

116TH CONGRESS
1ST SESSION

H. R. 3983

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.

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:

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

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

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

11 (4) PROJECT-RELATED NEPA REVIEW.—The
12 term “project-related NEPA review” means any
13 NEPA review required to be conducted with respect
14 to the issuance of an authorization under section 3
15 of the Natural Gas Act or a certificate of public con-
16 venience and necessity under section 7 of such Act.

17 (b) COMMISSION NEPA REVIEW RESPONSIBIL-
18 ITIES.—In acting as the lead agency under section
19 15(b)(1) of the Natural Gas Act for the purposes of com-
20 plying with the National Environmental Policy Act of
21 1969 (42 U.S.C. 4321 et seq.) with respect to an author-
22 ization under section 3 of the Natural Gas Act or a certifi-
23 cate of public convenience and necessity under section 7
24 of such Act, the Commission shall, in accordance with this
25 section and other applicable Federal law—

1 (1) be the only lead agency;

2 (2) coordinate as early as practicable with each
3 agency designated as a participating agency under
4 subsection (d)(3) to ensure that the Commission de-
5 velops information in conducting its project-related
6 NEPA review that is usable by the participating
7 agency in considering an aspect of an application for
8 a Federal authorization for which the agency is re-
9 sponsible; and

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

13 (c) DEFERENCE TO COMMISSION.—In making a deci-
14 sion with respect to a Federal authorization required with
15 respect to an application for authorization under section
16 3 of the Natural Gas Act or a certificate of public conven-
17 ience and necessity under section 7 of such Act, each agen-
18 cy shall give deference, to the maximum extent authorized
19 by law, to the scope of the project-related NEPA review
20 that the Commission determines to be appropriate.

21 (d) PARTICIPATING AGENCIES.—

22 (1) IDENTIFICATION.—The Commission shall
23 identify, as early as practicable after it is notified by
24 a person applying for an authorization under section
25 3 of the Natural Gas Act or a certificate of public

1 convenience and necessity under section 7 of such
2 Act, any Federal or State agency, local government,
3 or Indian Tribe that may issue a Federal authoriza-
4 tion or is required by Federal law to consult with
5 the Commission in conjunction with the issuance of
6 a Federal authorization required for such authoriza-
7 tion or certificate.

8 (2) INVITATION.—

9 (A) IN GENERAL.—The Commission shall
10 invite any agency identified under paragraph
11 (1) to participate in the review process for the
12 applicable Federal authorization.

13 (B) DEADLINE.—An invitation issued
14 under subparagraph (A) shall establish a dead-
15 line by which a response to the invitation shall
16 be submitted to the Commission, which may be
17 extended by the Commission for good cause.

18 (3) DESIGNATION AS PARTICIPATING AGEN-
19 CIES.—The Commission shall designate an agency
20 identified under paragraph (1) as a participating
21 agency with respect to an application for authoriza-
22 tion under section 3 of the Natural Gas Act or a
23 certificate of public convenience and necessity under
24 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

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

5 (B) COMMENTS; RECORD.—The Commis-
6 sion shall not, with respect to an agency that is
7 not designated as a participating agency under
8 paragraph (3) with respect to an application for
9 an authorization under section 3 of the Natural
10 Gas Act or a certificate of public convenience
11 and necessity under section 7 of such Act—

12 (i) consider any comments or other in-
13 formation submitted by such agency for
14 the project-related NEPA review conducted
15 by the Commission; or

16 (ii) include any such comments or
17 other information in the record for such
18 project-related NEPA review.

19 (e) SCHEDULE.—

20 (1) DEADLINE FOR FEDERAL AUTHORIZA-
21 TIONS.—A deadline for a Federal authorization re-
22 quired with respect to an application for authoriza-
23 tion under section 3 of the Natural Gas Act or a
24 certificate of public convenience and necessity under
25 section 7 of such Act set by the Commission under

1 section 15(c)(1) of such Act shall be not later than
2 90 days after the Commission completes its project-
3 related NEPA review, unless an applicable schedule
4 is otherwise established by Federal law.

