

# US Federal 2026 environmental policy signals renewed focus on natural gas pipeline permitting

*The US remains the world's largest producer, consumer, and exporter of natural gas and the Federal Government has indicated that natural gas pipelines will be a focus for environmental policy in 2026 and beyond, writes Benjamin Muzi.\**

A review of the natural gas permitting process, including relevant case law, illustrates that it is limited in addressing environmental impacts. Ongoing efforts to streamline the scope of this review may have a muted effect on the approval of natural gas facilities.

Under the US Natural Gas Act (NGA), companies seeking to build LNG terminals or pipelines need authorisation from the Federal Energy Regulatory Commission (FERC).

Under the NGA, parties seeking the construction or extension of any facilities for the 'transportation in interstate commerce of natural gas' must obtain a certificate of public convenience and necessity.

The NGA requires FERC to authorise construction of natural gas facilities unless FERC finds that the facility "will not be consistent with the public interest."

FERC conducts a review of potential impacts from the new projects, taking into account risk assessment for the local environment, field surveys, and soil analysis, among other factors.

The scope of infrastructure requiring a FERC permit, which includes LNG source extraction to interstate pipeline construction, can lead to cases challenging these permits across all states where the infrastructure is located.

FERC's approval process for constructing new LNG facilities is complex and time-consuming. In 2026, changes proposed by the Trump Administration will seek to remove the red tape and reduce the scope of FERC's review to accelerate LNG pipeline development.

There have been dozens of cases where parties have sued FERC, claiming the scope of the review is not thorough. Since 2010, the FERC review process for new LNG pipelines and facilities has been the subject of significant litigation from environmental groups and concerned parties.

Environmental groups have objected to a lack of a sufficient method for evaluating greenhouse gas (GHG) emissions. An examination of decisions in major LNG permitting cases illustrates

the balance courts strike between their deference to FERC and the flaws with FERC's approval.

In *Sierra Club v. FERC*, No.16-1329 (D.C. Cir. 2017), the Sierra Club challenged FERC's Section 7 approval of an Alabama/Florida pipeline.

The court's analysis of the proposed permit questioned whether the agency had adequately considered and disclosed the environmental impacts. The DC Circuit held that the agency must consider reasonably foreseeable indirect environmental effects, and that FERC failed to include sufficient information on the GHG emissions resulting from the extraction and burning of natural gas.

In addition, the court acknowledged that quantification of GHG emissions was not required every time emissions were an indirect effect of agency actions. FERC prepared a supplemental Environmental Impact Statement (EIS) that found no methodology capable of determining the project's downstream GHG emissions. Therefore, FERC reinstated the approval for the pipeline in 2018.

*Sierra Club v. FERC* was one of the first cases to evaluate GHG emissions analysis in the FERC permitting process.

In *Food and Water Watch v. FERC*, No. 20-1132 (D.C. Cir. 2022), the court heard a challenge to a Massachusetts compressor station. FERC argued that downstream natural gas consumption and the resulting GHG emissions were not reasonably foreseeable and declined to analyse their effects.

## Reasoning rejected

The court rejected this reasoning, but did not vacate the prior FERC approval of the permit. The court ordered FERC to draft a supplemental EIS, explaining why it could or could not evaluate the impact of GHG emissions.

It stated that vacating FERC's initial approval order would be disruptive, as the project was already under construction. This case illustrates the Circuit court distinguishing *Sierra Club v. FERC* and showing agency deference.

In 2023, FERC approved the Transco Pipeline from Pennsylvania to New Jersey.

Several organisations sued FERC, citing a failure to consider long-term environmental impacts. The case also stemmed from New Jersey State policies limiting natural gas use and consumption within the state.

In *New Jersey Conservation Association v. FERC*, No.23-1064 (D.C. Cir. 2024), the court once again agreed FERC had failed to address the issue of GHG emissions.

FERC had calculated the amount of GHG emissions from the project, but failed to analyse these findings regarding risk assessment and populace impacts. The court vacated FERC's orders, halting construction temporarily. Transco requested a rehearing at the end of 2024, and the pipeline permit was approved in 2025.

In each of these cases, the court agreed with the petitioners on the need to press FERC for more oversight and risk evaluation, but none resulted in more than a brief delay in construction.

The Trump Administration has made the production of natural gas a key priority. In January, 2025, President Trump issued an executive order declaring a national energy emergency. The order directs agencies to expedite emergency approval of natural gas production and infrastructure.

In June, 2025, FERC unanimously voted to allow construction of LNG facilities to go forward, while permits were being appealed, even if the agency is drafting a supplemental EIS.

FERC has issued 30 notices to proceed with construction and approved 10 LNG export terminals.

Congress has several policy options to impact LNG permitting approval in 2026 and beyond. It could modify FERC's mission or limit FERC's discretion under the NGA.



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The proposed Protect LNG Act would shield FERC's LNG permits from a majority of civil litigation. The proposed law would also assign jurisdiction to the Circuit where the facility is, rather than the DC Circuit.

Despite these potential jurisdictional reforms, it remains unclear whether the proposed changes will impact litigation over LNG infrastructure. Environmental groups may sue under state laws or challenge the state permitting authorities for LNG facilities.

Despite the stated goals of the Trump Administration and Congress, the future of LNG permitting remains unclear.

Analysis of FERC's approval process showcases the complex balance between energy development, environmental protection, and regulatory oversight.

As FERC's role continues to evolve, its future decisions will play a key role in addressing the energy needs of the US. ■

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