of FERC's Pre-Filing Process
3. FERC receives Applicant's request to conduct its review of the project within FERC's NEPA Pre-Filing Process
4. FERC formally approves Pre-Filing Process and issues PF Docket No. to Applicant
5. Applicant studies potential site locations
6. Applicant identifies Stakeholders
7. Applicant holds open house to discuss project
8. FERC participates in Applicant's open house
9. FERC issues Notice of Intent for preparation of an EIS opening the scoping period to seek public comments
10. Applicant conducts route studies and field surveys. Develops application
11. FERC holds public scoping meeting(s) and site visits in the project area. Consults with interested stakeholders.
12. Applicant files formal application with the FERC
13. FERC issues Notice of Application
14. FERC analyzes data and prepares Draft EIS
15. FERC issues Draft EIS and opens comment period
16. FERC holds public comment meetings on the Draft EIS in the project area
17. FERC responds to comments and revises the Draft EIS
18. FERC issues Final EIS
19. Commission Issues Order
20. Parties can request FERC to rehear decision
21. Applicant submits outstanding information to satisfy conditions of Commission Order
22. FERC issues Notice to Proceed with construction

Note: Permit information in this fact sheet is taken directly from the websites of the EPA and FERC