

## Union Calendar No.

118TH CONGRESS  
1ST SESSION

# H. R. 1115

**[Report No. 118-]**

To provide for Federal and State agency coordination in the approval of certain authorizations under the Natural Gas Act, and for other purposes.

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### IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 21, 2023

Mr. BURGESS introduced the following bill; which was referred to the Committee on Energy and Commerce

MARCH --, 2023

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

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

[For text of introduced bill, see copy of bill as introduced on February 21, 2023]

# **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:*

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

11            (2) *FEDERAL AUTHORIZATION.—The term “Fed-*  
12 *eral authorization” has the meaning given that term*  
13 *in section 15(a) of the Natural Gas Act (15 U.S.C.*  
14 *717n(a)).*

15            (3) *NEPA REVIEW.—The term “NEPA review”*  
16 *means the process of reviewing a proposed Federal ac-*  
17 *tion under section 102 of the National Environmental*  
18 *Policy Act of 1969 (42 U.S.C. 4332).*

19            (4) *PROJECT-RELATED NEPA REVIEW.—The term*  
20 *“project-related NEPA review” means any NEPA re-*  
21 *view required to be conducted with respect to the*  
22 *issuance of an authorization under section 3 of the*  
23 *Natural Gas Act or a certificate of public convenience*  
24 *and necessity under section 7 of such Act.*

1           **(b) COMMISSION NEPA REVIEW RESPONSIBILITIES.**—  
2 *In acting as the lead agency under section 15(b)(1) of the*  
3 *Natural Gas Act for the purposes of complying with the*  
4 *National Environmental Policy Act of 1969 (42 U.S.C.*  
5 *4321 et seq.) with respect to an authorization under section*  
6 *3 of the Natural Gas Act or a certificate of public conven-*  
7 *ience and necessity under section 7 of such Act, the Commis-*  
8 *sion shall, in accordance with this section and other appli-*  
9 *cable Federal law—*

10           (1) *be the only lead agency;*

11           (2) *coordinate as early as practicable with each*  
12 *agency designated as a participating agency under*  
13 *subsection (d)(3) to ensure that the Commission devel-*  
14 *ops information in conducting its project-related*  
15 *NEPA review that is usable by the participating*  
16 *agency in considering an aspect of an application for*  
17 *a Federal authorization for which the agency is re-*  
18 *sponsible; and*

19           (3) *take such actions as are necessary and prop-*  
20 *er to facilitate the expeditious resolution of its project-*  
21 *related NEPA review.*

22           **(c) DEFERENCE TO COMMISSION.**—*In making a deci-*  
23 *sion with respect to a Federal authorization required with*  
24 *respect to an application for authorization under section*  
25 *3 of the Natural Gas Act or a certificate of public conven-*

1 *ience and necessity under section 7 of such Act, each agency*  
2 *shall give deference, to the maximum extent authorized by*  
3 *law, to the scope of the project-related NEPA review that*  
4 *the Commission determines to be appropriate.*

5 *(d) PARTICIPATING AGENCIES.—*

6 *(1) IDENTIFICATION.—The Commission shall*  
7 *identify, not later than 30 days after the Commission*  
8 *receives an application for an authorization under*  
9 *section 3 of the Natural Gas Act or a certificate of*  
10 *public convenience and necessity under section 7 of*  
11 *such Act, any Federal or State agency, local govern-*  
12 *ment, or Indian Tribe that may issue a Federal au-*  
13 *thorization or is required by Federal law to consult*  
14 *with the Commission in conjunction with the issuance*  
15 *of a Federal authorization required for such author-*  
16 *ization or certificate.*

17 *(2) INVITATION.—*

18 *(A) IN GENERAL.—Not later than 45 days*  
19 *after the Commission receives an application for*  
20 *an authorization under section 3 of the Natural*  
21 *Gas Act or a certificate of public convenience*  
22 *and necessity under section 7 of such Act, the*  
23 *Commission shall invite any agency identified*  
24 *under paragraph (1) to participate in the review*  
25 *process for the applicable Federal authorization.*

1           (B) *DEADLINE.*—An invitation issued  
2           under subparagraph (A) shall establish a dead-  
3           line by which a response to the invitation shall  
4           be submitted to the Commission, which may be  
5           extended by the Commission for good cause.

