

Union Calendar No. 16

118TH CONGRESS
1ST SESSION

H. R. 1058

[Report No. 118–24, Part I]

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.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 17, 2023

Mr. ARMSTRONG introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committees on Transportation and Infrastructure, and Natural Resources, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

MARCH 23, 2023

Additional sponsors: Mr. BALDERSON, Mr. LATTA, Mr. BURGESS, Mr. RESCHENTHALER, Mr. BILIRAKIS, Mr. GRIFFITH, Mr. LAMBORN, Ms. STEFANIK, Mr. DUNCAN, Mr. WOMACK, Mrs. BICE, Mr. WALBERG, Mr. JACKSON of Texas, Mrs. LESKO, Mr. BUCSHON, Mr. CURTIS, and Mr. RUTHERFORD

MARCH 23, 2023

Reported from the Committee on Energy and Commerce with an amendment

[Strike out all after the enacting clause and insert the part printed in italic]

MARCH 23, 2023

Committees on Transportation and Infrastructure and Natural Resources discharged; committed to the Committee of the Whole House on the State of the Union and ordered to be printed

[For text of introduced bill, see copy of bill as introduced on February 17, 2023]

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 “Promoting Cross-border*
5 *Energy Infrastructure Act”.*

6 **SEC. 2. STRENGTHENING NORTH AMERICAN ENERGY SECU-**
7 **RITY.**

8 *(a) AUTHORIZATION OF CERTAIN ENERGY INFRA-*
9 *STRUCTURE PROJECTS AT AN INTERNATIONAL BOUNDARY*
10 *OF THE UNITED STATES.—*

11 *(1) AUTHORIZATION.—Except as provided in*
12 *paragraph (3) and subsection (e), no person may con-*
13 *struct, connect, operate, or maintain a border-crossing*
14 *facility for the import or export of oil or natural gas,*
15 *or the transmission of electricity, across an inter-*
16 *national border of the United States without obtain-*
17 *ing a certificate of crossing for the border-crossing fa-*
18 *cility under this subsection.*

19 *(2) CERTIFICATE OF CROSSING.—*

20 *(A) REQUIREMENT.—Not later than 120*
21 *days after final action is taken, by the relevant*
22 *official or agency identified under subparagraph*
23 *(B), under the National Environmental Policy*
24 *Act of 1969 (42 U.S.C. 4321 et seq.) with respect*
25 *to a border-crossing facility for which a person*

1 *requests a certificate of crossing under this sub-*
2 *section, the relevant official or agency, in con-*
3 *sultation with appropriate Federal agencies,*
4 *shall issue a certificate of crossing for the border-*
5 *crossing facility unless the relevant official or*
6 *agency finds that the construction, connection,*
7 *operation, or maintenance of the border-crossing*
8 *facility is not in the public interest of the United*
9 *States.*

10 *(B) RELEVANT OFFICIAL OR AGENCY.—The*
11 *relevant official or agency referred to in sub-*
12 *paragraph (A) is—*

13 *(i) the Federal Energy Regulatory*
14 *Commission with respect to border-crossing*
15 *facilities consisting of oil or natural gas*
16 *pipelines; and*

17 *(ii) the Secretary of Energy with re-*
18 *spect to border-crossing facilities consisting*
19 *of electric transmission facilities.*

20 *(C) ADDITIONAL REQUIREMENT FOR ELEC-*
21 *TRIC TRANSMISSION FACILITIES.—In the case of*
22 *a request for a certificate of crossing for a bor-*
23 *der-crossing facility consisting of an electric*
24 *transmission facility, the Secretary of Energy*
25 *shall require, as a condition of issuing the cer-*

1 *tificate of crossing under subparagraph (A), that*
2 *the border-crossing facility be constructed, con-*
3 *nected, operated, or maintained consistent with*
4 *all applicable policies and standards of—*

5 *(i) the Electric Reliability Organiza-*
6 *tion and the applicable regional entity; and*

7 *(ii) any Regional Transmission Orga-*
8 *nization or Independent System Operator*
9 *with operational or functional control over*
10 *the border-crossing facility.*

11 (3) *EXCLUSIONS.—This subsection shall not*
12 *apply to any construction, connection, operation, or*
13 *maintenance of a border-crossing facility for the im-*
14 *port or export of oil or natural gas, or the trans-*
15 *mission of electricity—*

16 *(A) if the border-crossing facility is oper-*
17 *ating for such import, export, or transmission as*
18 *of the date of enactment of this Act;*

19 *(B) if a Presidential permit (or similar*
20 *permit) for the construction, connection, oper-*
21 *ation, or maintenance has been issued pursuant*
22 *to any provision of law or Executive order; or*

23 *(C) if an application for a Presidential per-*
24 *mit (or similar permit) for the construction, con-*
25 *nection, operation, or maintenance is pending on*

1 *the date of enactment of this Act, until the ear-*
2 *lier of—*

3 *(i) the date on which such application*
4 *is denied; or*

5 *(ii) two years after the date of enact-*
6 *ment of this Act, if such a permit has not*
7 *been issued by such date of enactment.*

8 (4) *EFFECT OF OTHER LAWS.—*

9 (A) *APPLICATION TO PROJECTS.—Nothing*
10 *in this subsection or subsection (e) shall affect*
11 *the application of any other Federal statute to a*
12 *project for which a certificate of crossing for a*
13 *border-crossing facility is requested under this*
14 *subsection.*

15 (B) *NATURAL GAS ACT.—Nothing in this*
16 *subsection or subsection (e) shall affect the re-*
17 *quirement to obtain approval or authorization*
18 *under sections 3 and 7 of the Natural Gas Act*
19 *for the siting, construction, or operation of any*
20 *facility to import or export natural gas.*

21 (C) *OIL PIPELINES.—Nothing in this sub-*
22 *section or subsection (e) shall affect the authority*
23 *of the Federal Energy Regulatory Commission*
24 *with respect to oil pipelines under section 60502*
25 *of title 49, United States Code.*

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

9 **(c) TRANSMISSION OF ELECTRIC ENERGY TO CANADA**
10 **AND MEXICO.**—

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

14 **(2) CONFORMING AMENDMENTS.**—

15 **(A) STATE REGULATIONS.**—Section 202(f)
16 of the Federal Power Act (16 U.S.C. 824a(f)) is
17 amended by striking “insofar as such State regu-
18 lation does not conflict with the exercise of the
19 Commission’s powers under or relating to sub-
20 section 202(e)”.

