



Legislative Bulletin.....June 24, 2014

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H. R. 3301– North American Energy Infrastructure Act

H. R. 3301– North American Energy Infrastructure Act (Rep. Upton, R-MI)

Order of Business: The bill is scheduled to be considered on June 24, 2014, under a structured [rule](#) which provides one hour of general debate equally divided and controlled by the chair and ranking minority member of the Committee on Energy and Commerce.

Summary: [H. R. 3301](#) would change permitting requirements for pipelines and other energy infrastructure at international borders by eliminating the requirement of sponsors of such infrastructure to obtain a Presidential permit.

Section 3 of the legislation prohibits any person from constructing, connecting, operating, or maintaining an oil or natural gas pipeline or electric transmission facility at the national boundary of the United States for the import or export of oil, natural gas, or electricity to or from Canada or Mexico without obtaining a certificate of crossing.

This section provides that:

- Within 120 days after final action under the [National Environmental Policy Act](#), the relevant agency is required to issue a certificate of crossing for the cross-border segment unless the relevant agency finds that the construction of the cross-border segment is not in the public interest of the U.S.
- The Secretary of State will be responsible for the issuance of a certificate of crossing for oil pipelines and the Department of Energy for electric transmission facilities.
- For electric transmission facilities approval is contingent upon compliance with applicable Electric Reliability Organization, Regional Transmission Organization, and Independent System Operator policies and standards.
- No other approvals are necessary under any current Executives Orders. The section stipulates that this approval process does not apply to any oil or gas pipelines or electric

transmission facilities that are operating across the national boundary at the date of enactment, that have previously received a Presidential Permit, that have previously been approved under this process, or that have an application pending on the date of enactment until the application is denied or until July 1, 2016. No future approvals are needed under this process in cases of modifications or changes of ownership of the pipeline project.

Section 4 repeals the requirement under section [3\(c\) of the Natural Gas Act](#) that approval is needed from the Department of Energy for the export or import of natural gas to or from the U.S., Canada, or Mexico across the boundary of the U.S.

Section 5 repeals the requirement under section 202(e) of the [Federal Power Act](#) requiring an export authorization from the Department of Energy to transmit electric energy from the U.S. to a foreign country.

Section 6 of the bill removes the requirement for a Presidential permit for the construction, connection, operation, or maintenance of an oil or natural gas pipeline or electric transmission facility, or any cross-border segment of such facility.

Section 7 provides that neither a certificate of crossing nor a Presidential Permit are required for a modification to the construction, connection, operation, or maintenance of an oil or natural gas pipeline or electric transmission facility

Additional Information: The Congressional Research Service published a report on Presidential Permits for Border Crossing Energy Facilities which can be found [here](#). According to the House Energy and Commerce Committee and the report accompanying H. R. 3301 ([H. Rept. 113-482](#)), the legislation replaces the system of Executive Orders that pertain to approvals for cross-border oil and natural gas pipelines and transmission lines. Developers of pipelines would now be required to obtain a “certificate of crossing” for the cross-border segment of their projects that cross the international boundary of the United States. Under the current system, any person seeking to construct and operate an international cross-border natural gas pipeline must obtain from the Federal Energy Regulatory Commission ([FERC](#)):

- A Presidential Permit pursuant to [Executive Order 10485](#) as amended by [Executive Order 12038](#).
- An authorization under section 3 of the Natural Gas Act for a cross-border import and export facility.

The current lack of statutory guidance allows for a shifting standard of how projects are to be approved, the manner in which they are approved, and which agency or official makes the final decision on the approval for both new and existing projects. In doing so, this uncertainty greatly impacts private investment in these projects.

A list of groups in support of H. R. 3301 published by the House Energy and Commerce Committee can be found [here](#). These include: the [American Petroleum Institute](#), the [Chamber of](#)

[Commerce of the United States](#), [Frontiers for Freedom](#), the [National Association of Manufacturers](#), and the [National Taxpayers Union](#).

Committee Action: H. R. 3301 was introduced on October 22, 2013 and was referred to the House Committee on Energy and Commerce. The bill was amended and reported out on June 19, 2014.

Administration Position: The Administration strongly opposes H.R. 3301, which would require the specified Secretary to issue a “certificate of crossing” for any cross-border segment of an oil pipeline or electric transmission facility. The White House Statement of Administration Policy can be found [here](#).

Cost to Taxpayers: The Congressional Budget Office estimates that implementing H.R. 3301 would have no significant net effect on the federal budget. Relative to current law, CBO expects that any changes to administrative costs incurred by agencies responsible for regulating energy infrastructure would not exceed \$500,000 in any year, assuming the availability of appropriated funds. Enacting H.R. 3301 would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply. CBO’s cost estimate can be found [here](#).

Does the Bill Expand the Size and Scope of the Federal Government?: No.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?: H.R. 3301 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments.

Constitutional Authority: Congress has the power to enact this legislation pursuant to the following: Article I, Section 8, Clause 3 of the United States Constitution.

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AMENDMENTS MADE IN ORDER

1. [Pallone \(D-NJ\)](#). This amendment would mandate that the complete length of cross-border projects would be subject to full environmental review under the National Environmental Policy Act (NEPA).
2. [Waxman \(D-CA\)](#). This amendment excludes any project with a pending permit application from the new approval requirements in the bill.

3. *Welch (D-VT), Pingree (D-ME), Kuster, Ann (D-NH), Shea-Porter (D-NH).*
This amendment would require that pipeline modifications receive an environmental review process.