5 (2) CONCURRENT REVIEWS.—Each Federal and
6 State agency—

7 (A) that may consider an application for a
8 Federal authorization required with respect to
9 an application for authorization under section 3
10 of the Natural Gas Act or a certificate of public
11 convenience and necessity under section 7 of
12 such Act shall formulate and implement a plan
13 for administrative, policy, and procedural mech-
14 anisms to enable the agency to ensure comple-
15 tion of Federal authorizations in compliance
16 with schedules established by the Commission
17 under section 15(c)(1) of such Act; and

18 (B) in considering an aspect of an applica-
19 tion for a Federal authorization required with
20 respect to an application for authorization
21 under section 3 of the Natural Gas Act or a
22 certificate of public convenience and necessity
23 under section 7 of such Act, shall—

24 (i) formulate and implement a plan to
25 enable the agency to comply with the

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

3 (ii) carry out the obligations of that
4 agency under applicable law concurrently,
5 and in conjunction with, the project-related
6 NEPA review conducted by the Commis-
7 sion, and in compliance with the schedule
8 established by the Commission under sec-
9 tion 15(c)(1) of such Act, unless the agen-
10 cy notifies the Commission in writing that
11 doing so would impair the ability of the
12 agency to conduct needed analysis or oth-
13 erwise carry out such obligations;

14 (iii) transmit to the Commission a
15 statement—

16 (I) acknowledging receipt of the
17 schedule established by the Commis-
18 sion under section 15(c)(1) of the
19 Natural Gas Act; and

20 (II) setting forth the plan formu-
21 lated under clause (i) of this subpara-
22 graph;

23 (iv) not later than 30 days after the
24 agency receives such application for a Fed-

1 eral authorization, transmit to the appli-
2 cant a notice—

3 (I) indicating whether such appli-
4 cation is ready for processing; and

5 (II) if such application is not
6 ready for processing, that includes a
7 comprehensive description of the in-
8 formation needed for the agency to
9 determine that the application is
10 ready for processing;

11 (v) determine that such application
12 for a Federal authorization is ready for
13 processing for purposes of clause (iv) if
14 such application is sufficiently complete for
15 the purposes of commencing consideration,
16 regardless of whether supplemental infor-
17 mation is necessary to enable the agency to
18 complete the consideration required by law
19 with respect to such application; and

20 (vi) not less often than once every 90
21 days, transmit to the Commission a report
22 describing the progress made in consid-
23 ering such application for a Federal au-
24 thorization.

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

14 (f) CONSIDERATION OF APPLICATIONS FOR FEDERAL
15 AUTHORIZATION.—

16 (1) ISSUE IDENTIFICATION AND RESOLU-
17 TION.—

18 (A) IDENTIFICATION.—Federal and State
19 agencies that may consider an aspect of an ap-
20 plication for a Federal authorization shall iden-
21 tify, as early as possible, any issues of concern
22 that may delay or prevent an agency from
23 working with the Commission to resolve such
24 issues and granting such authorization.

1 (B) ISSUE RESOLUTION.—The Commission
2 may forward any issue of concern identified
3 under subparagraph (A) to the heads of the rel-
4 evant agencies (including, in the case of an
5 issue of concern that is a failure by a State
6 agency, the Federal agency overseeing the dele-
7 gated authority, if applicable) for resolution.

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

19 (3) APPLICATION PROCESSING.—The Commis-
20 sion, and Federal and State agencies, may allow a
21 person applying for a Federal authorization to fund
22 a third-party contractor to assist in reviewing the
23 application for such authorization.

24 (g) ACCOUNTABILITY, TRANSPARENCY, EFFI-
25 CIENCY.—For an application for an authorization under

1 section 3 of the Natural Gas Act or a certificate of public
2 convenience and necessity under section 7 of such Act that
3 requires multiple Federal authorizations, the Commission,
4 with input from any Federal or State agency considering
5 an aspect of the application, shall track and make avail-
6 able to the public on the Commission's website information
7 related to the actions required to complete the Federal au-
8 thorizations. Such information shall include the following:

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

11 (2) A list of all the actions required by each ap-
12 plicable agency to complete permitting, reviews, and
13 other actions necessary to obtain a final decision on
14 the application.

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

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

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

22 **SEC. 3. PIPELINE SECURITY.**

23 In considering an application for an authorization
24 under section 3 of the Natural Gas Act or a certificate
25 of public convenience and necessity under section 7 of such

1 Act, the Federal Energy Regulatory Commission shall
2 consult with the Administrator of the Transportation Se-
3 curity Administration regarding the applicant's compli-
4 ance with security guidance and best practice rec-
5 ommendations of the Administration regarding pipeline
6 infrastructure security, pipeline cybersecurity, pipeline
7 personnel security, and other pipeline security measures.

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