115TH CONGRESS 1ST SESSION

H.R. 2910

AN ACT

To provide for Federal and State agency coordination in the approval of certain authorizations under the Natural Gas Act, and for other purposes.

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

1 SECTION 1. SHORT TITLE.

- 2 This Act may be cited as the "Promoting Interagency
- 3 Coordination for Review of Natural Gas Pipelines Act".
- 4 SEC. 2. FERC PROCESS COORDINATION FOR NATURAL GAS
- 5 PIPELINE PROJECTS.
- 6 (a) Definitions.—In this section:
- 7 (1) COMMISSION.—The term "Commission"
- 8 means the Federal Energy Regulatory Commission.
- 9 (2) FEDERAL AUTHORIZATION.—The term
- 10 "Federal authorization" has the meaning given that
- term in section 15(a) of the Natural Gas Act (15
- 12 U.S.C. 717n(a)).
- 13 (3) NEPA REVIEW.—The term "NEPA review"
- means the process of reviewing a proposed Federal
- action under section 102 of the National Environ-
- mental Policy Act of 1969 (42 U.S.C. 4332).
- 17 (4) Project-related Nepa Review.—The
- term "project-related NEPA review" means any
- 19 NEPA review required to be conducted with respect
- to the issuance of an authorization under section 3
- of the Natural Gas Act or a certificate of public con-
- venience and necessity under section 7 of such Act.
- 23 (b) Commission NEPA Review Responsibil-
- 24 ITIES.—In acting as the lead agency under section
- 25 15(b)(1) of the Natural Gas Act for the purposes of com-
- 26 plying with the National Environmental Policy Act of

- 1 1969 (42 U.S.C. 4321 et seq.) with respect to an author-
- 2 ization under section 3 of the Natural Gas Act or a certifi-
- 3 cate of public convenience and necessity under section 7
- 4 of such Act, the Commission shall, in accordance with this
- 5 section and other applicable Federal law—
- 6 (1) be the only lead agency;
- 7 (2) coordinate as early as practicable with each 8 agency designated as a participating agency under 9 subsection (d)(3) to ensure that the Commission de-10 velops information in conducting its project-related 11 NEPA review that is usable by the participating 12 agency in considering an aspect of an application for 13 a Federal authorization for which the agency is re-14 sponsible; and
- 15 (3) take such actions as are necessary and 16 proper to facilitate the expeditious resolution of its 17 project-related NEPA review.
- 18 (c) Deference to Commission.—In making a deci-
- 19 sion with respect to a Federal authorization required with
- 20 respect to an application for authorization under section
- 21 3 of the Natural Gas Act or a certificate of public conven-
- 22 ience and necessity under section 7 of such Act, each agen-
- 23 cy shall give deference, to the maximum extent authorized
- 24 by law, to the scope of the project-related NEPA review
- 25 that the Commission determines to be appropriate.

(d) Participating Agencies.—

(1) IDENTIFICATION.—The Commission shall identify, as early as practicable after it is notified by a person applying for an authorization under section 3 of the Natural Gas Act or a certificate of public convenience and necessity under section 7 of such Act, any Federal or State agency, local government, or Indian Tribe that may issue a Federal authorization or is required by Federal law to consult with the Commission in conjunction with the issuance of a Federal authorization required for such authorization or certificate.

(2) Invitation.—

- (A) IN GENERAL.—The Commission shall invite any agency identified under paragraph(1) to participate in the review process for the applicable Federal authorization.
- (B) DEADLINE.—An invitation issued under subparagraph (A) shall establish a deadline by which a response to the invitation shall be submitted to the Commission, which may be extended by the Commission for good cause.
- (3) Designation as participating agency CIES.—The Commission shall designate an agency identified under paragraph (1) as a participating

- agency with respect to an application for authorization under section 3 of the Natural Gas Act or a certificate of public convenience and necessity under section 7 of such Act unless the agency informs the Commission, in writing, by the deadline established pursuant to paragraph (2)(B), that the agency—
 - (A) has no jurisdiction or authority with respect to the applicable Federal authorization;
 - (B) has no special expertise or information relevant to any project-related NEPA review; or
 - (C) does not intend to submit comments for the record for the project-related NEPA review conducted by the Commission.

