

N.D. Cent. Code, § 49-22.1-13

Current through all legislation from the 68th Legislative Assembly - Special Session (2023).

**North Dakota Century Code Annotated > TITLE 49 Public Utilities (Chs. 49-01 — 49-24) >
CHAPTER 49-22.1 Energy Conservation and Transmission Facilities (§§ 49-22.1-01 — 49-22.1-24)**

49-22.1-13. Effect of issuance of certificate or permit — Local land use, zoning, or building rules, regulations, or ordinances — State agency rules.

1. The issuance of a certificate of site compatibility or a route permit is, subject to subsections 2 and 3, the sole site or route approval required to be obtained by the utility.
2.
 - a. A certificate of site compatibility for a gas or liquid energy conversion facility may not supersede or preempt any local land use; zoning; or building rules, regulations, or ordinances, and a site may not be designated which violates local land use; zoning; or building rules, regulations, or ordinances.
 - b. Except as provided in this section, a permit for the construction of a gas or liquid transmission facility within a designated corridor supersedes and preempts any local land use or zoning regulations.
 - c. Before a gas or liquid transmission facility is approved, the commission shall require the applicant to comply with the road use agreements of the impacted political subdivision. A permit may supersede and preempt the requirements of a political subdivision if the applicant shows by a preponderance of the evidence the regulations or ordinances are unreasonably restrictive in view of existing technology, factors of cost or economics, or needs of consumers regardless of their location, or are in direct conflict with state or federal laws or rules.
 - d. When an application for a certificate for a gas or liquid transmission facility is filed, the commission shall notify the townships with retained zoning authority, cities, and counties in which any part of the proposed corridor is located. The commission may not schedule a public hearing sooner than forty-five days from the date notification is sent by mail or electronic mail. Upon notification, a political subdivision shall provide a listing to the commission of all local requirements identified under this subsection. The requirements must be filed at least ten days before the hearing or the requirements are superseded and preempted.
 - e. An applicant shall comply with all local requirements provided to the commission pursuant to subdivision d, which are not otherwise superseded by the commission.
3. Utilities subject to this chapter shall obtain state permits that may be required to construct and operate gas or liquid energy conversion facilities and gas or liquid transmission facilities. A state agency in processing a utility's facility permit application is bound to the decisions of the commission with respect to the site designation for the gas or liquid energy conversion facility or the corridor or route designation for the gas or liquid transmission facility and with respect to other matters for which authority has been granted to the commission by this chapter.
4. A site or route may not be designated which violates the rules of any state agency. A state agency with jurisdiction over any aspect of a proposed facility shall present the position of the agency at the public hearing on an application for a certificate, a permit, or a waiver, which position must clearly state whether the site, corridor, or route being considered for designation will be in compliance with the agency's rules. For purposes of this chapter it is presumed a proposed facility will be in compliance with a state agency's rules if that agency fails to present its position on the proposed site, corridor, or route at the appropriate public hearing.

History

[S.L. 2017, ch. 328, § 24](#), effective July 1, 2017; [2019, ch. 389, § 6](#), effective August 1, 2019.

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