

115TH CONGRESS
1ST SESSION

H. R. 2910

IN THE SENATE OF THE UNITED STATES

JULY 20, 2017

Received; read twice and referred to the Committee on Commerce, Science,
and Transportation

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-*
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
11 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”
14 means the process of reviewing a proposed Federal
15 action under section 102 of the National Environ-
16 mental Policy Act of 1969 (42 U.S.C. 4332).

17 (4) PROJECT-RELATED NEPA REVIEW.—The
18 term “project-related NEPA review” means any
19 NEPA review required to be conducted with respect
20 to the issuance of an authorization under section 3
21 of the Natural Gas Act or a certificate of public con-
22 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.

1 (d) PARTICIPATING AGENCIES.—

2 (1) IDENTIFICATION.—The Commission shall
3 identify, as early as practicable after it is notified by
4 a person applying for an authorization under section
5 3 of the Natural Gas Act or a certificate of public
6 convenience and necessity under section 7 of such
7 Act, any Federal or State agency, local government,
8 or Indian Tribe that may issue a Federal authoriza-
9 tion or is required by Federal law to consult with
10 the Commission in conjunction with the issuance of
11 a Federal authorization required for such authoriza-
12 tion or certificate.

13 (2) INVITATION.—

14 (A) IN GENERAL.—The Commission shall
15 invite any agency identified under paragraph
16 (1) to participate in the review process for the
17 applicable Federal authorization.

18 (B) DEADLINE.—An invitation issued
19 under subparagraph (A) shall establish a dead-
20 line by which a response to the invitation shall
21 be submitted to the Commission, which may be
22 extended by the Commission for good cause.

23 (3) DESIGNATION AS PARTICIPATING AGEN-
24 CIES.—The Commission shall designate an agency
25 identified under paragraph (1) as a participating

1 agency with respect to an application for authoriza-
2 tion under section 3 of the Natural Gas Act or a
3 certificate of public convenience and necessity under
4 section 7 of such Act unless the agency informs the
5 Commission, in writing, by the deadline established
6 pursuant to paragraph (2)(B), that the agency—

7 (A) has no jurisdiction or authority with
8 respect to the applicable Federal authorization;

9 (B) has no special expertise or information
10 relevant to any project-related NEPA review; or

11 (C) does not intend to submit comments
12 for the record for the project-related NEPA re-
13 view conducted by the Commission.

14 (4) EFFECT OF NON-DESIGNATION.—

15 (A) EFFECT ON AGENCY.—Any agency
16 that is not designated as a participating agency
17 under paragraph (3) with respect to an applica-
18 tion for an authorization under section 3 of the
19 Natural Gas Act or a certificate of public con-
20 venience and necessity under section 7 of such
21 Act may not request or conduct a NEPA review
22 that is supplemental to the project-related
23 NEPA review conducted by the Commission,
24 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 (1) DEADLINE FOR FEDERAL AUTHORIZA-
2 TIONS.—A deadline for a Federal authorization re-
3 quired with respect to an application for authoriza-
4 tion under section 3 of the Natural Gas Act or a
5 certificate of public convenience and necessity under
6 section 7 of such Act set by the Commission under
7 section 15(c)(1) of such Act shall be not later than
8 90 days after the Commission completes its project-
9 related NEPA review, unless an applicable schedule
10 is otherwise established by Federal law.

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

13 (A) that may consider an application for a
14 Federal authorization required with respect to
15 an application for authorization under section 3
16 of the Natural Gas Act or a certificate of public
17 convenience and necessity under section 7 of
18 such Act shall formulate and implement a plan
19 for administrative, policy, and procedural mech-
20 anisms to enable the agency to ensure comple-
21 tion of Federal authorizations in compliance
22 with schedules established by the Commission
23 under section 15(c)(1) of such Act; and

24 (B) in considering an aspect of an applica-
25 tion 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-

1 tify, as early as possible, any issues of concern
2 that may delay or prevent an agency from
3 working with the Commission to resolve such
4 issues and granting such authorization.

5 (B) ISSUE RESOLUTION.—The Commission
6 may forward any issue of concern identified
7 under subparagraph (A) to the heads of the rel-
8 evant agencies (including, in the case of an
9 issue of concern that is a failure by a State
10 agency, the Federal agency overseeing the dele-
11 gated authority, if applicable) for resolution.

12 (2) REMOTE SURVEYS.—If a Federal or State
13 agency considering an aspect of an application for a
14 Federal authorization requires the person applying
15 for such authorization to submit data, the agency
16 shall consider any such data gathered by aerial or
17 other remote means that the person submits. The
18 agency may grant a conditional approval for the
19 Federal authorization based on data gathered by
20 aerial or remote means, conditioned on the
21 verification of such data by subsequent onsite in-
22 spection.

23 (3) APPLICATION PROCESSING.—The Commis-
24 sion, and Federal and State agencies, may allow a
25 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-
25 nation of the reasons for the delay.

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:

KAREN L. HAAS,

Clerk.