

State of New Hampshire
Site Evaluation Committee

Martin P. Honigberg, Esquire
Chairman

Thomas S. Burack, Esquire
Vice-Chair

Pamela G. Monroe
SEC Administrator

<http://www.nhsec.nh.gov>
21 South Fruit St., Suite 10
Concord, New Hampshire
03301-2429
Telephone (603) 271-2435
Fax (603) 271-3878



May 3, 2016

Michael W. Kane
Legislative Budget Assistant
Office of Legislative Budget Assistant
107 North Main Street
State House, Room 102
Concord, NH 03301

RE: Request for Fiscal Impact Statement, Site 301-302

Dear Mr. Kane:

Attached please find a Request for Fiscal Impact Statement regarding Site 301, *Requirements for Applications for Certificates of Site and Facility*, and Site 302, *Enforcement of Terms and Conditions*. A copy of the initial proposal as approved by the Site Evaluation Committee is also attached. The rules apply to the siting of high pressure gas pipelines and are required pursuant to authority set forth in RSA 162-H:10-b.

When you have completed the Fiscal Impact Statement, please notify Pamela Monroe, Administrator, as the contact person for the Committee. She can be reached at 271-2435 or via e-mail at pamela.monroe@sec.nh.gov.

Thank you for your attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "M. Honigberg".

For Martin P. Honigberg
Chair
Site Evaluation Committee

**OFFICE OF LEGISLATIVE BUDGET ASSISTANT
REQUEST FOR FISCAL IMPACT STATEMENT (FIS)**

FIS Number _____

Rule Number _____ **Site 301, 302**

<p>1. Agency Name & Address:</p> <p>Site Evaluation Committee Pamela G. Monroe, Administrator 21 South Fruit Street, Suite 10 Concord, NH 03301-2429</p>	<p>2. RSA Authority: RSA 162-H:10-b, RSA 162-H:12</p> <p>3. Federal Authority: _____</p> <p>4. Type of Action:</p> <p style="padding-left: 20px;">Adoption _____</p> <p style="padding-left: 20px;">Amendment X _____</p> <p style="padding-left: 20px;">Repeal _____</p> <p style="padding-left: 20px;">Readoption _____</p> <p style="padding-left: 20px;">Readoptionw/amendment _____</p> <p style="padding-left: 20px;">Interim rule _____</p> <p>5. Have the rules expired? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/></p> <p style="padding-left: 20px;">Date Expired: _____</p>
---	---

6. Short Title: **Enforcement and High Pressure Natural Gas Pipeline Amendments**

7. Contact Person:

Name: Pamela G. Monroe	Title: Administrator
Address: N.H. Site Evaluation Committee 21 South Fruit Street, Suite 10 Concord, NH 03301-2429	Phone #: 603-271-2435 Fax #: 603-271-3878 E-mail: pamela.monroe@sec.nh.gov

Remember:

- (a) A copy of the proposed rule or an annotated copy of the amended rule must accompany this form. The annotated copy shall use [brackets] to indicate deleted material, and underlining for added material, or any other annotation style allowed in Section 5.4 in Chapter 4 of the Drafting and Procedure Manual for Administrative Rules.
- (b) Please provide the methodology and any calculations used in determining the fiscal impact. Where appropriate or necessary, please attach a worksheet detailing the methodology and associated calculations.
- (c) This form may be replicated to expedite preparation.
- (d) Please allow 10 working days from day of receipt for the Office of Legislative Budget Assistant to complete the fiscal impact statement. Additional information about this form is in Section 2.3 in Chapter 3 of the Drafting and Procedure Manual for Administrative Rules.

REQUEST FOR FISCAL IMPACT STATEMENT (FIS) - Page 2

- (e) Please provide the following information and attach additional sheets if necessary:

NOTE: Pursuant to RSA 541-A:5, IV the fiscal impact of the proposed rule which was previously effective but has expired, or of a proposed rule which adopts a current agency policy, procedure or practice as a rule for the first time, shall not be assessed as an existing rule but as a proposed rule which is not yet effective.

