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

SECTION 1. SHORT TITLE.

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

SEC. 2. FERC PROCESS COORDINATION FOR NATURAL GAS
PIPELINE PROJECTS.

(a) DEFINITIONS.—In this section:

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

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

(3) NEPA REVIEW.—The term “NEPA review”
means the process of reviewing a proposed Federal
action under section 102 of the National Environ-

(4) PROJECT-RELATED NEPA REVIEW.—The
term “project-related NEPA review” means any
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.
(b) **Commission NEPA Review Responsibilities.**—In acting as the lead agency under section 15(b)(1) of the Natural Gas Act for the purposes of complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) with respect to an authorization under section 3 of the Natural Gas Act or a certificate of public convenience and necessity under section 7 of such Act, the Commission shall, in accordance with this section and other applicable Federal law—

1. be the only lead agency;
2. coordinate as early as practicable with each agency designated as a participating agency under subsection (d)(3) to ensure that the Commission develops information in conducting its project-related NEPA review that is usable by the participating agency in considering an aspect of an application for a Federal authorization for which the agency is responsible; and
3. take such actions as are necessary and proper to facilitate the expeditious resolution of its project-related NEPA review.

(c) **Deference to Commission.**—In making a decision with respect to a Federal authorization required with respect to an application for authorization under section 3 of the Natural Gas Act or a certificate of public conven-
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
be submitted to the Commission, which may be
extended by the Commission for good cause.

(3) Designation as participating agencies.—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—

(i) demonstrates that such review is legally necessary for the agency to carry out responsibilities in considering an aspect of an application for a Federal authorization; and

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

(B) COMMENTS; RECORD.—The Commission shall not, with respect to an 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—

(i) consider any comments or other information submitted by such agency for the project-related NEPA review conducted by the Commission; or
(ii) include any such comments or other information in the record for such project-related NEPA review.

(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 project-related 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 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—

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

(ii) carry out the obligations of that agency under applicable law concurrently, and in conjunction with, the project-related NEPA review conducted by the Commission, and in compliance with the schedule established by the Commission under section 15(c)(1) of such Act, unless the agency notifies the Commission in writing that doing so would impair the ability of the agency to conduct needed analysis or otherwise carry out such obligations;

(iii) transmit to the Commission a statement—
(I) acknowledging receipt of the schedule established by the Commission under section 15(c)(1) of the Natural Gas Act; and

(II) setting forth the plan formulated under clause (i) of this subparagraph;

(iv) not later than 30 days after the agency receives such application for a Federal authorization, transmit to the applicant a notice—

(I) indicating whether such application is ready for processing; and

(II) if such application is not ready for processing, that includes a comprehensive description of the information needed for the agency to determine that the application is ready for processing;

(v) determine that such application for a Federal authorization is ready for processing for purposes of clause (iv) if such application is sufficiently complete for the purposes of commencing consideration, regardless of whether supplemental infor-
mation is necessary to enable the agency to
complete the consideration required by law
with respect to such application; and
(vi) not less often than once every 90
days, transmit to the Commission a report
describing the progress made in consid-
ering such application for a Federal au-
thorization.

(3) Failure to meet deadline.—If a Fed-
eral or State agency, including the Commission, fails
to meet a deadline for a Federal authorization set
forth in the schedule established by the Commission
under section 15(c)(1) of the Natural Gas Act, not
later than 5 days after such deadline, the head of
the relevant Federal agency (including, in the case
of a failure by a State agency, the Federal agency
overseeing the delegated authority) shall notify Con-
gress and the Commission of such failure and set
forth a recommended implementation plan to ensure
completion of the action to which such deadline ap-
plied.

(f) Consideration of Applications for Federal
Authorization.—

(1) Issue identification and resolu-
tion.—
(A) IDENTIFICATION.—Federal and State agencies that may consider an aspect of an application for a Federal authorization shall identify, 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 a third-party contractor to assist in reviewing the application for such authorization.

(g) Accountability, transparency, efficiency.—For 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 that requires multiple Federal authorizations, the Commission, with input from any Federal or State agency considering an aspect of the application, shall track and make available to the public on the Commission’s website information related to the actions required to complete the Federal authorizations. Such information shall include the following:

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

(2) A list of all the actions required by each applicable agency to complete permitting, reviews, and other actions necessary to obtain a final decision on the application.

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

(4) A point of contact at the agency responsible for each such action.
(5) In the event that an action is still pending as of the expected date of completion, a brief explanation of the reasons for the delay.
A BILL

[Report No. 115-223]

H. R. 2910

115TH CONGRESS

1st Session

To provide for Federal and State agency coordination under the Natural Gas Act, and for other purposes.

JULY 17, 2017

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