

Union Calendar No. 158

115TH CONGRESS
1ST SESSION

H. R. 2910

[Report No. 115-223]

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

IN THE HOUSE OF REPRESENTATIVES

JUNE 15, 2017

Mr. FLORES (for himself, Mr. MCKINLEY, Mr. JOHNSON of Ohio, Mr. OLSON, and Mr. COLLINS of New York) introduced the following bill; which was referred to the Committee on Energy and Commerce

JULY 17, 2017

Additional sponsors: Mr. CRAMER and Mr. SESSIONS

JULY 17, 2017

Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

A BILL

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,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Promoting Interagency
5 Coordination for Review of Natural Gas Pipelines Act”.

6 **SEC. 2. FERC PROCESS COORDINATION FOR NATURAL GAS**
7 **PIPELINE PROJECTS.**

8 (a) DEFINITIONS.—In this section:

9 (1) COMMISSION.—The term “Commission”
10 means the Federal Energy Regulatory Commission.

11 (2) FEDERAL AUTHORIZATION.—The term
12 “Federal authorization” has the meaning given that
13 term in section 15(a) of the Natural Gas Act (15
14 U.S.C. 717n(a)).

15 (3) NEPA REVIEW.—The term “NEPA review”
16 means the process of reviewing a proposed Federal
17 action under section 102 of the National Environ-
18 mental Policy Act of 1969 (42 U.S.C. 4332).

19 (4) PROJECT-RELATED NEPA REVIEW.—The
20 term “project-related NEPA review” means any
21 NEPA review required to be conducted with respect
22 to the issuance of an authorization under section 3
23 of the Natural Gas Act or a certificate of public con-
24 venience and necessity under section 7 of such Act.

1 (b) COMMISSION NEPA REVIEW RESPONSIBIL-
2 ITIES.—In acting as the lead agency under section
3 15(b)(1) of the Natural Gas Act for the purposes of com-
4 plying with the National Environmental Policy Act of
5 1969 (42 U.S.C. 4321 et seq.) with respect to an author-
6 ization under section 3 of the Natural Gas Act or a certifi-
7 cate of public convenience and necessity under section 7
8 of such Act, the Commission shall, in accordance with this
9 section and other applicable Federal law—

10 (1) be the only lead agency;

11 (2) coordinate as early as practicable with each
12 agency designated as a participating agency under
13 subsection (d)(3) to ensure that the Commission de-
14 velops information in conducting its project-related
15 NEPA review that is usable by the participating
16 agency in considering an aspect of an application for
17 a Federal authorization for which the agency is re-
18 sponsible; and

19 (3) take such actions as are necessary and
20 proper to facilitate the expeditious resolution of its
21 project-related NEPA review.

22 (c) DEFERENCE TO COMMISSION.—In making a deci-
23 sion with respect to a Federal authorization required with
24 respect to an application for authorization under section
25 3 of the Natural Gas Act or a certificate of public conven-

1 ience and necessity under section 7 of such Act, each agen-
2 cy shall give deference, to the maximum extent authorized
3 by law, to the scope of the project-related NEPA review
4 that the Commission determines to be appropriate.

5 (d) PARTICIPATING AGENCIES.—

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

17 (2) INVITATION.—

18 (A) IN GENERAL.—The Commission shall
19 invite any agency identified under paragraph
20 (1) to participate in the review process for the
21 applicable Federal authorization.

22 (B) DEADLINE.—An invitation issued
23 under subparagraph (A) shall establish a dead-
24 line by which a response to the invitation shall

1 be submitted to the Commission, which may be
2 extended by the Commission for good cause.

3 (3) DESIGNATION AS PARTICIPATING AGEN-
4 CIES.—The Commission shall designate an agency
5 identified under paragraph (1) as a participating
6 agency with respect to an application for authoriza-
7 tion under section 3 of the Natural Gas Act or a
8 certificate of public convenience and necessity under
9 section 7 of such Act unless the agency informs the
10 Commission, in writing, by the deadline established
11 pursuant to paragraph (2)(B), that the agency—

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

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

16 (C) does not intend to submit comments
17 for the record for the project-related NEPA re-
18 view conducted by the Commission.

19 (4) EFFECT OF NON-DESIGNATION.—

20 (A) EFFECT ON AGENCY.—Any agency
21 that is not designated as a participating agency
22 under paragraph (3) with respect to an applica-
23 tion for an authorization under section 3 of the
24 Natural Gas Act or a certificate of public con-
25 venience and necessity under section 7 of such

1 Act may not request or conduct a NEPA review
2 that is supplemental to the project-related
3 NEPA review conducted by the Commission,
4 unless the agency—

5 (i) demonstrates that such review is
6 legally necessary for the agency to carry
7 out responsibilities in considering an as-
8 pect of an application for a Federal au-
9 thorization; and

10 (ii) requires information that could
11 not have been obtained during the project-
12 related NEPA review conducted by the
13 Commission.

14 (B) COMMENTS; RECORD.—The Commis-
15 sion shall not, with respect to an agency that is
16 not designated as a participating agency under
17 paragraph (3) with respect to an application for
18 an authorization under section 3 of the Natural
19 Gas Act or a certificate of public convenience
20 and necessity under section 7 of such Act—

21 (i) consider any comments or other in-
22 formation submitted by such agency for
23 the project-related NEPA review conducted
24 by the Commission; or

1 (ii) include any such comments or
2 other information in the record for such
3 project-related NEPA review.