- (1) Summarize the intended action and the proposed rule. The intended action is defined by RSA 541-A:5, VII as the proposed adoption, amendment, readoption, readoption with amendment, or repeal of a rule pursuant to RSA 541-A.

The amendments to Site 301 are intended to add site evaluation criteria for high pressure natural gas pipelines, as authorized by RSA 162-H:10-b. Proposed new requirements include impact assessments for health, sound and vibration, and standards for sound, vibration, and exterior lighting at compressor stations.

The Site Evaluation Committee (SEC) is proposing to amend existing enforcement rules by changing “may” to “shall” in Site 302.01(f) and Site 302.02(d), and by adopting new criteria for the suspension and revocation of certificates in both of the aforementioned rules and in Site 302.03(d). These changes were requested by the Joint Legislative Committee on Administrative Rules in a petition for rulemaking to the SEC in December of 2015. The purpose of these changes is to limit the discretion of, and provide clear standards for, the SEC in the suspension or revocation of certificates.

- (2) Is the cost associated with this intended action mandated by the rule or by state statute? If the cost is mandated by statute, then the rule itself may not have a cost or benefit associated with it. Please state either the statute or chapter law that is instigating this rule.

The cost associated with the intended action is mandated by the rule. The statute authorizing proposed amendments to Site 301 is RSA 162-H:10-b, and the statute authorizing proposed amendments to Site 302 is RSA 162-H:12.

- (3) Compare the cost of the proposed rule with the cost of the existing rule, if there is an existing rule. Please provide the methodology and any calculations used in making your determination. If there is no cost, please explain why.

The existing rules in Site 301 contain application, decommissioning, and evaluation requirements, the costs of which were found to be indeterminable in FIS 15:007. The additional requirements being proposed would add to those costs by requiring the applicant to conduct a comprehensive health impact assessment. The costs of conducting the assessment vary depending on the size of the project. The Society of Practitioners of Health Impact Assessment estimates that the maximum cost ranges from \$75,000 to \$150,000. The Society also assumes that the average health impact assessment requires a .5 full-time employee to coordinate the project, perform the assessment, and write the report over the course of the project. Therefore, if an applicant estimates that it will take 6 months to conduct the assessment, the cost will be approximately 3 months' salary of a person qualified to conduct the assessment.

REQUEST FOR FISCAL IMPACT STATEMENT (FIS) - Page 3

Existing rule Site 301.08(c) requires applicants to perform sound impact assessments, so the proposed rule adds to that cost by requiring a vibration assessment and proposing a sound standard for intrastate high pressure gas pipelines to match that which is applied to wind energy facilities in Site 301.14(f)(2). The proposed sound and vibration standards for interstate pipelines is identical to the federal requirement for such facilities in 18 CFR §380.12(k). Therefore, the requirement to perform sound and vibration assessments and to meet the proposed standards will not impose new or additional costs on interstate pipelines. The proposed standards for exterior lighting should not impose additional costs on applicants, as they would only address how to direct the lights so as not to cause “light pollution.”

The existing rules in Site 302 authorize the SEC to suspend and revoke certificates. Adding criteria to limit the discretion of the SEC in making those decisions adds no cost to the rule.

- (4) To the extent the proposed rule had expired, please indicate the cost of the expired rule as you do for a new rule, and if applicable, the difference in cost of any proposed change from the expired rule. Please provide the methodology and any calculations used in making your determination. If there is no cost, please explain why.

Not applicable.

- (5) Describe the costs and benefits to the state general fund which would result from this intended action.

The proposed rules would have no effect on the state general fund.

- (6) Explain and cite the federal mandate for the intended action, if there is such a mandate. How would the mandate affect state funds?

There is no federal mandate for the intended action.

- (7) Describe the cost and benefits to any state special fund which would result.

The intended action would not affect any state special fund.

- (8) Describe the costs and benefits to the political subdivisions of the state.

The proposed rules are neutral as applied to political subdivisions of the State.

REQUEST FOR FISCAL IMPACT STATEMENT (FIS) - Page 4

- (9) Describe the costs and benefits to the citizens of the state.

