

# Pipeline Permitting

## Background

The process for reviewing and approving new or expanded interstate natural gas pipelines is robust and transparent, but challenges with multi-agency coordination can cause delays and inefficiencies, stunting economic growth while impeding the environmental benefits of natural gas use. It can now take years to design, permit and construct a major natural gas pipeline project, and the length of time is trending upward.

*INGAA advocates for commonsense regulatory improvements that will enhance predictability and efficiency of the permitting process.*

In order to approve a new, or expand an existing, interstate natural gas pipeline under the Natural Gas Act, the Federal Energy Regulatory Commission (FERC) must find that the proposed pipeline meets “the public convenience and necessity.” Congress designated FERC as the lead agency responsible for overseeing interstate natural gas pipeline permitting, while working with various other federal, state and local agencies.

Depending on the project, a pipeline will need to secure approvals or permits from the following federal agencies or bureaus:

- U.S. Department of Transportation
- U.S. Department of the Interior
  - National Park Service
  - Fish and Wildlife Service
  - Bureau of Indian Affairs
  - Bureau of Land Management
- Advisory Council on Historic Preservation
- U.S. Army Corps of Engineers
- U.S. Environmental Protection Agency
- U.S. Forest Service
- National Marine Fisheries Service

In addition to the Natural Gas Act, an interstate natural gas pipeline must comply with the following laws, when applicable:

- National Environmental Policy Act
- Clean Water Act
- Clean Air Act
- Endangered Species Act
- National Historic Preservation Act
- Rivers and Harbors Act of 1899
- Coastal Zone Management Act

## Added Setback: Protests and Lawsuits

Adding time to an already-complex and lengthy process, anti-energy activist groups actively campaign to delay and block just about every piece of critical energy infrastructure that’s proposed. These protests and legal filings add to the permitting timeline and cause billions in delays. According to the U.S. Chamber of Commerce Global Energy Institute, these “Keep It In The Ground” groups have caused the delay or cancellation of three interstate natural gas pipelines in recent years,\* ultimately preventing \$7.8 billion in GDP, over 50,000 jobs and \$1.83 billion in lost tax revenues.

\* Constitution Pipeline (Pennsylvania-New York); Northern Access Pipeline (Pennsylvania-New York); Atlantic Coast Pipeline (West Virginia-North Carolina)

↓ **\$7.8 billion**  
in lost GDP

↓ **54,618**  
lost job-years

↓ **\$1.83 billion**  
in lost tax revenues

↓ **\$7.63 billion**  
in lost project costs

## The Process

There are five main stages in the permitting process before approval and pipeline construction can begin. Each stage entails numerous activities, and the planning process begins well before a pipeline developer submits an application to FERC.

### 1. Market Assessment

- a. The project developer gauges market support through informal discussions with potential customers.
- b. The developer hosts an “open season” to determine who is willing to commit to a long-term firm contract to transport natural gas via the new or expanded pipeline. These contracts demonstrate that the proposed project is needed.
- c. During this stage, the developer also may inform the local community, landowners and officials along the project’s proposed route about the potential project.

*If there is insufficient market support, the project does not progress further.*

### 2. FERC Pre-Filing

- a. Most developers elect to use FERC’s pre-filing process for large projects to start discussions with FERC and the public about the proposed route, permitting requirements and options to mitigate adverse impacts on landowners, communities and the environment.
- b. The developer begins consulting with various federal and state permitting agencies to obtain necessary environmental approvals and permits.

*Projects typically remain in the pre-filing process for 6 to 12 months. The pre-filing process is intended to identify and resolve as many outstanding environmental and routing issues as possible before the project developer files its formal application with FERC.*

### 3. Formal Application

- a. The developer files a formal FERC certificate application.
- b. Under the National Environmental Policy Act (NEPA), FERC must engage in informed decision-making and assess whether the project will cause a significant impact on human health and the environment. Accordingly, FERC prepares either an environmental assessment or an environmental impact statement, as appropriate.
- c. FERC reviews the pipeline’s proposed route and often proposes alternative routes to mitigate environmental impacts.
- d. Federal and state agencies are a part of the FERC review process.
- e. The project developer works with federal, state and local permitting agencies to acquire necessary authorizations and permits.

*The formal application process typically takes well over one year to complete but can take much longer for large projects.*

### 4. FERC Issues a Certificate

- a. FERC may issue a certificate of public convenience and necessity after it completes its comprehensive environmental review process and assessment of market need. Adequate market support must be demonstrated, typically in the form of firm contracts, to support both financing and FERC approval.
- b. Almost all FERC certificates contain numerous conditions that must be met. These conditions usually reflect the findings of the NEPA document, including mitigation efforts that the developer must implement to avoid environmentally or culturally sensitive areas. Other conditions require the developer to acquire all outstanding authorizations or permits prior to construction.
- c. FERC also may limit construction to certain times of the year to mitigate potential impacts on endangered or threatened species.

### 5. Obtaining Outstanding Authorizations

- a. A pipeline developer may not begin construction until FERC is satisfied that the developer has met all certificate conditions and acquired all necessary authorizations and permits.

- Construction Can Begin -