

# H.R. 3062, PROMOTING CROSS-BORDER ENERGY INFRASTRUCTURE ACT

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## PURPOSE AND SUMMARY

H.R. 3062, the “Promoting Cross-border Energy Infrastructure Act,” was introduced by Rep. Fedorchak (R-ND) on April 29, 2025. H.R. 3062 would 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. The legislation would replace the existing Presidential Permit process that has been established through Executive Order with a statutorily directed process. Under the legislation, the Federal Energy Regulatory Commission (FERC) would be authorized to review applications for cross-border oil and natural gas pipelines, and DOE would be authorized to review applications for cross-border electric transmission facilities.

## BACKGROUND AND NEED FOR LEGISLATION

Trade of oil, gas, and electricity among the United States, Canada, and Mexico has resulted in one large, integrated North American market. In 2024, the value of energy trade between the United States and its North American partners exceeded \$1 trillion.<sup>12</sup> The expansion of cross-border energy transportation infrastructure—pipelines for oil and natural gas and transmission lines for electricity—is necessary to enable increased energy trade. A number of new projects are proposed to further expand cross-border capacity, but they face considerable Federal regulatory uncertainty.

Congress has not asserted its authority to establish procedures for permitting cross-border energy infrastructure. In the absence of a statutorily directed process, agencies have made decisions regarding cross-border energy infrastructure within the context of their interpretations of a series of Executive Orders dating back to the 1950's. Under these Orders, the Secretary of State has the authority to issue Presidential permits for cross-border liquids pipelines, the FERC for cross-border natural gas pipelines, and the DOE for cross-border electric transmission facilities.

The U.S. currently has over 40 cross-border electric transmission lines between the U.S. and Canada and the U.S. and Mexico. These interconnections—the majority of which are located at the Canadian border—have improved reliability, fuel diversity, and efficiencies in system operations, particularly for the New England, New York, and Midwest regions. Over the last decade, the U.S. has experienced growing net electricity imports from both Canada and Mexico, although Canada is by far the greater trading partner. Future cross-border electricity trade will be a function of both the development of future generation capacity and the availability of cross-border transmission infrastructure to move electric power. Under current law, applications for new transmission projects will be required to obtain a Presidential Permit and an export authorization from the Secretary of Energy. There are currently 18 pending export authorization applications and five pending Presidential Permit applications before DOE.<sup>3</sup>

There are over 50 operating natural gas pipelines between the U.S. and Canada and the U.S. and Mexico. Over the last five years,

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<sup>1</sup> Office of the United States Trade Representative. *Mexico Trade Summary*. USTR, 2023. <https://ustr.gov/countries-regions/americas/mexico>.

<sup>2</sup> Office of the United States Trade Representative. *Canada Trade Summary*. USTR, 2023. <https://ustr.gov/countries-regions/americas/canada>.

<sup>3</sup> DOE, Grid Deployment Office, “Pending Application.”

natural gas pipeline capacity between the U.S. and Mexico has grown significantly. According to the Energy Information Administration (EIA), U.S. natural gas pipeline exports to Mexico averaged a record 6.8 billion cubic feet per day (bcf/d) in June 2023, surpassing the previous record set in June 2021.<sup>4</sup>

Under the current process to construct and operate a cross-border natural gas pipeline, any person seeking to construct and operate such facility must obtain two, separate authorizations from FERC for the facility and an authorization under section 3 of the Natural Gas Act (NGA) is necessary for siting, construction, or operation of facilities to import or export natural gas. In addition, pursuant to Executive Order 10485 (September 3, 1954) as amended by Executive Order 12038 (February 3, 1978), a Presidential Permit also must be obtained for the cross-border portion of the pipeline. Any person seeking to import or export natural gas must also obtain a separate authorization from DOE under section 3 of the NGA.<sup>5</sup> For imports and exports to countries with which the U.S. has a Free Trade Agreement, such as Canada and Mexico, DOE is required to grant requests “without modification or delay.”

Executive Order 12038 provides that, before a Presidential Permit is issued, there must be a finding that the action is consistent with the public interest. The criteria used for determining if an application is consistent with the public interest is identical to the criteria for approving applications for the siting, construction, and operation of import and export facilities under section 3 of the NGA.

For “border facilities” subject to Presidential Permit and NGA section 3 review, discretion is given to FERC on a project-by-project basis to determine the exact scope of the project review, and therefore the exact parameters of the Presidential Permit and section 3 application. FERC looks for a physical feature on a project, such as a valve or meter on the interior side of the U.S. border, as an end-point for what may be considered to lie within the Commission’s jurisdiction and, therefore, subject to its review procedures. From the physical feature, the border crossing facilities would be construed to extend to either the U.S./Canada or the U.S./Mexico border.

Crude oil trade between the U.S. and its North American trading partners is significant. Under the current process, any person seeking

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<sup>4</sup> Energy Information Administration. *U.S. Natural Gas Pipeline Exports to Mexico Averaged a Record High in 2023*. EIA, 6 June 2024.  
<https://www.eia.gov/todayinenergy/detail.php?id=60120>.

