

## [DISCUSSION DRAFT]

115TH CONGRESS  
1ST SESSION

# H. R.

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To establish a more uniform, transparent, and modern process to authorize the construction, connection, operation, and maintenance of international border-crossing facilities for the import and export of oil and natural gas and the transmission of electricity.

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### IN THE HOUSE OF REPRESENTATIVES

M. \_\_\_\_\_ introduced the following bill; which was referred to the  
Committee on \_\_\_\_\_

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## A BILL

To establish a more uniform, transparent, and modern process to authorize the construction, connection, operation, and maintenance of international border-crossing facilities for the import and export of oil and natural gas and the transmission of electricity.

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 Cross-Bor-  
5 der Energy Infrastructure Act”.

1 **SEC. 2. APPROVAL FOR BORDER-CROSSING FACILITIES.**

2 (a) AUTHORIZATION OF CERTAIN ENERGY INFRA-  
3 STRUCTURE PROJECTS AT AN INTERNATIONAL BOUND-  
4 ARY OF THE UNITED STATES.—

5 (1) AUTHORIZATION.—Except as provided in  
6 paragraph (3) and subsection (e), no person may  
7 construct, connect, operate, or maintain a border-  
8 crossing facility for the import or export of oil or  
9 natural gas, or the transmission of electricity, across  
10 an international border of the United States without  
11 obtaining a certificate of crossing for the border-  
12 crossing facility under this subsection.

13 (2) CERTIFICATE OF CROSSING.—

14 (A) REQUIREMENT.—Not later than 120  
15 days after final action is taken, by the relevant  
16 official or agency identified under subparagraph  
17 (B), under the National Environmental Policy  
18 Act of 1969 (42 U.S.C. 4321 et seq.) with re-  
19 spect to a border-crossing facility for which a  
20 person requests a certificate of crossing under  
21 this subsection, the relevant official or agency,  
22 in consultation with appropriate Federal agen-  
23 cies, shall issue a certificate of crossing for the  
24 border-crossing facility unless the relevant offi-  
25 cial or agency finds that the construction, con-  
26 nection, operation, or maintenance of the bor-

1           der-crossing facility is not in the public interest  
2           of the United States.

3           (B) RELEVANT OFFICIAL OR AGENCY.—

4           The relevant official or agency referred to in  
5           subparagraph (A) is—

6           (i) the Federal Energy Regulatory  
7           Commission with respect to border-cross-  
8           ing facilities consisting of oil or natural  
9           gas pipelines; and

10          (ii) the Secretary of Energy with re-  
11          spect to border-crossing facilities consisting  
12          of electric transmission facilities.

13          (C) ADDITIONAL REQUIREMENT FOR  
14          ELECTRIC TRANSMISSION FACILITIES.—In the  
15          case of a request for a certificate of crossing for  
16          a border-crossing facility consisting of an elec-  
17          tric transmission facility, the Secretary of En-  
18          ergy shall require, as a condition of issuing the  
19          certificate of crossing under subparagraph (A),  
20          that the border-crossing facility be constructed,  
21          connected, operated, or maintained consistent  
22          with all applicable policies and standards of—

23          (i) the Electric Reliability Organiza-  
24          tion and the applicable regional entity; and

1 (ii) any Regional Transmission Orga-  
2 nization or Independent System Operator  
3 with operational or functional control over  
4 the border-crossing facility.

5 (3) EXCLUSIONS.—This subsection shall not  
6 apply to any construction, connection, operation, or  
7 maintenance of a border-crossing facility for the im-  
8 port or export of oil or natural gas, or the trans-  
9 mission of electricity—

10 (A) if the border-crossing facility is oper-  
11 ating for such import, export, or transmission  
12 as of the date of enactment of this Act;

13 (B) if a permit described in subsection (d)  
14 for the construction, connection, operation, or  
15 maintenance has been issued; or

16 (C) if an application for a permit described  
17 in subsection (d) for the construction, connec-  
18 tion, operation, or maintenance is pending on  
19 the date of enactment of this Act, until the ear-  
20 lier of—

21 (i) the date on which such application  
22 is denied; or

23 (ii) **[\_\_\_\_\_]**.

24 (4) EFFECT OF OTHER LAWS.—

1 (A) APPLICATION TO PROJECTS.—Nothing  
2 in this subsection or subsection (e) shall affect  
3 the application of any other Federal statute to  
4 a project for which a certificate of crossing for  
5 a border-crossing facility is requested under  
6 this subsection.

7 (B) NATURAL GAS ACT.—Nothing in this  
8 subsection or subsection (e) shall affect the re-  
9 quirement to obtain approval or authorization  
10 under sections 3 and 7 of the Natural Gas Act  
11 for the siting, construction, or operation of any  
12 facility to import or export natural gas.

