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(Original Signature of Member)

119TH CONGRESS
1ST SESSION

H. R. _____

To promote interagency coordination for reviewing certain authorizations
under section 3 of the Natural Gas Act, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. HUDSON introduced the following bill; which was referred to the
Committee on _____

A BILL

To promote interagency coordination for reviewing certain
authorizations under section 3 of 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 “Improving Interagency
5 Coordination for Pipeline Reviews Act”.

6 **SEC. 2. PROMOTING INTERAGENCY COORDINATION FOR**
7 **REVIEW OF NATURAL GAS PIPELINES.**

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, not later than 30 days after the Commis-
24 sion receives an application for an authorization
25 under section 3 of the Natural Gas Act or a certifi-

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

8 (2) INVITATION.—

9 (A) IN GENERAL.—Not later than 45 days
10 after the Commission receives an application for
11 an authorization under section 3 of the Natural
12 Gas Act or a certificate of public convenience
13 and necessity under section 7 of such Act, the
14 Commission shall invite any agency identified
15 under paragraph (1) to participate in the review
16 process for the applicable Federal authorization.

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

22 (3) DESIGNATION AS PARTICIPATING AGEN-
23 CIES.—Not later than 60 days after the Commission
24 receives an application for an authorization under
25 section 3 of the Natural Gas Act or a certificate of

1 public convenience and necessity under section 7 of
2 such Act, the Commission shall designate an agency
3 identified under paragraph (1) as a participating
4 agency with respect to an application for authoriza-
5 tion under section 3 of the Natural Gas Act or a
6 certificate of public convenience and necessity under
7 section 7 of such Act unless the agency informs the
8 Commission, in writing, by the deadline established
9 pursuant to paragraph (2)(B), that the agency—

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

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

14 (C) does not intend to submit comments
15 for the record for the project-related NEPA re-
16 view conducted by the Commission.

17 (4) EFFECT OF NON-DESIGNATION.—

18 (A) EFFECT ON AGENCY.—Any agency
19 that is not designated as a participating agency
20 under paragraph (3) with respect to an applica-
21 tion for an authorization under section 3 of the
22 Natural Gas Act or a certificate of public con-
23 venience and necessity under section 7 of such
24 Act may not request or conduct a NEPA review
25 that is supplemental to the project-related

1 NEPA review conducted by the Commission,
2 unless the agency—

3 (i) demonstrates that such review is
4 legally necessary for the agency to carry
5 out responsibilities in considering an as-
6 pect of an application for a Federal au-
7 thorization; and

8 (ii) requires information that could
9 not have been obtained during the project-
10 related NEPA review conducted by the
11 Commission.

12 (B) COMMENTS; RECORD.—The Commis-
13 sion shall not, with respect to an agency that is
14 not designated as a participating agency under
15 paragraph (3) with respect to an application for
16 an authorization under section 3 of the Natural
17 Gas Act or a certificate of public convenience
18 and necessity under section 7 of such Act—

19 (i) consider any comments or other in-
20 formation submitted by such agency for
21 the project-related NEPA review conducted
22 by the Commission; or

23 (ii) include any such comments or
24 other information in the record for such
25 project-related NEPA review.

1 (e) WATER QUALITY IMPACTS.—

2 (1) IN GENERAL.—Notwithstanding section 401
3 of the Federal Water Pollution Control Act (33
4 U.S.C. 1341), an applicant for a Federal authoriza-
5 tion shall not be required to provide a certification
6 under such section with respect to the Federal au-
7 thorization.

8 (2) COORDINATION.—With respect to any
9 NEPA review for a Federal authorization to conduct
10 an activity that will directly result in a discharge
11 into the navigable waters (within the meaning of the
12 Federal Water Pollution Control Act), the Commis-
13 sion shall identify as an agency under subsection
14 (d)(1) the State in which the discharge originates or
15 will originate, or, if appropriate, the interstate water
16 pollution control agency having jurisdiction over the
17 navigable waters at the point where the discharge
18 originates or will originate.

19 (3) PROPOSED CONDITIONS.—A State or inter-
20 state agency designated as a participating agency
21 pursuant to paragraph (2) may propose to the Com-
22 mission terms or conditions for inclusion in an au-
23 thorization under section 3 of the Natural Gas Act
24 or a certificate of public convenience and necessity
25 under section 7 of such Act that the State or inter-

1 state agency determines are necessary to ensure that
2 any activity described in paragraph (2) conducted
3 pursuant to such authorization or certification will
4 comply with the applicable provisions of sections
5 301, 302, 303, 306, and 307 of the Federal Water
6 Pollution Control Act.

7 (4) COMMISSION CONSIDERATION OF CONDI-
8 TIONS.—The Commission may include a term or
9 condition in an authorization under section 3 of the
10 Natural Gas Act or a certificate of public conven-
11 ience and necessity under section 7 of such Act pro-
12 posed by a State or interstate agency under para-
13 graph (3) only if the Commission finds that the term
14 or condition is necessary to ensure that any activity
15 described in paragraph (2) conducted pursuant to
16 such authorization or certification will comply with
17 the applicable provisions of sections 301, 302, 303,
18 306, and 307 of the Federal Water Pollution Con-
19 trol Act.

20 (f) SCHEDULE.—

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

1 section 7 of such Act set by the Commission under
2 section 15(c)(1) of such Act shall be not later than
3 90 days after the Commission completes its project-
4 related NEPA review, unless an applicable schedule
5 is otherwise established by Federal law.

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

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

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

1 (i) formulate and implement a plan to
2 enable the agency to comply with the
3 schedule established by the Commission
4 under section 15(c)(1) of such Act;

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

16 (iii) transmit to the Commission a
17 statement—

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

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

1 (iv) not later than 30 days after the
2 agency receives such application for a Fed-
3 eral authorization, transmit to the appli-
4 cant a notice—

5 (I) indicating whether such appli-
6 cation is ready for processing; and

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

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

22 (vi) not less often than once every 90
23 days, transmit to the Commission a report
24 describing the progress made in consid-

1 ering such application for a Federal au-
2 thorization.

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

16 (g) CONSIDERATION OF APPLICATIONS FOR FED-
17 ERAL AUTHORIZATION.—

18 (1) ISSUE IDENTIFICATION AND RESOLU-
19 TION.—

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

1 working with the Commission to resolve such
2 issues and granting such authorization.

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

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

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

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

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

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

17 (3) The expected completion date for each such
18 action.

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

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

24 (i) PIPELINE SECURITY.—In considering an applica-
25 tion for an authorization under section 3 of the Natural

1 Gas Act or a certificate of public convenience and neces-
2 sity under section 7 of such Act, the Federal Energy Reg-
3 ulatory Commission shall consult with the Administrator
4 of the Transportation Security Administration regarding
5 the applicant's compliance with security guidance and best
6 practice recommendations of the Administration regarding
7 pipeline infrastructure security, pipeline cybersecurity,
8 pipeline personnel security, and other pipeline security
9 measures.