The proposed rules impose no direct costs on the citizens of the state, but would provide certain benefits to citizens through the application of sound, vibration, and lighting requirements on high pressure natural gas pipeline projects. In addition, the requirement for applicants to prepare a comprehensive health impact assessment directly benefits citizens located near such projects.

- (10) Describe the costs and benefits to any independently owned business, including a description of the specific reporting and recordkeeping requirements upon those employing fewer than 10 employees.

The proposed rules do not impose any direct costs on independently owned businesses, except to the extent provided under or contemplated by the governing statute, RSA 162-H. The proposed rules are not expected to change the level of reporting or other recordkeeping requirements already performed by independently owned businesses employing fewer than 10 employees.

Amend Site 301 and Site 302, effective 12-16-15 (Document #10994), cited and to read as follows:

CHAPTER Site 300 CERTIFICATES OF SITE AND FACILITY

PART Site 301 REQUIREMENTS FOR APPLICATIONS FOR CERTIFICATES

Site 301.03 Contents of Application.

(e) If the application is for an energy facility, including an energy transmission pipeline, that is not an electric generating facility or an electric transmission line, the application shall include:

- (1) The type of facility being proposed;
- (2) A description of the process to extract, produce, manufacture, transport or refine the source of energy;
- (3) The facility's size and configuration, *including, for a high pressure gas pipeline, any associated compressor station(s)*;
- (4) The ability to increase the capacity of the facility in the future;
- (5) Raw materials used or transported, as follows:
 - a. An inventory, including amounts and specifications;
 - b. A plan for procurement, describing sources and availability; and
 - c. A description of the means of transportation;
- (6) Production information, as follows:
 - a. An inventory of products and waste streams, *including blowdown emissions from a high pressure gas pipeline and any associated compressor station(s)*;
 - b. The quantities and specifications of hazardous materials; and
 - c. Waste management plans; ~~and~~
- (7) A map showing the entire energy facility, including, in the case of an energy transmission pipeline, the location of each compressor station, pumping station, storage facility, and other ancillary facilities associated with the energy facility, and the corridor width *and length* in the case of a proposed new route or widening along an existing route; ~~and~~
- (8) *For a high pressure gas pipeline, the following information:*
 - a. *Construction information, including a description of the pipe to be used, depth of pipeline placement, type of fuel to be used to power any associated compressor station, and a description of any compressor station emergency shutdown system;*
 - b. *Proposed construction schedule, including start date and scheduled completion date;*
 - c. *Operation and maintenance information, including a description of measures to be taken to notify adjacent landowners and minimize sound during blowdown events at pipelines and compressor stations;*

d. Copy of any proposed plan application or other documentation required to be submitted to the Federal Energy Regulatory Commission in connection with construction and operation of the proposed facility; and

e. Copy of any environmental report, assessment or impact statement prepared by or on behalf of the Federal Energy Regulatory Commission when it becomes available.

Site 301.08 Effects on Public Health and Safety. Each application shall include the following information regarding the effects of, and plans for avoiding, minimizing, or mitigating potential adverse effects of, the proposed energy facility on public health and safety:

(c) For high pressure gas pipelines:

(1) A comprehensive health impact assessment specifically designed to identify and evaluate potential human health impacts by identifying potential pathways for facility-related contaminants to harm human health, quantifying the cumulative risks posed by any contaminants, and recommending necessary avoidance, minimization, or mitigation;

(2) A sound and vibration impact assessment prepared by an expert in the field, in accordance with ANSI/ASA S12.9-2013 Part 3 for short-term monitoring and with ANSI S12.9-1992 2013 Part 2 for long-term monitoring, which assessment shall include the reports of a preconstruction sound and vibration background study and a sound and vibration modeling study;

(3) A description of planned setbacks that indicate the distance between:

a. The proposed pipeline and existing buildings on, and the boundaries of, abutting properties;

b. Any associated compressor station and schools, day-care centers, health care facilities, residences, residential neighborhoods, places of worship, elderly care facilities, and farms within a one mile radius; and

c. The proposed pipeline and any overhead or underground electric transmission line within 1/2 mile of the pipeline;

(4) An explanation of why the setbacks described by the applicant in response to (3), above, are adequate to protect the public from risks associated with the operation of the pipeline and any associated compressor station; and

(5) A description of all permanently installed exterior lighting at compressor stations and how it complies with Site 301.14(f)(5)c.

