



# THE NATURAL GAS PIPELINE PERMITTING PROCESS

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## INTRODUCTION

Currently, there are several natural gas pipelines that have been recently approved or are being proposed for here in New York State. The purpose of these pipelines is to transport natural gas that is being extracted from the Marcellus Shale field in Pennsylvania and West Virginia to markets in New York City, New England, and Canada.

I have been approached by the opponents of several of these projects, on the grounds that the pipeline and the related infrastructure, such as compressor stations, pose a threat to groundwater resources. Everywhere I drive I see signs opposing these “fracked gas pipelines”. The purpose of this article is not for me to take an opinion one way or the other on this issue. Rather, I would like to provide an explanation on the permitting process for interstate pipelines. It is rather unique and is important that source water protection for public water suppliers is considered during this process.

## FERC

Under Section 7(c) of the Natural Gas Act (NGA), the Federal Energy Regulatory Commission (FERC) is the agency that regulates the interstate transmission of natural gas, oil, and electricity. It is responsible for regulating interstate transportation rates and services for natural gas pipelines, the construction of natural gas pipelines, and overseeing related environmental matters. FERC is an independent agency of the executive branch of the federal government. The commission consists of a chair and four commissioners. Commissioners are appointed by the President with the consent of the Senate. No more than three of the commissioners can be of the same political party.

## THE PERMITTING PROCESS

If a company is seeking to build an interstate natural gas pipeline, it ultimately must obtain from FERC what is called a *certificate of public convenience and necessity*. If approved, such a certificate holder can acquire necessary property by exercising the right of eminent domain in State or Federal court. Prior to formally applying to FERC for a pipeline certificate, a pipeline developer

may use FERC’s pre-filing procedures. During this period, the pipeline developer would notify all state, local, and other federal agencies, as well as potentially affected property owners about the proposed project. The pre-filing process is done seven to eight months prior to filing a certificate application. During this pre-trial period, FERC staff will begin an initial review and often announce the intent to prepare an Environmental Impact Statement (EIS).

An eventual application to FERC for a certificate of public convenience and necessity not only contains a description of the proposed pipeline, route maps, construction plans, schedules, etc., but also a detailed environmental report. In turn, FERC staff prepares draft and final Environmental Impact Statements (EIS) to fulfill requirements of the National Environmental Policy Act of 1969 (NEPA) and the Commission’s implementing regulations.

## PUBLIC WATER SUPPLIES

It is critical that the concerns of public water suppliers are voiced during workshops, public scoping meetings, and public comment periods. An example of how concerns over a public water supply were addressed is the recently approved Constitution Pipeline and the Village of Schoharie’s springs that are located in a karst limestone region. Blasting in areas of the Constitution Pipeline route through limestone and karst features is to be avoided. Other karst mitigation measures have been developed. The Village of Schoharie’s springs will be monitored before the start of construction, twice a day during construction when it is occurring within 2,000 feet of the springs or groundwater flow paths. Monitoring will include water column height, flow rate, water column drawdown, rebound time, volatile organic compounds, etc.

## QUESTIONS

As public water suppliers, it is important to be aware of potential impacts from pipeline construction and related infrastructure. If you have any questions about the pipeline permitting process, please contact me at 1-888-NYRURAL, ext. 17 or via email ([winkley@nyruralwater.org](mailto:winkley@nyruralwater.org)). 💧💧💧