6           (3) *DESIGNATION AS PARTICIPATING AGEN-*  
7           *CIES.*—Not later than 60 days after the Commission  
8           receives an application for an authorization under  
9           section 3 of the Natural Gas Act or a certificate of  
10          public convenience and necessity under section 7 of  
11          such Act, the Commission shall designate an agency  
12          identified under paragraph (1) as a participating  
13          agency with respect to an application for authoriza-  
14          tion under section 3 of the Natural Gas Act or a cer-  
15          tificate of public convenience and necessity under sec-  
16          tion 7 of such Act unless the agency informs the Com-  
17          mission, in writing, by the deadline established pur-  
18          suant to paragraph (2)(B), that the agency—

19                 (A) has no jurisdiction or authority with  
20                 respect to the applicable Federal authorization;

21                 (B) has no special expertise or information  
22                 relevant to any project-related NEPA review; or

23                 (C) does not intend to submit comments for  
24                 the record for the project-related NEPA review  
25                 conducted by the Commission.

1           (4) *EFFECT OF NON-DESIGNATION.*—

2                   (A) *EFFECT ON AGENCY.*—*Any agency that*  
3 *is not designated as a participating agency*  
4 *under paragraph (3) with respect to an applica-*  
5 *tion for an authorization under section 3 of the*  
6 *Natural Gas Act or a certificate of public con-*  
7 *venience and necessity under section 7 of such*  
8 *Act may not request or conduct a NEPA review*  
9 *that is supplemental to the project-related NEPA*  
10 *review conducted by the Commission, unless the*  
11 *agency—*

12                           (i) *demonstrates that such review is le-*  
13 *gally necessary for the agency to carry out*  
14 *responsibilities in considering an aspect of*  
15 *an application for a Federal authorization;*  
16 *and*

17                           (ii) *requires information that could not*  
18 *have been obtained during the project-re-*  
19 *lated NEPA review conducted by the Com-*  
20 *mission.*

21                   (B) *COMMENTS; RECORD.*—*The Commission*  
22 *shall not, with respect to an agency that is not*  
23 *designated as a participating agency under*  
24 *paragraph (3) with respect to an application for*  
25 *an authorization under section 3 of the Natural*

1           *Gas Act or a certificate of public convenience*  
2           *and necessity under section 7 of such Act—*

3                   *(i) consider any comments or other in-*  
4                   *formation submitted by such agency for the*  
5                   *project-related NEPA review conducted by*  
6                   *the Commission; or*

7                   *(ii) include any such comments or*  
8                   *other information in the record for such*  
9                   *project-related NEPA review.*

10       *(e) WATER QUALITY IMPACTS.—*

11           *(1) IN GENERAL.—Notwithstanding section 401*  
12           *of the Federal Water Pollution Control Act (33 U.S.C.*  
13           *1341), an applicant for a Federal authorization shall*  
14           *not be required to provide a certification under such*  
15           *section with respect to the Federal authorization.*

16           *(2) COORDINATION.—With respect to any NEPA*  
17           *review for a Federal authorization to conduct an ac-*  
18           *tivity that will directly result in a discharge into the*  
19           *navigable waters (within the meaning of the Federal*  
20           *Water Pollution Control Act), the Commission shall*  
21           *identify as an agency under subsection (d)(1) the*  
22           *State in which the discharge originates or will origi-*  
23           *nate, or, if appropriate, the interstate water pollution*  
24           *control agency having jurisdiction over the navigable*



1        *waters at the point where the discharge originates or*  
2        *will originate.*

3            (3) *PROPOSED CONDITIONS.—A State or inter-*  
4        *state agency designated as a participating agency*  
5        *pursuant to paragraph (2) may propose to the Com-*  
6        *mission terms or conditions for inclusion in an au-*  
7        *thorization under section 3 of the Natural Gas Act or*  
8        *a certificate of public convenience and necessity under*  
9        *section 7 of such Act that the State or interstate agen-*  
10       *cy determines are necessary to ensure that any activ-*  
11       *ity described in paragraph (2) conducted pursuant to*  
12       *such authorization or certification will comply with*  
13       *the applicable provisions of sections 301, 302, 303,*  
14       *306, and 307 of the Federal Water Pollution Control*  
15       *Act.*

