

114TH CONGRESS
1ST SESSION

S. 1228

To require approval for the construction, connection, operation, or maintenance of oil or natural gas pipelines or electric transmission facilities at the national boundary of the United States for the import or export of oil, natural gas, or electricity to or from Canada or Mexico, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 6, 2015

Mr. HOEVEN (for himself and Mr. DONNELLY) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

A BILL

To require approval for the construction, connection, operation, or maintenance of oil or natural gas pipelines or electric transmission facilities at the national boundary of the United States for the import or export of oil, natural gas, or electricity to or from Canada or Mexico, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “North American En-
5 ergy Infrastructure Act”.

1 **SEC. 2. FINDING.**

2 Congress finds that the United States should estab-
3 lish a more uniform, transparent, and modern process for
4 the construction, connection, operation, and maintenance
5 of oil and natural gas pipelines and electric transmission
6 facilities for the import and export of oil and natural gas
7 and the transmission of electricity to and from Canada
8 and Mexico, in pursuit of a more secure and efficient
9 North American energy market.

10 **SEC. 3. DEFINITIONS.**

11 In this Act:

12 (1) **CROSS-BORDER SEGMENT.**—The term
13 “cross-border segment” means the portion of an oil
14 or natural gas pipeline or electric transmission facil-
15 ity that is located at the national boundary of the
16 United States with Canada or Mexico.

17 (2) **ELECTRIC RELIABILITY ORGANIZATION.**—
18 The term “Electric Reliability Organization” has the
19 meaning given the term in section 215(a) of the
20 Federal Power Act (16 U.S.C. 824o(a)).

21 (3) **INDEPENDENT SYSTEM OPERATOR.**—The
22 term “Independent System Operator” has the mean-
23 ing given the term in section 3 of the Federal Power
24 Act (16 U.S.C. 796).

25 (4) **MODIFICATION.**—The term “modification”
26 includes—

1 (A) a change in ownership;

2 (B) a volume expansion;

3 (C) a downstream or upstream inter-
4 connection; or

5 (D) an adjustment to maintain flow (such
6 as a reduction or increase in the number of
7 pump or compressor stations).

8 (5) NATURAL GAS.—The term “natural gas”
9 has the meaning given the term in section 2 of the
10 Natural Gas Act (15 U.S.C. 717a).

11 (6) OIL.—The term “oil” means petroleum or
12 a petroleum product.

13 (7) REGIONAL ENTITY.—The term “regional
14 entity” has the meaning given the term in section
15 215(a) of the Federal Power Act (16 U.S.C.
16 824o(a)).

17 (8) REGIONAL TRANSMISSION ORGANIZATION.—
18 The term “Regional Transmission Organization”
19 has the meaning given the term in section 3 of the
20 Federal Power Act (16 U.S.C. 796).

21 **SEC. 4. AUTHORIZATION OF CERTAIN ENERGY INFRA-**
22 **STRUCTURE PROJECTS AT THE NATIONAL**
23 **BOUNDARY OF THE UNITED STATES.**

24 (a) AUTHORIZATION.—Except as provided in sub-
25 section (c) and section 8, no person may construct, con-

1 nect, operate, or maintain a cross-border segment of an
2 oil pipeline or electric transmission facility for the import
3 or export of oil or the transmission of electricity to or from
4 Canada or Mexico without obtaining a certificate of cross-
5 ing for the construction, connection, operation, or mainte-
6 nance of the cross-border segment under this section.

7 (b) CERTIFICATE OF CROSSING.—

8 (1) REQUIREMENT.—Not later than 120 days
9 after final action is taken under the National Envi-
10 ronmental Policy Act of 1969 (42 U.S.C. 4321 et
11 seq.) with respect to a cross-border segment for
12 which a request is received under this section, the
13 relevant official identified under paragraph (2), in
14 consultation with appropriate Federal agencies, shall
15 issue a certificate of crossing for the cross-border
16 segment unless the relevant official finds that the
17 construction, connection, operation, or maintenance
18 of the cross-border segment is not in the public in-
19 terest of the United States.

20 (2) RELEVANT OFFICIAL.—The relevant official
21 referred to in paragraph (1) is—

22 (A) the Secretary of State with respect to
23 oil pipelines; and

24 (B) the Secretary of Energy with respect
25 to electric transmission facilities.

1 (3) ADDITIONAL REQUIREMENT FOR ELECTRIC
2 TRANSMISSION FACILITIES.—In the case of a request
3 for a certificate of crossing for the construction, con-
4 nection, operation, or maintenance of a cross-border
5 segment of an electric transmission facility, the Sec-
6 retary of Energy shall require, as a condition of
7 issuing the certificate of crossing for the request
8 under paragraph (1), that the cross-border segment
9 of the electric transmission facility be constructed,
10 connected, operated, or maintained consistent with
11 all applicable policies and standards of—

12 (A) the Electric Reliability Organization
13 and the applicable regional entity; and

14 (B) any Regional Transmission Organiza-
15 tion or Independent System Operator with
16 operational or functional control over the cross-
17 border segment of the electric transmission fa-
18 cility.

19 (c) EXCLUSIONS.—This section shall not apply to any
20 construction, connection, operation, or maintenance of a
21 cross-border segment of an oil pipeline or electric trans-
22 mission facility for the import or export of oil or the trans-
23 mission of electricity to or from Canada or Mexico—

1 (1) if the cross-border segment is operating for
2 the import, export, or transmission as of the date of
3 enactment of this Act;

4 (2) if a permit described in section 7 for the
5 construction, connection, operation, or maintenance
6 has been issued;

7 (3) if a certificate of crossing for the construc-
8 tion, connection, operation, or maintenance has pre-
9 viously been issued under this section; or

10 (4) if an application for a permit described in
11 section 7 for the construction, connection, operation,
12 or maintenance is pending on the date of enactment
13 of this Act, until the earlier of—

14 (A) the date on which the application is
15 denied; or

16 (B) July 1, 2016.

