

## Spring 2017 5297 Oil & Gas Pipeline Regulation

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Course materials will be a selection of statutes, regulations and cases provided by the professors and posted on the Law Center Sharepoint site.

- Week 1**      **Introduction to Pipelines**  
Course Introduction and overview of the gas and oil pipeline industry, pipeline construction and operations, and natural gas storage.  
Reading: Pages 1-18 of INGAA Deskbook.  
(<http://www.ingaa.org/File.aspx?id=6070&v=93da0a9f>) Visit ferc.gov and become familiar with the website. Review “industry” and “Major Orders” sections
- Week 2**      **History of Natural Gas and Oil Pipeline Regulation**  
Overview of Federal Energy Regulatory Commission (FERC) jurisdiction; the Natural Gas Act and Natural Gas Policy Act; Interstate Commerce Act, FERC Order 636; FERC 1999 Policy Statement.  
Reading: FERC Order 636 (<https://www.ferc.gov/legal/maj-ord-reg/land-docs/restruct.asp>)
- Week 3**      **FERC Jurisdiction and Authority to Transport**  
Determining state vs. federal jurisdiction and the application of the Hinshaw Amendment. Reading: NGA Section 7 (15 USC 717f: Construction, extension, or abandonment of facilities); NGPA Section 311 (15 USC 3371: Authorization of certain sales and transportation); cases to be provided.
- Week 4**      **Construction of Facilities and FERC Certificates**  
Certificate application process and FERC authority under NGA. Requirements of certificate application and interagency cooperation and inclusion of LNG facilities under FERC jurisdiction. Read Sec. 3 of the NGA, to be provided. Contrast with oil pipeline construction.
- Week 5**      **FERC Natural Gas and Oil Pipeline Tariffs and Filings**  
Discussion of the general terms and conditions contained in interstate pipeline tariffs and pro forma service agreements. Contrast with “material deviations”. Reading: sample tariff and service agreement (to be provided); read Southern Star order on material deviation policy (to be provided).
- Week 6**      **FERC Rate Design and Rate Cases and Investigation Authority**  
Review sections 4 and 5 of NGA, rate design policy; contrast oil and natural gas rate differences. FERC’s ability to initiate a rate

investigation to determine “just and reasonable” rates. Read Hope v. Bluefield (provided) and Viking Pipeline Order Initiating Investigation; Order on Rehearing (provided).

- Week 7      Continuation of Rate Policy discussion from Week 6.  
Read: Tuscarora Pipeline Order initiating Investigation and Orders on rehearing from 2011 and 2016. Compare development of FERC policy between the two series of Orders. Introduce FERC Audit authority. Reading: FERC 2016 Audit Report (provided).
- Week 8      Delaware Riverkeeper v. FERC Case Study  
Basics of administrative law and FERC appeal process; Overview of Tennessee Gas Pipeline orders and “cumulative impacts” and “connected actions”
- Week 9      National Environmental Policy Act (NEPA) Permitting  
Cooperating agencies; Who is involved? FERC as lead agency and EPC Act 2005 authority to issue deadlines to cooperating agencies. Army Corp of Engineers, “SHiPO”, Clean Water Act permitting, recent legislation. Read: Review selections from Energy Policy Act of 2005.
- Week 10     Land Rights and Eminent Domain  
Eminent domain authority under NGA, process of condemnation in construction of infrastructure interstate vs state. Recent developments in land owner rights-court cases to be provided (TX and WV)
- Week 11     Restoration, Maintenance, and Operations  
What happens once the pipeline is completed? Requirements to “put back the way you found it”. Review weekly status reports to FERC (to be provided) and Sample Environmental Impact Statement. Discuss right of way easement and maintenance, land owner encroachment.
- Week 12     Pipeline Safety  
Guest lecturer, intro to PHMSA and jurisdiction. Pipeline Safety Act and related legislation.
- Week 13     Pipeline Opposition  
Dakota Access Case Study (oil pipeline), Minisink compressor station case study (Millennium Pipeline) and Williams rejection by NY state of required permit (Constitution Pipeline)
- Week 14     Course Wrap Up/Open Discussion  
Will also discuss exam

Policies

*Final Exam May 8 6 – 8 pm; multiple choice and essay*

*Attendance policy: A maximum of 4 absences is permitted. Additional absences will result in 2 points off final grade per absence.*

*Final grade based on final exam with adjustments for attendance as outlined above if applicable.*

*Office hours for both Professor Johnson and Professor Neal will be by appointment and may be arranged via email.*