

115TH CONGRESS  
2D SESSION

# S. 3056

To establish a more uniform, transparent, and modern process to authorize the construction, connection, operation, and maintenance of international border-crossing facilities for the import and export of oil and natural gas and the transmission of electricity.

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IN THE SENATE OF THE UNITED STATES

JUNE 12, 2018

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

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## A BILL

To establish a more uniform, transparent, and modern process to authorize the construction, connection, operation, and maintenance of international border-crossing facilities for the import and export of oil and natural gas and the transmission of electricity.

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. APPROVAL FOR BORDER-CROSSING FACILITIES.**

2 (a) AUTHORIZATION OF CERTAIN ENERGY INFRA-  
3 STRUCTURE PROJECTS AT AN INTERNATIONAL BOUND-  
4 ARY OF THE UNITED STATES.—

5 (1) AUTHORIZATION.—Except as provided in  
6 paragraph (3) and subsection (e), no person may  
7 construct, connect, or operate, a border-crossing fa-  
8 cility for the import or export of oil or natural gas,  
9 or the transmission of electricity, across an inter-  
10 national border of the United States without obtain-  
11 ing a certificate of crossing for the border-crossing  
12 facility under this subsection.

13 (2) CERTIFICATE OF CROSSING.—

14 (A) REQUIREMENT.—Not later than 90  
15 days after final action is taken, by the relevant  
16 official or agency identified under subparagraph  
17 (B), under the National Environmental Policy  
18 Act of 1969 (42 U.S.C. 4321 et seq.) with re-  
19 spect to a border-crossing facility for which a  
20 person requests a certificate of crossing under  
21 this subsection, the relevant official or agency,  
22 in consultation with appropriate Federal agen-  
23 cies, shall issue a certificate of crossing for the  
24 border-crossing facility unless the relevant offi-  
25 cial or agency finds that the construction, con-  
26 nection, or operation, of the border-crossing fa-

1           cility is not in the public interest of the United  
2           States.

3           (B) RELEVANT OFFICIAL OR AGENCY.—

4           The relevant official or agency referred to in  
5           subparagraph (A) is—

6                   (i) the Federal Energy Regulatory  
7                   Commission with respect to border-cross-  
8                   ing facilities consisting of oil or natural  
9                   gas pipelines; and

10                   (ii) the Secretary of Energy with re-  
11                   spect to border-crossing facilities consisting  
12                   of electric transmission facilities.

13           (C) ADDITIONAL REQUIREMENT FOR

14           ELECTRIC TRANSMISSION FACILITIES.—In the

15           case of a request for a certificate of crossing for

16           a border-crossing facility consisting of an elec-

17           tric transmission facility, the Secretary of En-

18           ergy shall require, as a condition of issuing the

19           certificate of crossing under subparagraph (A),

20           that the border-crossing facility be constructed,

21           connected, operated, or maintained consistent

22           with all applicable policies and standards of—

23                   (i) the Electric Reliability Organiza-  
24                   tion and the applicable regional entity; and

1                   (ii) any Regional Transmission Orga-  
2                   nization or Independent System Operator  
3                   with operational or functional control over  
4                   the border-crossing facility.

5                   (3) EXCLUSIONS.—This subsection shall not  
6                   apply to any construction, connection, operation, or  
7                   maintenance of a border-crossing facility for the im-  
8                   port or export of oil or natural gas, or the trans-  
9                   mission of electricity—

10                   (A) if the border-crossing facility is oper-  
11                   ating for such import, export, or transmission  
12                   as of the date of enactment of this Act;

13                   (B) if a permit described in subsection (d)  
14                   for the construction, connection, operation, or  
15                   maintenance has been issued; or

16                   (C) if an application for a permit described  
17                   in subsection (d) for the construction, connec-  
18                   tion, operation, or maintenance is pending on  
19                   the date of enactment of this Act, until the ear-  
20                   lier of—

21                   (i) the date on which such application  
22                   is denied; or

23                   (ii) 2 years after the date of enact-  
24                   ment of this Act, if such a permit has not  
25                   been issued by such date.

