

## [DISCUSSION DRAFT]

113TH CONGRESS  
1ST SESSION

# H. R. \_\_\_\_\_

To require approval for the construction and operation of oil or gas pipelines and electric transmission facilities across the national boundary of the United States for the import or export of oil, gas, or electricity to or from the United States, Canada, or Mexico, and for other purposes.

---

### IN THE HOUSE OF REPRESENTATIVES

Mr. UPTON (for himself and Mr. GENE GREEN of Texas) introduced the following bill; which was referred to the Committee on

---

## A BILL

To require approval for the construction and operation of oil or gas pipelines and electric transmission facilities across the national boundary of the United States for the import or export of oil, gas, or electricity to or from the United States, Canada, or Mexico, 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 “North American En-  
5 ergy Infrastructure Act”.

1 **SEC. 2. SENSE OF CONGRESS.**

2 It is the sense of Congress that the United States  
3 should establish a more uniform, transparent, and modern  
4 process for the construction and operation of oil or gas  
5 pipelines and electric transmission facilities for the import  
6 or export of oil, gas, or electricity to or from Canada and  
7 Mexico, in pursuit of a more secure and efficient North  
8 American energy market.

9 **SEC. 3. AUTHORIZATION OF CERTAIN ENERGY INFRA-**  
10 **STRUCTURE PROJECTS THAT CROSS THE NA-**  
11 **TIONAL BOUNDARY OF THE UNITED STATES.**

12 (a) **AUTHORIZATION.**—Except as provided in sub-  
13 section (d), no person may construct or operate an oil or  
14 gas pipeline or electric transmission facility across the na-  
15 tional boundary of the United States for the import or  
16 export of oil, gas, or electricity to or from the United  
17 States, Canada, or Mexico without obtaining approval of  
18 the construction or operation under this section.

19 (b) **APPROVAL.**—

20 (1) **REQUIREMENT.**—Not later than 120 days  
21 after receiving a request for approval of construction  
22 or operation under this section, the relevant official  
23 identified under paragraph (2), in consultation with  
24 appropriate Federal agencies, shall approve the re-  
25 quest unless the relevant official finds that the con-

1 construction or operation is not in the national security  
2 interests of the United States.

3 (2) RELEVANT OFFICIAL.—The relevant official  
4 referred to in paragraph (1) is—

5 (A) the Secretary of Commerce with re-  
6 spect to oil pipelines;

7 (B) the Federal Energy Regulatory Com-  
8 mission with respect to gas pipelines; and

9 (C) the Secretary of Energy with respect  
10 to electric transmission facilities.

11 (3) APPROVAL NOT MAJOR FEDERAL ACTION.—  
12 An approval of construction or operation under  
13 paragraph (1) shall not be construed to constitute a  
14 major Federal action for purposes of the National  
15 Environmental Policy Act of 1969 (42 U.S.C. 4321  
16 et seq.).

17 (4) ADDITIONAL REQUIREMENT FOR ELECTRIC  
18 TRANSMISSION FACILITIES.—

19 (A) IN GENERAL.—In the case of a request  
20 for approval of the construction or operation of  
21 an electric transmission facility, the Secretary  
22 of Energy shall require, as a condition of ap-  
23 proval of the request under paragraph (1), that  
24 the electric transmission facility be constructed  
25 or operated consistent with all policies and

1 standards of the Electric Reliability Organiza-  
2 tion and any regional entity, Regional Trans-  
3 mission Organization, and Independent System  
4 Operator determined appropriate by the Sec-  
5 retary of Energy.

6 (B) DEFINITIONS.—For the purposes of  
7 this paragraph—

8 (i) the terms “Electric Reliability Or-  
9 ganization” and “regional entity” have the  
10 meanings given those terms in section 215  
11 of the Federal Power Act (16 U.S.C.  
12 824o); and

13 (ii) the terms “Independent System  
14 Operator” and “Regional Transmission  
15 Organization” have the meanings given  
16 those terms in section 3 of the Federal  
17 Power Act (16 U.S.C. 796).