21 **(B) SEASONAL DIVERSITY ELECTRICITY EX-**
22 **CHANGE.**—Section 602(b) of the Public Utility
23 Regulatory Policies Act of 1978 (16 U.S.C.
24 824a–4(b)) is amended by striking “the Commis-
25 sion has conducted hearings and made the find-

1 *ings required under section 202(e) of the Federal*
2 *Power Act” and all that follows through the pe-*
3 *riod at the end and inserting “the Secretary has*
4 *conducted hearings and finds that the proposed*
5 *transmission facilities would not impair the suf-*
6 *ficiency of electric supply within the United*
7 *States or would not impede or tend to impede*
8 *the coordination in the public interest of facili-*
9 *ties subject to the jurisdiction of the Secretary.”.*

10 *(d) NO PRESIDENTIAL PERMIT REQUIRED.—No Presi-*
11 *dential permit (or similar permit) shall be required pursu-*
12 *ant to any provision of law or Executive order for the con-*
13 *struction, connection, operation, or maintenance of an oil*
14 *or natural gas pipeline or electric transmission facility, or*
15 *any border-crossing facility thereof.*

16 *(e) MODIFICATIONS TO EXISTING PROJECTS.—No cer-*
17 *tificate of crossing under subsection (a), or Presidential per-*
18 *mit (or similar permit), shall be required for a modification*
19 *to—*

20 *(1) an oil or natural gas pipeline or electric*
21 *transmission facility that is operating for the import*
22 *or export of oil or natural gas or the transmission of*
23 *electricity as of the date of enactment of this Act;*

24 *(2) an oil or natural gas pipeline or electric*
25 *transmission facility for which a Presidential permit*

1 *(or similar permit) has been issued pursuant to any*
2 *provision of law or Executive order; or*

3 *(3) a border-crossing facility for which a certifi-*
4 *cate of crossing has previously been issued under sub-*
5 *section (a).*

6 *(f) PROHIBITION ON REVOCATION OF PRESIDENTIAL*
7 *PERMITS.—Notwithstanding any other provision of law,*
8 *the President may not revoke a Presidential permit (or*
9 *similar permit) issued pursuant to Executive Order No.*
10 *13337 (3 U.S.C. 301 note), Executive Order No. 11423 (3*
11 *U.S.C. 301 note), Executive Order No. 12038 (43 Fed. Reg.*
12 *4957), Executive Order No. 10485 (18 Fed. Reg. 5397), or*
13 *any other Executive order for the construction, connection,*
14 *operation, or maintenance of an oil or natural gas pipeline*
15 *or electric transmission facility, or any border-crossing fa-*
16 *cility thereof, unless such revocation is authorized by an*
17 *Act of Congress.*

18 *(g) EFFECTIVE DATE; RULEMAKING DEADLINES.—*

19 *(1) EFFECTIVE DATE.—Subsections (a) through*
20 *(e), and the amendments made by such subsections,*
21 *shall take effect on the date that is 1 year after the*
22 *date of enactment of this Act.*

23 *(2) RULEMAKING DEADLINES.—Each relevant of-*
24 *ficial or agency described in subsection (a)(2)(B)*
25 *shall—*

1 (A) not later than 180 days after the date
2 of enactment of this Act, publish in the Federal
3 Register notice of a proposed rulemaking to
4 carry out the applicable requirements of sub-
5 section (a); and

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

10 (h) DEFINITIONS.—In this section:

11 (1) *BORDER-CROSSING FACILITY*.—The term
12 “border-crossing facility” means the portion of an oil
13 or natural gas pipeline or electric transmission facil-
14 ity that is located at an international boundary of
15 the United States.

16 (2) *MODIFICATION*.—The term “modification”
17 includes a reversal of flow direction, change in owner-
18 ship, change in flow volume, addition or removal of
19 an interconnection, or an adjustment to maintain
20 flow (such as a reduction or increase in the number
21 of pump or compressor stations).

22 (3) *NATURAL GAS*.—The term “natural gas” has
23 the meaning given that term in section 2 of the Nat-
24 ural Gas Act (15 U.S.C. 717a).

1 (4) *OIL*.—*The term “oil” means petroleum or a*
2 *petroleum product.*

3 (5) *ELECTRIC RELIABILITY ORGANIZATION; RE-*
4 *GIONAL ENTITY*.—*The terms “Electric Reliability Or-*
5 *ganization” and “regional entity” have the meanings*
6 *given those terms in section 215 of the Federal Power*
7 *Act (16 U.S.C. 8240).*

8 (6) *INDEPENDENT SYSTEM OPERATOR; REGIONAL*
9 *TRANSMISSION ORGANIZATION*.—*The terms “Inde-*
10 *pendent System Operator” and “Regional Trans-*
11 *mission Organization” have the meanings given those*
12 *terms in section 3 of the Federal Power Act (16*
13 *U.S.C. 796).*

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