1 (4) EFFECT OF OTHER LAWS.—

2 (A) APPLICATION TO PROJECTS.—Nothing  
3 in this subsection or subsection (e) shall affect  
4 the application of any other Federal statute to  
5 a project for which a certificate of crossing for  
6 a border-crossing facility is requested under  
7 this subsection.

8 (B) NATURAL GAS ACT.—Nothing in this  
9 subsection or subsection (e) shall affect the re-  
10 quirement to obtain approval or authorization  
11 under sections 3 and 7 of the Natural Gas Act  
12 (15 U.S.C. 717b, 717f) for the siting, construc-  
13 tion, or operation of any facility to import or  
14 export natural gas.

15 (C) OIL PIPELINES.—Nothing in this sub-  
16 section or subsection (e) shall affect the author-  
17 ity of the Federal Energy Regulatory Commis-  
18 sion with respect to oil pipelines under section  
19 60502 of title 49, United States Code.

20 (D) SCOPE OF NEPA REVIEW.—Nothing in  
21 this Act, or the amendments made by this Act,  
22 shall affect the scope of any review required to  
23 be conducted under section 102 of the National  
24 Environmental Policy Act of 1969 (42 U.S.C.  
25 4332) with respect to a project for which a cer-

1           tificate of crossing for a border-crossing facility  
2           is requested under this subsection.

3           (b) IMPORTATION OR EXPORTATION OF NATURAL  
4 GAS TO CANADA AND MEXICO.—Section 3(c) of the Nat-  
5 ural Gas Act (15 U.S.C. 717b(c)) is amended by adding  
6 at the end the following: “In the case of an application  
7 for the importation of natural gas from, or the exportation  
8 of natural gas to, Canada or Mexico, the Commission shall  
9 grant the application not later than 30 days after the date  
10 on which the Commission receives the complete applica-  
11 tion.”.

12           (c) TRANSMISSION OF ELECTRIC ENERGY TO CAN-  
13 ADA AND MEXICO.—

14           (1) REPEAL OF REQUIREMENT TO SECURE  
15 ORDER.—Section 202(e) of the Federal Power Act  
16 (16 U.S.C. 824a(e)) is repealed.

17           (2) CONFORMING AMENDMENTS.—

18           (A) STATE REGULATIONS.—Section 202(f)  
19 of the Federal Power Act (16 U.S.C. 824a(f))  
20 is amended by striking “insofar as such State  
21 regulation does not conflict with the exercise of  
22 the Commission’s powers under or relating to  
23 subsection (e)”.

24           (B) SEASONAL DIVERSITY ELECTRICITY  
25 EXCHANGE.—Section 602(b) of the Public Util-

1           ity Regulatory Policies Act of 1978 (16 U.S.C.  
2           824a–4(b)) is amended by striking “the Com-  
3           mission has conducted hearings and made the  
4           findings required under section 202(e) of the  
5           Federal Power Act” and all that follows  
6           through the period at the end and inserting  
7           “the Secretary has conducted hearings and  
8           finds that the proposed transmission facilities  
9           would not impair the sufficiency of electric sup-  
10          ply within the United States or would not im-  
11          pede or tend to impede the coordination in the  
12          public interest of facilities subject to the juris-  
13          diction of the Secretary.”.

14          (d) NO PRESIDENTIAL PERMIT REQUIRED.—No  
15          Presidential permit (or similar permit) required under Ex-  
16          ecutive Order No. 13337 (3 U.S.C. 301 note), Executive  
17          Order No. 11423 (3 U.S.C. 301 note), section 301 of title  
18          3, United States Code, Executive Order No. 12038, Exec-  
19          utive Order No. 10485, or any other Executive order shall  
20          be necessary for the construction, connection, operation,  
21          or maintenance of an oil or natural gas pipeline or electric  
22          transmission facility, or any border-crossing facility there-  
23          of.

