



H.R. 2910 — Promoting Interagency Coordination for Review of Natural Gas Pipelines Act (Rep. Flores, R-TX)

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FLOOR SCHEDULE:

Scheduled for consideration on July 19, 2017 under a structured [rule](#).

TOPLINE SUMMARY:

[H.R. 2910](#) would designate the Federal Energy Regulatory Commission (FERC) as the lead agency in complying review in applications for natural gas pipelines and instruct the FERC to coordinate with agencies in preparing National Environmental Policy Act (NEPA) reviews.

COST:

The Congressional Budget Office (CBO) has [estimated](#) implementing H.R. 2910 would have no significant net effect on the federal budget. There would be no net change in federal changes since FERC recovers 100% of costs through user fees. The bill would not affect direct spending or revenues so pay-as-you-go would not apply.

CONSERVATIVE CONCERNS:

There are no substantive concerns.

- **Expand the Size and Scope of the Federal Government?** No.
- **Encroach into State or Local Authority?** No.
- **Delegate Any Legislative Authority to the Executive Branch?** No.
- **Contain Earmarks/Limited Tax Benefits/Limited Tariff Benefits?** No.

DETAILED SUMMARY AND ANALYSIS:

H.R. 2910 would designate the Federal Energy Regulatory Commission (FERC) as the sole lead agency in complying with National Environmental Policy Act (NEPA, [42 U.S.C. 4321 et seq.](#)) reviews. In addition, FERC must coordinate with all participating agencies to ensure that information developed in accordance with the NEPA review can be used by participating agencies when considering federal authorization applications.

Agencies are instructed to give deference to the NEPA review the FERC has deemed appropriate when making federal authorization decisions under section 3 of the [Natural Gas Act](#) or a certificate of public convenience and necessity under section 7, which vest FERC with the authority to approve the construction of pipeline projects if they are in the public interest.

The FERC is instructed to identify participating agencies for an application as soon as practicable. Agencies that are not designated as participating agencies may not conduct or request a supplemental NEPA review unless the agency demonstrates a supplemental review is: (1) legally necessary to consider a federal authorization application; and, (2) is required because the necessary information could not have been obtained by the FERC's NEPA review. The FERC would be prohibited from considering or including comments from non-participating agencies for the FERC's NEPA review.

The bill would codify FERC's current guidance that participating agencies must decide to deny or approve a permit not later than 90 days after the completion of FERC's NEPA review. Federal and state agencies would be required to implement a plan that enables the agencies to comply with the deadline when considering federal authorizations under section 3 of the [Natural Gas Act](#) or a certificate of public convenience and necessity under section 7. In addition, the agencies must work concurrently and in conjunction with the NEPA review unless FERC is notified that doing so would impair the agency's ability to complete the analysis. The agencies must notify the applicant within 30 days receiving the application if further information is needed to process the application. Every 90 days the agencies must submit a progress report to FERC. If an agency fails to meet the deadline, the head of the agency must notify FERC and Congress within 5 days and develop a plan to complete the action.

Agencies must identify issues of concern as early as possible. FERC is allowed to forward the issues to the relevant agencies.

Agencies are required to consider aerial or other remote surveys submitted by the applicant. Conditional approval may be granted that requires an onsite inspection.

FERC and federal and state agencies may allow third-party contractors to fund federal authorization applications.

FERC is required to track and make information on federal authorization applications to the public online. This information must include the schedule, list of actions required and their expected completion date, points of contact and explanations of any delay.

The House Report (H. Rept. 115-223) accompanying H.R. 2910 can be found [here](#).

AMENDMENTS:

1. [Rep. Tsongas](#) (D-MA) – This amendment would prevent the application of the underlying bill to facilities that are located on lands that have been designated for natural resource conservation or recreation by federal, state or local law.
2. [Rep. Lynch](#) (D-MA) – This amendment would require FERC to consult with the TSA Administrator to ensure the applicant is in compliance with security guidance and best practices regarding pipeline cybersecurity, personnel and infrastructure security, and other security measures.
3. [Rep. Beyer](#) (D-VA) – This amendment would require FERC to prepare a supplement to an environmental impact statement (EIS) if: (1) FERC makes a substantial change relevant to environmental concerns; or, (2) there is new information related to environmental concerns. The amendment would also require a supplement if the draft EIS does not include a mitigation plan for unavoidable adverse impacts.

COMMITTEE ACTION:

H.R. 2910 was introduced on June 15, 2017. The bill was referred to the House Committee on Energy where a mark-up was held and the bill was reported by a vote of 30-23.

ADMINISTRATION POSITION:

A Statement of Administration Policy is not available.

CONSTITUTIONAL AUTHORITY:

According to the bill’s sponsor: Congress has the power to enact this legislation pursuant to the following: “Article 1, Section 8, Clause 3 of the Constitution of the United States.”

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