16           (4) *COMMISSION CONSIDERATION OF CONDI-*  
17        *TIONS.—The Commission may include a term or con-*  
18        *dition in an authorization under section 3 of the Nat-*  
19        *ural Gas Act or a certificate of public convenience*  
20        *and necessity under section 7 of such Act proposed by*  
21        *a State or interstate agency under paragraph (3)*  
22        *only if the Commission finds that the term or condi-*  
23        *tion is necessary to ensure that any activity described*  
24        *in paragraph (2) conducted pursuant to such author-*  
25        *ization or certification will comply with the applica-*

1        *ble provisions of sections 301, 302, 303, 306, and 307*  
2        *of the Federal Water Pollution Control Act.*

3        *(f) SCHEDULE.—*

4            *(1) DEADLINE FOR FEDERAL AUTHORIZA-*  
5        *TIONS.—A deadline for a Federal authorization re-*  
6        *quired with respect to an application for authoriza-*  
7        *tion under section 3 of the Natural Gas Act or a cer-*  
8        *tificate of public convenience and necessity under sec-*  
9        *tion 7 of such Act set by the Commission under sec-*  
10       *tion 15(c)(1) of such Act shall be not later than 90*  
11       *days after the Commission completes its project-re-*  
12       *lated NEPA review, unless an applicable schedule is*  
13       *otherwise established by Federal law.*

14           *(2) CONCURRENT REVIEWS.—Each Federal and*  
15       *State agency—*

16            *(A) that may consider an application for a*  
17        *Federal authorization required with respect to*  
18        *an application for authorization under section 3*  
19        *of the Natural Gas Act or a certificate of public*  
20        *convenience and necessity under section 7 of such*  
21        *Act shall formulate and implement a plan for*  
22        *administrative, policy, and procedural mecha-*  
23        *nisms to enable the agency to ensure completion*  
24        *of Federal authorizations in compliance with*

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

3 *(B) in considering an aspect of an applica-*  
4 *tion for a Federal authorization required with*  
5 *respect to an application for authorization under*  
6 *section 3 of the Natural Gas Act or a certificate*  
7 *of public convenience and necessity under section*  
8 *7 of such Act, shall—*

9 *(i) formulate and implement a plan to*  
10 *enable the agency to comply with the sched-*  
11 *ule established by the Commission under*  
12 *section 15(c)(1) of such Act;*

13 *(ii) carry out the obligations of that*  
14 *agency under applicable law concurrently,*  
15 *and in conjunction with, the project-related*  
16 *NEPA review conducted by the Commission,*  
17 *and in compliance with the schedule estab-*  
18 *lished by the Commission under section*  
19 *15(c)(1) of such Act, unless the agency noti-*  
20 *fies the Commission in writing that doing*  
21 *so would impair the ability of the agency to*  
22 *conduct needed analysis or otherwise carry*  
23 *out such obligations;*

24 *(iii) transmit to the Commission a*  
25 *statement—*

1                   (I) acknowledging receipt of the  
2                   schedule established by the Commission  
3                   under section 15(c)(1) of the Natural  
4                   Gas Act; and

5                   (II) setting forth the plan formu-  
6                   lated under clause (i) of this subpara-  
7                   graph;

8                   (iv) not later than 30 days after the  
9                   agency receives such application for a Fed-  
10                  eral authorization, transmit to the appli-  
11                  cant a notice—

12                  (I) indicating whether such appli-  
13                  cation is ready for processing; and

14                  (II) if such application is not  
15                  ready for processing, that includes a  
16                  comprehensive description of the infor-  
17                  mation needed for the agency to deter-  
18                  mine that the application is ready for  
19                  processing;

20                  (v) determine that such application for  
21                  a Federal authorization is ready for proc-  
22                  essing for purposes of clause (iv) if such ap-  
23                  plication is sufficiently complete for the  
24                  purposes of commencing consideration, re-  
25                  gardless of whether supplemental informa-

1            *tion is necessary to enable the agency to*  
2            *complete the consideration required by law*  
3            *with respect to such application; and*