24          (e) MODIFICATIONS TO AND MAINTENANCE OF EX-  
25          ISTING PROJECTS.—No certificate of crossing under sub-

1 section (a), or permit described in subsection (d), shall be  
2 required for a modification to or maintenance of—

3 (1) an oil or natural gas pipeline or electric  
4 transmission facility that is operating for the import  
5 or export of oil or natural gas or the transmission  
6 of electricity as of the date of enactment of this Act;

7 (2) an oil or natural gas pipeline or electric  
8 transmission facility for which a permit described in  
9 subsection (d) has been issued; or

10 (3) a border-crossing facility for which a certifi-  
11 cate of crossing has previously been issued under  
12 subsection (a).

13 (f) EFFECTIVE DATE; RULEMAKING DEADLINES.—

14 (1) EFFECTIVE DATE.—Subsections (a)  
15 through (e), and the amendments made by such sub-  
16 sections, shall take effect on the date that is 1 year  
17 after the date of enactment of this Act.

18 (2) RULEMAKING DEADLINES.—Each relevant  
19 official or agency described in subsection (a)(2)(B)  
20 shall—

21 (A) not later than 180 days after the date  
22 of enactment of this Act, publish in the Federal  
23 Register notice of a proposed rulemaking to  
24 carry out the applicable requirements of sub-  
25 section (a); and

1 (B) not later than 1 year after the date of  
2 enactment of this Act, publish in the Federal  
3 Register a final rule to carry out the applicable  
4 requirements of subsection (a).

5 (g) JUDICIAL REVIEW.—Any entity aggrieved by a  
6 final agency action taken under this section may obtain  
7 a review of such action by filing a petition for review in  
8 the United States Court of Appeals for any circuit wherein  
9 an applicant for authorization under this section is located  
10 or has its principal place of business, or in the United  
11 States Court of Appeals for the District of Columbia. The  
12 petition must be filed not later than 60 days after such  
13 action is taken.

14 (h) DEFINITIONS.—In this section—

15 (1) the term “border-crossing facility” means—

16 (A) the portion of an oil pipeline between  
17 an international boundary and the first main-  
18 line valve on the United States side of an inter-  
19 national boundary; and

20 (B) the portion of a natural gas pipeline or  
21 electric transmission facility that is located at  
22 an international boundary of the United States;

23 (2) the term “modification” includes a reversal  
24 of flow direction, change in ownership, change in  
25 flow volume, change in product delivered, addition or

1 removal of an interconnection, or an adjustment to  
2 regulate flow (such as a reduction or increase in the  
3 number of pump or compressor stations or valves);

4 (3) the term “natural gas” has the meaning  
5 given that term in section 2 of the Natural Gas Act  
6 (15 U.S.C. 717a);

7 (4) the term “oil” means petroleum or a petro-  
8 leum product;

9 (5) the terms “Electric Reliability Organiza-  
10 tion” and “regional entity” have the meanings given  
11 those terms in section 215 of the Federal Power Act  
12 (16 U.S.C. 824o);

13 (6) the terms “Independent System Operator”  
14 and “Regional Transmission Organization” have the  
15 meanings given those terms in section 3 of the Fed-  
16 eral Power Act (16 U.S.C. 796); and

17 (7) the term “appropriate Federal agencies” in  
18 subsection (a)(2)(A) means the Secretary of De-  
19 fense, the Attorney General, the Secretary of the In-  
20 terior, the Secretary of Commerce, the Secretary of  
21 Transportation, the Secretary of Energy, the Sec-  
22 retary of Homeland Security, the Administrator of  
23 the Environmental Protection Agency, and, for ap-  
24 plications concerning the border with Mexico, the

- 1 United States Commissioner of the International
- 2 Boundary and Water Commission.

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