(ed) For all energy facilities:

(1) Except as otherwise provided in (a)(1) above, an assessment of operational sound associated with the proposed facility, if the facility would involve use of equipment that might reasonably be expected to increase sound by 10 decibel A-weighted (dBA) or more over background levels, measured at the L-90 sound level, at the property boundary of the proposed facility site or, in the case of an electric transmission line or an energy transmission pipeline, at the edge of the right-

of-way or the edge of the property boundary if the proposed facility, or portion thereof, will be located on land owned, leased or otherwise controlled by the applicant or an affiliate of the applicant;

(2) A facility decommissioning plan prepared by an independent, qualified person with demonstrated knowledge and experience in similar energy facility projects and cost estimates; the decommissioning plan shall include each of the following:

a. A description of sufficient and secure funding to implement the plan, which shall not account for the anticipated salvage value of facility components or materials;

b. The provision of financial assurance in the form of an irrevocable standby letter of credit, performance bond, surety bond, or unconditional payment guaranty executed by a parent company of the facility owner maintaining at all times an investment grade credit rating;

c. All transformers shall be transported off-site; and

d. All underground infrastructure at depths less than four feet below grade shall be removed from the site and all underground infrastructure at depths greater than four feet below finished grade shall be abandoned in place;

(3) A plan for fire safety prepared by or in consultation with a fire safety expert;

(4) A plan for emergency response to the proposed facility site; and

(5) A description of any additional measures taken or planned to avoid, minimize, or mitigate public health and safety impacts that would result from the construction and operation of the proposed facility, and the alternative measures considered but rejected by the applicant.

Site 301.14 Criteria Relative to Findings of Unreasonable Adverse Effects.

(f) In determining whether a proposed energy facility will have an unreasonable adverse effect on public health and safety, the committee shall:

(1) For all energy facilities, consider the information submitted pursuant to Site 301.08 and other relevant evidence submitted pursuant to Site 202.24, the potential adverse effects of construction and operation of the proposed facility on public health and safety, the effectiveness of measures undertaken or planned to avoid, minimize, or mitigate such potential adverse effects, and the extent to which such measures represent best practical measures;

(2) For wind energy systems, apply the following standards:

a. With respect to sound standards, the A-weighted equivalent sound levels produced by the applicant's energy facility during operations shall not exceed the greater of 45 dBA or 5 dBA above background levels, measured at the L-90 sound level, between the hours of 8:00 a.m. and 8:00 p.m. each day, and the greater of 40 dBA or 5 dBA above background levels, measured at the L-90 sound level, at all other times during each day, as measured using microphone placement at least 7.5 meters from any surface where reflections may influence measured sound pressure levels, on property that is used in whole or in part for permanent or temporary residential purposes, at a location between the nearest building on the property used for such purposes and the closest wind turbine; and

b. With respect to shadow flicker, the shadow flicker created by the applicant's energy facility during operations shall not occur more than 8 hours per year at or within any residence, learning space, workplace, health care setting, outdoor or indoor public gathering area, or other occupied building;

(3) For wind energy systems, consider the proximity and use of buildings, property lines, public roads, and overhead and underground energy infrastructure and energy transmission pipelines, the risks of ice throw, blade shear, tower collapse, and other potential adverse effects of facility operation, and the effectiveness of measures undertaken or planned to avoid, minimize, or mitigate such potential adverse effects, and the extent to which such measures represent best practical measures; ~~and~~

(4) For electric transmission lines, consider the proximity and use of buildings, property lines, and public roads, the risks of collapse of towers, poles, or other supporting structures, the potential impacts on public health and safety of electric and magnetic fields generated by the proposed facility, and the effectiveness of measures undertaken or planned to avoid, minimize, or mitigate such potential adverse effects, and the extent to which such measures represent best practical measures;