4                    *(vi) not less often than once every 90*  
5            *days, transmit to the Commission a report*  
6            *describing the progress made in considering*  
7            *such application for a Federal authoriza-*  
8            *tion.*

9            *(3) FAILURE TO MEET DEADLINE.—If a Federal*  
10          *or State agency, including the Commission, fails to*  
11          *meet a deadline for a Federal authorization set forth*  
12          *in the schedule established by the Commission under*  
13          *section 15(c)(1) of the Natural Gas Act, not later than*  
14          *5 days after such deadline, the head of the relevant*  
15          *Federal agency (including, in the case of a failure by*  
16          *a State agency, the Federal agency overseeing the del-*  
17          *egated authority) shall notify Congress and the Com-*  
18          *mission of such failure and set forth a recommended*  
19          *implementation plan to ensure completion of the ac-*  
20          *tion to which such deadline applied.*

21          *(g) CONSIDERATION OF APPLICATIONS FOR FEDERAL*  
22          *AUTHORIZATION.—*

23                    *(1) ISSUE IDENTIFICATION AND RESOLUTION.—*

24                            *(A) IDENTIFICATION.—Federal and State*  
25                    *agencies that may consider an aspect of an ap-*

1           *plication for a Federal authorization shall iden-*  
2           *tify, as early as possible, any issues of concern*  
3           *that may delay or prevent an agency from work-*  
4           *ing with the Commission to resolve such issues*  
5           *and granting such authorization.*

6           *(B) ISSUE RESOLUTION.—The Commission*  
7           *may forward any issue of concern identified*  
8           *under subparagraph (A) to the heads of the rel-*  
9           *evant agencies (including, in the case of an issue*  
10          *of concern that is a failure by a State agency,*  
11          *the Federal agency overseeing the delegated au-*  
12          *thority, if applicable) for resolution.*

13          *(2) REMOTE SURVEYS.—If a Federal or State*  
14          *agency considering an aspect of an application for a*  
15          *Federal authorization requires the person applying*  
16          *for such authorization to submit data, the agency*  
17          *shall consider any such data gathered by aerial or*  
18          *other remote means that the person submits. The*  
19          *agency may grant a conditional approval for the Fed-*  
20          *eral authorization based on data gathered by aerial or*  
21          *remote means, conditioned on the verification of such*  
22          *data by subsequent onsite inspection.*

23          *(3) APPLICATION PROCESSING.—The Commis-*  
24          *sion, and Federal and State agencies, may allow a*  
25          *person applying for a Federal authorization to fund*

1        *a third-party contractor to assist in reviewing the ap-*  
2        *plication for such authorization.*

3        *(h) ACCOUNTABILITY, TRANSPARENCY, EFFICIENCY.—*

4        *For an application for an authorization under section 3*  
5        *of the Natural Gas Act or a certificate of public convenience*  
6        *and necessity under section 7 of such Act that requires mul-*  
7        *tiple Federal authorizations, the Commission, with input*  
8        *from any Federal or State agency considering an aspect*  
9        *of the application, shall track and make available to the*  
10       *public on the Commission's website information related to*  
11       *the actions required to complete the Federal authorizations.*  
12       *Such information shall include the following:*

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

15                *(2) A list of all the actions required by each ap-*  
16                *licable agency to complete permitting, reviews, and*  
17                *other actions necessary to obtain a final decision on*  
18                *the application.*

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

21                *(4) A point of contact at the agency responsible*  
22                *for each such action.*

23                *(5) In the event that an action is still pending*  
24                *as of the expected date of completion, a brief expla-*  
25                *nation of the reasons for the delay.*

1 **SEC. 3. PIPELINE SECURITY.**

2 *In considering an application for an authorization*  
3 *under section 3 of the Natural Gas Act or a certificate of*  
4 *public convenience and necessity under section 7 of such*  
5 *Act, the Federal Energy Regulatory Commission shall con-*  
6 *sult with the Administrator of the Transportation Security*  
7 *Administration regarding the applicant's compliance with*  
8 *security guidance and best practice recommendations of the*  
9 *Administration regarding pipeline infrastructure security,*  
10 *pipeline cybersecurity, pipeline personnel security, and*  
11 *other pipeline security measures.*