(4) Effect of non-designation.—

(A) EFFECT ON AGENCY.—Any agency that is not designated as a participating agency under paragraph (3) with respect to an application for an authorization under section 3 of the Natural Gas Act or a certificate of public convenience and necessity under section 7 of such Act may not request or conduct a NEPA review that is supplemental to the project-related NEPA review conducted by the Commission, unless the agency—

1	(i) demonstrates that such review is
2	legally necessary for the agency to carry
3	out responsibilities in considering an as-
4	pect of an application for a Federal au-
5	thorization; and
6	(ii) requires information that could
7	not have been obtained during the project-
8	related NEPA review conducted by the
9	Commission.
10	(B) Comments; Record.—The Commis-
11	sion shall not, with respect to an agency that is
12	not designated as a participating agency under
13	paragraph (3) with respect to an application for
14	an authorization under section 3 of the Natural
15	Gas Act or a certificate of public convenience
16	and necessity under section 7 of such Act—
17	(i) consider any comments or other in-
18	formation submitted by such agency for
19	the project-related NEPA review conducted
20	by the Commission; or
21	(ii) include any such comments or
22	other information in the record for such
23	project-related NEPA review.
24	(e) Schedule.—

(1) DEADLINE FOR FEDERAL AUTHORIZATIONS.—A deadline for a Federal authorization required with respect to an application for authorization under section 3 of the Natural Gas Act or a
certificate of public convenience and necessity under
section 7 of such Act set by the Commission under
section 15(c)(1) of such Act shall be not later than
90 days after the Commission completes its projectrelated NEPA review, unless an applicable schedule
is otherwise established by Federal law.

(2) CONCURRENT REVIEWS.—Each Federal and State agency—

(A) that may consider an application for a Federal authorization required with respect to an application for authorization under section 3 of the Natural Gas Act or a certificate of public convenience and necessity under section 7 of such Act shall formulate and implement a plan for administrative, policy, and procedural mechanisms to enable the agency to ensure completion of Federal authorizations in compliance with schedules established by the Commission under section 15(c)(1) of such Act; and

(B) in considering an aspect of an application for a Federal authorization required with

1	respect to an application for authorization
2	under section 3 of the Natural Gas Act or a
3	certificate of public convenience and necessity
4	under section 7 of such Act, shall—
5	(i) formulate and implement a plan to
6	enable the agency to comply with the
7	schedule established by the Commission
8	under section 15(c)(1) of such Act;
9	(ii) carry out the obligations of that
10	agency under applicable law concurrently,
11	and in conjunction with, the project-related
12	NEPA review conducted by the Commis-
13	sion, and in compliance with the schedule
14	established by the Commission under sec-
15	tion 15(c)(1) of such Act, unless the agen-
16	cy notifies the Commission in writing that
17	doing so would impair the ability of the
18	agency to conduct needed analysis or oth-
19	erwise carry out such obligations;
20	(iii) transmit to the Commission a
21	statement—
22	(I) acknowledging receipt of the
23	schedule established by the Commis-
24	sion under section $15(c)(1)$ of the
25	Natural Gas Act; and

1	(II) setting forth the plan formu-
2	lated under clause (i) of this subpara-
3	graph;
4	(iv) not later than 30 days after the
5	agency receives such application for a Fed-
6	eral authorization, transmit to the appli-
7	cant a notice—
8	(I) indicating whether such appli-
9	cation is ready for processing; and
10	(II) if such application is not
11	ready for processing, that includes a
12	comprehensive description of the in-
13	formation needed for the agency to
14	determine that the application is
15	ready for processing;
16	(v) determine that such application
17	for a Federal authorization is ready for
18	processing for purposes of clause (iv) if
19	such application is sufficiently complete for
20	the purposes of commencing consideration,
21	regardless of whether supplemental infor-
22	mation is necessary to enable the agency to
23	complete the consideration required by law
24	with respect to such application; and