18 (c) NO OTHER APPROVAL REQUIRED.—No Presi-  
19 dential permit (or similar permit) required under Execu-  
20 tive Order 13337 (3 U.S.C. 301 note), Executive Order  
21 11423 (3 U.S.C. 301 note), section 301 of title 3, United  
22 States Code, Executive Order 12038, Executive Order  
23 10485 or any other Executive Order, shall be necessary  
24 for construction or operation to which this section applies.

1 (d) EXCLUSIONS TO COVERED CONSTRUCTION AND  
2 OPERATION.—This section shall not apply to any con-  
3 struction or operation described in subsection (a)—

4 (1) of a pipeline or electric transmission facility  
5 that is operating across the national boundary of the  
6 United States for the import or export of oil, gas,  
7 or electricity to or from the United States, Canada,  
8 or Mexico as of the date of enactment of this Act;

9 (2) that has received a permit described in sub-  
10 section (c) prior to the date of enactment of this  
11 Act; or

12 (3) that has previously been approved under  
13 this section.

14 (e) MODIFICATIONS TO EXISTING PROJECTS.—No  
15 approval under this section, or permit described in sub-  
16 section (c), shall be required for modifications to construc-  
17 tion or operation described in paragraph (1), (2), or (3)  
18 of subsection (d), including reversal of flow direction,  
19 change in ownership, volume expansion, downstream or  
20 upstream interconnection, or adjustments to maintain flow  
21 (such as a reduction or increase in the number of pump  
22 stations).

23 (f) EFFECT OF OTHER LAWS.—Nothing in this sec-  
24 tion shall affect the application of any other Federal stat-

1 ute to a project for which approval of construction or oper-  
2 ation is sought under this section.

3 **SEC. 4. NO DOE AUTHORIZATION REQUIRED FOR IMPORTA-**  
4 **TION OR EXPORTATION OF NATURAL GAS**  
5 **UNDER NATURAL GAS ACT.**

6 Section 3(c) of the Natural Gas Act (15 U.S.C.  
7 717b(c)) is amended—

8 (1) by inserting “(1)” before “For purposes of  
9 subsection (a)”; and

10 (2) by adding at the end the following new  
11 paragraph:

12 “(2) Notwithstanding any other provision of this sec-  
13 tion, no order of the Commission is required under sub-  
14 section (a) to authorize the export or import of any nat-  
15 ural gas to or from the United States, Canada, or Mexico  
16 across the national boundary of the United States.”.

17 **SEC. 5. TRANSMISSION OF ELECTRIC ENERGY TO CANADA**  
18 **AND MEXICO.**

19 (a) **REPEAL OF REQUIREMENT TO SECURE**  
20 **ORDER.**—Section 202(e) of the Federal Power Act (16  
21 U.S.C. 824a(e)) is repealed.

22 (b) **CONFORMING AMENDMENTS.**—

23 (1) **STATE REGULATIONS.**—Section 202(f) of  
24 the Federal Power Act (16 U.S.C. 824a(f)) is  
25 amended by striking “insofar as such State regula-

1       tion does not conflict with the exercise of the Com-  
2       mission's powers under or relating to subsection  
3       202(e)".

4           (2) SEASONAL DIVERSITY ELECTRICITY EX-  
5       CHANGE.—Section 602(b) of the Public Utility Reg-  
6       ulatory Policies Act of 1978 (16 U.S.C. 824a–4(b))  
7       is amended by striking “the Commission has con-  
8       ducted hearings and made the findings required  
9       under section 202(e) of the Federal Power Act” and  
10      all that follows through the period at the end and  
11      inserting “the Secretary has conducted hearings and  
12      finds that the proposed transmission facilities would  
13      not impair the sufficiency of electric supply within  
14      the United States or would not impede or tend to  
15      impede the coordination in the public interest of fa-  
16      cilities subject to the jurisdiction of the Secretary.”.