(5) For high pressure gas pipelines, apply the following standards:

a. With respect to sound standards for interstate pipelines, the noise attributable to any new compressor station, compression added to an existing station, or any modification, upgrade or update of an existing station, shall not exceed a day-night sound level (Ldn) of 55 dBA at any pre-existing noise-sensitive area, such as schools, hospitals, or residences, as provided in 18 CFR §380.12(k);

b. With respect to sound standards for intrastate pipelines, the noise attributable to any new compressor station, compression added to an existing station, or any modification, upgrade or update of an existing station, shall not exceed the standards set forth in (2)a., above, regarding wind energy systems;

c. With respect to vibration, compressor stations or modifications of existing compressor stations shall not result in a perceptible increase in vibration at any pre-existing noise-sensitive area, such as schools, hospitals, or residences, as provided in 18 CFR §380.12(k), or a level of 2.0 peak particle velocity, whichever is less;

d. With respect to exterior lighting at compressor stations, no light shall be projected above the horizontal plane or projected beyond the property lines;

e. With respect to pipeline construction and safety, the requirements in Puc 506 and Puc 508 for a class 4 location in a high consequence area, as those terms are defined in 49 CFR §192.5(b)(4) and 49 CFR §192.903, respectively; and

(6) For high pressure gas pipelines, consider the results of the comprehensive health impact assessment, the proximity of electric transmission lines to the pipeline, and the proximity of any compressor station to schools, day-care centers, health care facilities, residences, residential neighborhoods, places of worship, elderly care facilities, and farms, and the effectiveness of measures undertaken or planned to avoid, minimize, or mitigate such potential adverse effects, and the extent to which such measures represent best practical measures.

PART Site 302 ENFORCEMENT OF TERMS AND CONDITIONS

Site 302.01 Determination of Certificate Violation.

(f) Pursuant to ~~RSA 162-H:12, I,~~ ~~if~~ the committee determines following the adjudicative hearing ***proceeding*** that a certificate violation has occurred and is continuing, the committee ***shall*** ~~may~~ issue an order that suspends the holder's certificate until such time as the violation has been corrected ***if the committee determines that the following criteria have been met:***

- (1) The violation will not be terminated within 30 days from the date of the committee's decision; and***
- (2) The violation will have an unreasonable adverse effect on aesthetics, historic sites, air and water quality, the natural environment, or public health and safety.***

Site 302.02 Determination of Misrepresentation or Non-Compliance.

(d) Pursuant to ~~RSA 162-H:12, II,~~ ~~if~~ the committee determines following the adjudicative hearing ***proceeding*** that a material misrepresentation or violation of RSA 162-H or its rules has occurred, the committee ***shall*** ~~may~~ issue an order that suspends the holder's certificate until such time as the holder has corrected and mitigated the consequences of such misrepresentation or violation ***if the committee determines that the following criteria have been met:***

- (1) The violation will not be terminated within 30 days from the date of the committee's decision; and***
- (2) The violation will have an unreasonable adverse effect on aesthetics, historic sites, air and water quality, the natural environment, or public health and safety.***

Site 302.03 Revocation of Certificate.

(d) Following the adjudicative proceeding, the committee shall revoke the holder's certificate if the committee determines, after due consideration of any mitigating circumstances and a determination of whether revocation is in the best interests of the public, or would result in an inability to assure that the state has an adequate and reliable supply of energy in conformance with sound environmental principles, that one or more of the following criteria have been met:

- (1) The certificate holder obtained the certificate through fraud, deceit, or falsification;***
- (2) The certificate holder knowingly violated the rules of the committee, the conditions of the holder's certificate, or the rules or permits of any agency that participated in the holder's certificate proceeding;***
- (3) The certificate holder failed to comply with an order of the committee or an order imposed as a result of a judicial action taken to enforce any statute or rule implemented by the committee, unless the certificate holder is complying in accordance with a compliance schedule and is current with all items; or***
- (4) The certificate holder is a chronic non-complier.***

(~~e~~) If the holder's certificate is revoked by order of the committee, then the holder shall permanently cease construction or operation of the energy facility subject to the certificate as of the time specified in the order and shall commence and complete decommissioning of the facility within the time period specified in the order.