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

JULY 25, 2019

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

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 Representatives 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 Environmental Policy Act of 1969 (42 U.S.C. 4332).

(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 convenience 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.

(e) 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 convenience and necessity under section 7 of such Act, each agency shall give deference, to the maximum extent authorized by law, to the scope of the project-related NEPA review 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 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.

(c) 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

•HR 3983 IH
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 mech-
anisms to enable the agency to ensure comple-
tion 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 applica-
tion 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(e)(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(e)(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(e)(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 Fed-
eral 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 information 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 considering such application for a Federal authorization.
(3) FAILURE TO MEET DEADLINE.—If a Federal 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 Congress and the Commission of such failure and set forth a recommended implementation plan to ensure completion of the action to which such deadline applied.

(f) CONSIDERATION OF APPLICATIONS FOR FEDERAL AUTHORIZATION.—

(1) ISSUE IDENTIFICATION AND RESOLUTION.—

(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 avail-
able to the public on the Commission’s website information
related to the actions required to complete the Federal au-
thorizations. 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 ap-
plicable 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 expla-
nation of the reasons for the delay.

SEC. 3. PIPELINE SECURITY.

In considering 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, the Federal Energy Regulatory Commission shall consult with the Administrator of the Transportation Security Administration regarding the applicant’s compliance with security guidance and best practice recommendations of the Administration regarding pipeline infrastructure security, pipeline cybersecurity, pipeline personnel security, and other pipeline security measures.