13 (b) IMPORTATION OR EXPORTATION OF NATURAL  
14 GAS TO CANADA AND MEXICO.—Section 3(c) of the Nat-  
15 ural Gas Act (15 U.S.C. 717b(c)) is amended by adding  
16 at the end the following: “In the case of an application  
17 for the importation of natural gas from, or the exportation  
18 of natural gas to, Canada or Mexico, the Commission shall  
19 grant the application not later than 30 days after the date  
20 on which the Commission receives the complete applica-  
21 tion.”.

22 (c) TRANSMISSION OF ELECTRIC ENERGY TO CAN-  
23 ADA AND MEXICO.—

1           (1) REPEAL OF REQUIREMENT TO SECURE  
2 ORDER.—Section 202(e) of the Federal Power Act  
3 (16 U.S.C. 824a(e)) is repealed.

4           (2) CONFORMING AMENDMENTS.—

5           (A) STATE REGULATIONS.—Section 202(f)  
6 of the Federal Power Act (16 U.S.C. 824a(f))  
7 is amended by striking “insofar as such State  
8 regulation does not conflict with the exercise of  
9 the Commission’s powers under or relating to  
10 subsection 202(e)”.

11           (B) SEASONAL DIVERSITY ELECTRICITY  
12 EXCHANGE.—Section 602(b) of the Public Util-  
13 ity Regulatory Policies Act of 1978 (16 U.S.C.  
14 824a–4(b)) is amended by striking “the Com-  
15 mission has conducted hearings and made the  
16 findings required under section 202(e) of the  
17 Federal Power Act” and all that follows  
18 through the period at the end and inserting  
19 “the Secretary has conducted hearings and  
20 finds that the proposed transmission facilities  
21 would not impair the sufficiency of electric sup-  
22 ply within the United States or would not im-  
23 pede or tend to impede the coordination in the  
24 public interest of facilities subject to the juris-  
25 diction of the Secretary.”.

1 (d) NO PRESIDENTIAL PERMIT REQUIRED.—No  
2 Presidential permit (or similar permit) required under Ex-  
3 ecutive Order No. 13337 (3 U.S.C. 301 note), Executive  
4 Order No. 11423 (3 U.S.C. 301 note), section 301 of title  
5 3, United States Code, Executive Order No. 12038, Exec-  
6 utive Order No. 10485, or any other Executive order shall  
7 be necessary for the construction, connection, operation,  
8 or maintenance of an oil or natural gas pipeline or electric  
9 transmission facility, or any border-crossing facility there-  
10 of.

11 (e) MODIFICATIONS TO EXISTING PROJECTS.—No  
12 certificate of crossing under subsection (a), or permit de-  
13 scribed in subsection (d), shall be required for a modifica-  
14 tion to—

15 (1) an oil or natural gas pipeline or electric  
16 transmission facility that is operating for the import  
17 or export of oil or natural gas or the transmission  
18 of electricity as of the date of enactment of this Act;

19 (2) an oil or natural gas pipeline or electric  
20 transmission facility for which a permit described in  
21 subsection (d) has been issued; or

22 (3) a border-crossing facility for which a certifi-  
23 cate of crossing has previously been issued under  
24 subsection (a).

25 (f) EFFECTIVE DATE; RULEMAKING DEADLINES.—

1           (1) EFFECTIVE DATE.—Subsections (a)  
2 through (e), and the amendments made by such sub-  
3 sections, shall take effect on the date that is 1 year  
4 after the date of enactment of this Act.

5           (2) RULEMAKING DEADLINES.—Each relevant  
6 official or agency described in subsection (a)(2)(B)  
7 shall—

8                   (A) not later than 180 days after the date  
9 of enactment of this Act, publish in the Federal  
10 Register notice of a proposed rulemaking to  
11 carry out the applicable requirements of sub-  
12 section (a); and

13                   (B) not later than 1 year after the date of  
14 enactment of this Act, publish in the Federal  
15 Register a final rule to carry out the applicable  
16 requirements of subsection (a).

17 (g) DEFINITIONS.—In this section—

18           (1) the term “border-crossing facility” means  
19 the portion of an oil or natural gas pipeline or elec-  
20 tric transmission facility that is located at an inter-  
21 national boundary of the United States;

22           (2) the term “modification” includes a reversal  
23 of flow direction, change in ownership, change in  
24 flow volume, addition or removal of an interconnec-  
25 tion, or an adjustment to maintain flow (such as a



1 reduction or increase in the number of pump or  
2 compressor stations);

3 (3) the term “natural gas” has the meaning  
4 given that term in section 2 of the Natural Gas Act  
5 (15 U.S.C. 717a);

6 (4) the term “oil” means petroleum or a petro-  
7 leum product;

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

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