1	(vi) not less often than once every 90
2	days, transmit to the Commission a report
3	describing the progress made in consid-
4	ering such application for a Federal au-
5	thorization.
6	(3) Failure to meet deadline.—If a Fed-
7	eral or State agency, including the Commission, fails
8	to meet a deadline for a Federal authorization set
9	forth in the schedule established by the Commission
10	under section 15(c)(1) of the Natural Gas Act, not
11	later than 5 days after such deadline, the head of
12	the relevant Federal agency (including, in the case
13	of a failure by a State agency, the Federal agency
14	overseeing the delegated authority) shall notify Con-
15	gress and the Commission of such failure and set
16	forth a recommended implementation plan to ensure
17	completion of the action to which such deadline ap-
18	plied.
19	(f) Consideration of Applications for Federal
20	AUTHORIZATION.—
21	(1) Issue identification and resolu-
22	TION.—
23	(A) IDENTIFICATION.—Federal and State
24	agencies that may consider an aspect of an ap-
25	plication for a Federal authorization shall iden-

- tify, as early as possible, any issues of concern that may delay or prevent an agency from working with the Commission to resolve such issues and granting such authorization.
 - (B) Issue Resolution.—The Commission may forward any issue of concern identified under subparagraph (A) to the heads of the relevant agencies (including, in the case of an issue of concern that is a failure by a State agency, the Federal agency overseeing the delegated authority, if applicable) for resolution.
 - (2) Remote surveys.—If a Federal or State agency considering an aspect of an application for a Federal authorization requires the person applying for such authorization to submit data, the agency shall consider any such data gathered by aerial or other remote means that the person submits. The agency may grant a conditional approval for the Federal authorization based on data gathered by aerial or remote means, conditioned on the verification of such data by subsequent onsite inspection.
 - (3) APPLICATION PROCESSING.—The Commission, and Federal and State agencies, may allow a person applying for a Federal authorization to fund

1	a third-party contractor to assist in reviewing the
2	application for such authorization.
3	(g) Accountability, Transparency, Effi-
4	CIENCY.—For an application for an authorization under
5	section 3 of the Natural Gas Act or a certificate of public
6	convenience and necessity under section 7 of such Act that
7	requires multiple Federal authorizations, the Commission,
8	with input from any Federal or State agency considering
9	an aspect of the application, shall track and make avail-
10	able to the public on the Commission's website information
11	related to the actions required to complete the Federal au-
12	thorizations. Such information shall include the following:
13	(1) The schedule established by the Commission
14	under section $15(c)(1)$ of the Natural Gas Act.
15	(2) A list of all the actions required by each ap-
16	plicable agency to complete permitting, reviews, and
17	other actions necessary to obtain a final decision on
18	the application.
19	(3) The expected completion date for each such
20	action.
21	(4) A point of contact at the agency responsible
22	for each such action.
23	(5) In the event that an action is still pending
24	as of the expected date of completion, a brief expla-

nation of the reasons for the delay.

25

1 SEC. 3. PIPELINE SECURITY.

- 2 In considering an application for an authorization
- 3 under section 3 of the Natural Gas Act or a certificate
- 4 of public convenience and necessity under section 7 of such
- 5 Act, the Federal Energy Regulatory Commission shall
- 6 consult with the Administrator of the Transportation Se-
- 7 curity Administration regarding the applicant's compli-
- 8 ance with security guidance and best practice rec-
- 9 ommendations of the Administration regarding pipeline
- 10 infrastructure security, pipeline cybersecurity, pipeline
- 11 personnel security, and other pipeline security measures.

Passed the House of Representatives July 19, 2017. Attest:

Clerk.

115TH CONGRESS H. R. 2910

AN ACT

To provide for Federal and State agency coordination in the approval of certain authorizations under the Natural Gas Act, and for other purposes.