4 (e) SCHEDULE.—

5 (1) DEADLINE FOR FEDERAL AUTHORIZA-
6 TIONS.—A deadline for a Federal authorization re-
7 quired with respect to an application for authoriza-
8 tion under section 3 of the Natural Gas Act or a
9 certificate of public convenience and necessity under
10 section 7 of such Act set by the Commission under
11 section 15(c)(1) of such Act shall be not later than
12 90 days after the Commission completes its project-
13 related NEPA review, unless an applicable schedule
14 is otherwise established by Federal law.

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

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

1 with schedules established by the Commission
2 under section 15(c)(1) of such Act; and

3 (B) in considering an aspect of an applica-
4 tion for a Federal authorization required with
5 respect to an application for authorization
6 under section 3 of the Natural Gas Act or a
7 certificate of public convenience and necessity
8 under section 7 of such Act, shall—

9 (i) formulate and implement a plan to
10 enable the agency to comply with the
11 schedule established by the Commission
12 under section 15(c)(1) of such Act;

13 (ii) carry out the obligations of that
14 agency under applicable law concurrently,
15 and in conjunction with, the project-related
16 NEPA review conducted by the Commis-
17 sion, and in compliance with the schedule
18 established by the Commission under sec-
19 tion 15(c)(1) of such Act, unless the agen-
20 cy notifies the Commission in writing that
21 doing so would impair the ability of the
22 agency to conduct needed analysis or oth-
23 erwise carry out such obligations;

24 (iii) transmit to the Commission a
25 statement—

1 (I) acknowledging receipt of the
2 schedule established by the Commis-
3 sion under section 15(c)(1) of the
4 Natural Gas Act; and

5 (II) setting forth the plan formu-
6 lated under clause (i) of this subpara-
7 graph;

8 (iv) not later than 30 days after the
9 agency receives such application for a Fed-
10 eral authorization, transmit to the appli-
11 cant a notice—

12 (I) indicating whether such appli-
13 cation is ready for processing; and

14 (II) if such application is not
15 ready for processing, that includes a
16 comprehensive description of the in-
17 formation needed for the agency to
18 determine that the application is
19 ready for processing;

20 (v) determine that such application
21 for a Federal authorization is ready for
22 processing for purposes of clause (iv) if
23 such application is sufficiently complete for
24 the purposes of commencing consideration,
25 regardless of whether supplemental infor-

1 mation is necessary to enable the agency to
2 complete the consideration required by law
3 with respect to such application; and

4 (vi) not less often than once every 90
5 days, transmit to the Commission a report
6 describing the progress made in consid-
7 ering such application for a Federal au-
8 thorization.

9 (3) FAILURE TO MEET DEADLINE.—If a Fed-
10 eral or State agency, including the Commission, fails
11 to meet a deadline for a Federal authorization set
12 forth in the schedule established by the Commission
13 under section 15(c)(1) of the Natural Gas Act, not
14 later than 5 days after such deadline, the head of
15 the relevant Federal agency (including, in the case
16 of a failure by a State agency, the Federal agency
17 overseeing the delegated authority) shall notify Con-
18 gress and the Commission of such failure and set
19 forth a recommended implementation plan to ensure
20 completion of the action to which such deadline ap-
21 plied.

22 (f) CONSIDERATION OF APPLICATIONS FOR FEDERAL
23 AUTHORIZATION.—

24 (1) ISSUE IDENTIFICATION AND RESOLU-
25 TION.—

1 (A) IDENTIFICATION.—Federal and State
2 agencies that may consider an aspect of an ap-
3 plication for a Federal authorization shall iden-
4 tify, as early as possible, any issues of concern
5 that may delay or prevent an agency from
6 working with the Commission to resolve such
7 issues and granting such authorization.

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

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

1 (3) APPLICATION PROCESSING.—The Commis-
2 sion, and Federal and State agencies, may allow a
3 person applying for a Federal authorization to fund
4 a third-party contractor to assist in reviewing the
5 application for such authorization.

6 (g) ACCOUNTABILITY, TRANSPARENCY, EFFI-
7 CIENCY.—For an application for an authorization under
8 section 3 of the Natural Gas Act or a certificate of public
9 convenience and necessity under section 7 of such Act that
10 requires multiple Federal authorizations, the Commission,
11 with input from any Federal or State agency considering
12 an aspect of the application, shall track and make avail-
13 able to the public on the Commission’s website information
14 related to the actions required to complete the Federal au-
15 thorizations. Such information shall include the following:

16 (1) The schedule established by the Commission
17 under section 15(c)(1) of the Natural Gas Act.

18 (2) A list of all the actions required by each ap-
19 plicable agency to complete permitting, reviews, and
20 other actions necessary to obtain a final decision on
21 the application.

22 (3) The expected completion date for each such
23 action.

24 (4) A point of contact at the agency responsible
25 for each such action.

1 (5) In the event that an action is still pending
2 as of the expected date of completion, a brief expla-
3 nation of the reasons for the delay.

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