17 (d) EFFECT OF OTHER LAWS.—

18 (1) APPLICATION TO PROJECTS.—Nothing in
19 this section or section 8 affects the application of
20 any other Federal law to a project for which a cer-
21 tificate of crossing for the construction, connection,
22 operation, or maintenance of a cross-border segment
23 is sought under this section.

24 (2) ENERGY POLICY AND CONSERVATION
25 ACT.—Nothing in this section or section 8 shall af-

1 fect the authority of the President under section
2 103(a) of the Energy Policy and Conservation Act
3 (42 U.S.C. 6212(a)).

4 **SEC. 5. IMPORTATION OR EXPORTATION OF NATURAL GAS**
5 **TO CANADA AND MEXICO.**

6 Section 3(c) of the Natural Gas Act (15 U.S.C.
7 717b(c)) is amended—

8 (1) by striking “(c) For purposes” and insert-
9 ing the following:

10 “(c) EXPEDITED APPLICATION AND APPROVAL
11 PROCESS.—

12 “(1) IN GENERAL.—For purposes”; and

13 (2) by adding at the end the following:

14 “(2) DEADLINE FOR APPROVAL OF APPLICA-
15 TIONS RELATING TO CANADA AND MEXICO.—In the
16 case of an application for the importation or expor-
17 tation of natural gas to or from Canada or Mexico,
18 the Commission shall approve the application not
19 later than 30 days after the date of receipt of the
20 application.”.

21 **SEC. 6. TRANSMISSION OF ELECTRIC ENERGY TO CANADA**
22 **AND MEXICO.**

23 (a) REPEAL OF REQUIREMENT TO SECURE
24 ORDER.—Section 202 of the Federal Power Act (16
25 U.S.C. 824a) is amended—

1 (1) by striking subsection (e); and

2 (2) by redesignating subsections (f) and (g) as
3 subsections (e) and (f), respectively.

4 (b) CONFORMING AMENDMENTS.—

5 (1) STATE REGULATIONS.—Subsection (e) of
6 section 202 of the Federal Power Act (16 U.S.C.
7 824a) (as redesignated by subsection (a)(2)) is
8 amended in the second sentence by striking “insofar
9 as such State regulation does not conflict with the
10 exercise of the Commission’s powers under or relat-
11 ing to subsection 202(e)”.

12 (2) SEASONAL DIVERSITY ELECTRICITY EX-
13 CHANGE.—Section 602(b) of the Public Utility Reg-
14 ulatory Policies Act of 1978 (16 U.S.C. 824a–4(b))
15 is amended by striking “the Commission has con-
16 ducted hearings and made the findings required
17 under section 202(e) of the Federal Power Act” and
18 all that follows through the period at the end of the
19 second sentence and inserting “the Secretary has
20 conducted hearings and finds that the proposed
21 transmission facilities would not impair the suffi-
22 ciency of electric supply within the United States or
23 would not impede or tend to impede the coordination
24 in the public interest of facilities subject to the juris-
25 diction of the Secretary.”.

1 **SEC. 7. NO PRESIDENTIAL PERMIT REQUIRED.**

2 (a) IN GENERAL.—No Presidential permit (or similar
3 permit) required under an applicable provision described
4 in subsection (b) shall be necessary for the construction,
5 connection, operation, or maintenance of an oil or natural
6 gas pipeline or electric transmission facility, or any cross-
7 border segment of the pipeline or facility.

8 (b) APPLICABLE PROVISIONS.—Subsection (a) ap-
9 plies to—

10 (1) section 301 of title 3, United States Code;

11 (2) Executive Order 11423 (3 U.S.C. 301
12 note);

13 (3) Executive Order 13337 (3 U.S.C. 301
14 note);

15 (4) Executive Order 10485 (15 U.S.C. 717b
16 note);

17 (5) Executive Order 12038 (42 U.S.C. 7151
18 note); and

19 (6) any other Executive order.

20 **SEC. 8. MODIFICATIONS TO EXISTING PROJECTS.**

21 No certificate of crossing under section 4, or permit
22 described in section 7, shall be required for a modification
23 to the construction, connection, operation, or maintenance
24 of an oil or natural gas pipeline or electric transmission
25 facility—

1 (1) that is operating for the import or export
2 of oil or natural gas or the transmission of elec-
3 tricity to or from Canada or Mexico as of the date
4 of enactment of the Act;

5 (2) for which a permit described in section 7 for
6 the construction, connection, operation, or mainte-
7 nance has been issued; or

8 (3) for which a certificate of crossing for the
9 cross-border segment of the pipeline or facility has
10 previously been issued under section 4.

11 **SEC. 9. EFFECTIVE DATE; RULEMAKING DEADLINES.**

12 (a) **EFFECTIVE DATE.**—Sections 4 through 8, and
13 the amendments made by those sections, take effect on
14 July 1, 2016.

15 (b) **RULEMAKING DEADLINES.**—Each relevant offi-
16 cial described in section 4(b)(2) shall—

17 (1) not later than 180 days after the date of
18 enactment of this Act, publish in the Federal Reg-
19 ister notice of a proposed rulemaking to carry out
20 the applicable requirements of section 4; and

21 (2) not later than 1 year after the date of en-
22 actment of this Act, publish in the Federal Register
23 a final rule to carry out the applicable requirements
24 of section 4.

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