<sup>5</sup> 15 United States Code § 717b.

to construct and operate an international cross-border oil pipeline must obtain a Presidential Permit pursuant to Executive Order 13337 from the Department of State. Under Executive Order 13337, the Secretary of State is to approve cross-border oil pipelines that have been determined to “serve the national interest.” Although the Department of State will not necessarily evaluate the same factors for each application for a Presidential Permit, its evaluation considers such things as the environmental impacts of the proposed project (associated closely with the compliance with the National Environmental Policy Act (NEPA)), the stability of trading partners from whom the U.S. obtains crude oil, the security of transport pathways for crude oil supplies to the U.S., and the economic benefits to the U.S.

The Committee finds that cross-border permitting authority should be explicitly granted by statute, as opposed to the current framework created entirely by the Executive Branch. The Committee is concerned by the inconsistent, ad hoc manner in which Presidential Permit authority has been exercised among the agencies to which it has been delegated by Executive Order. This issue came into particular focus in the context of the State Department’s review of the Keystone XL pipeline proposal, which originally applied for a Presidential Permit in 2008 and did not receive approval until 2017, and subsequently had its Presidential Permit revoked by President Biden in January 2021. The Committee also finds that removing the Presidential Permit authority from the executive branch will grant increased regulatory certainty to cross-border facilities that have already been issued a Presidential Permit.

The Committee finds that the statutorily directed process for cross-border permitting embodied in H.R. 3062 would lead to more objective and timely decisions, which in turn would create jobs, strengthen our nation’s energy security, and support affordable and reliable energy for Americans.

H.R. 3062 would replace the Presidential Permit requirement with a more transparent, efficient, and effective review process. The legislation would require those seeking to construct, connect, operate, or maintain a border-crossing facility for the import or export of oil or natural gas, or the transmission of electricity, to obtain a Certificate of Crossing. The term “border-crossing facility” and thus what may be considered jurisdictional for the purposes of the Certificate of Crossing review, means the portion of the pipeline or transmission facility that is located within 1,000 feet of an international boundary. This description is consistent with FERC’s established procedures for review of Presidential Permit and NGA

section 3 applications. Under the legislation, the relevant official would issue the certificate of crossing unless it is found that the construction, connection, operation, or maintenance of border facilities comprising the cross-border segment is not in the public interest of the United States. Consistent with FERC's existing procedures for review of cross-border gas pipelines, the cross-border segment of the border crossing facility would be identified as the segment spanning from the international boundary to a physical feature within 1,000 feet, such as a valve or meter. This legislation would have no effect on the requirement to obtain approval or authorization under sections 3 and 7 of the NGA or the authorities of FERC with respect to the siting of oil pipelines upstream or downstream of a border crossing facility. The legislation would also have no effect on any other Federal statute that would apply to a project for which a Certificate of Crossing is required, including any requirements of NEPA.

#### COMMITTEE ACTION

On April 30, 2025, the Subcommittee on Energy held a legislative hearing on 14 pieces of legislation, including H.R. 3062. The Subcommittee received testimony from:

- Mike Goff, Acting Undersecretary of Energy, U.S. Department of Energy;
- David L. Morenoff, Acting General Counsel, Federal Energy Regulatory Commission;
- Terry Turpin, Director, Office of Energy Projects, Federal Energy Regulatory Commission;
- Jim Matheson, Chief Executive Officer, National Rural Electric Cooperative Association;
- Amy Andryszak, President and Chief Executive Officer, Interstate Natural Gas Association of America;
- Todd A. Snitchler, President and Chief Executive Officer, Electric Power Supply Association and;
- Kim Smaczniak, Partner, Roselle LLP.

On June 5, 2025, the Subcommittee on Energy met in open markup session and forwarded H.R. 3062, as amended, to the full Committee by a record vote of 16 yeas and 13 nays.

On June 25, 2025, the full Committee on Energy and Commerce met in open markup session and ordered H.R. 3062, without amendment, favorably reported to the House by a record vote of 28 yeas and 23 nays.

#### COMMITTEE VOTES

Clause 3(b) of rule XIII requires the Committee to list the record votes on the motion to report legislation and amendments thereto. The following reflects the record votes taken during both the Subcommittee and Committee consideration:

**[Attachments—Insert Votes]**

#### OVERSIGHT FINDINGS AND RECOMMENDATIONS

Pursuant to clause 2(b)(1) of rule X and clause 3(c)(1) of rule XIII, the Committee held hearings and made findings that are reflected in this report.

#### NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

Pursuant to clause 3(c)(2) of rule XIII, the Committee finds that H.R. 3062 would result in no new or increased budget authority, entitlement authority, or tax expenditures or revenues.

#### CONGRESSIONAL BUDGET OFFICE ESTIMATE

Pursuant to clause 3(c)(3) of rule XIII, at the time this report was filed, the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974 was not available.

#### FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act.

#### STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause 3(c)(4) of rule XIII, the general performance goal or objective of this legislation is to establish coordinated

procedures 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.

#### DUPLICATION OF FEDERAL PROGRAMS

Pursuant to clause 3(c)(5) of rule XIII, no provision of H.R. 3062 is known to be duplicative of another Federal program, including any program that was included in a report to Congress pursuant to section 21 of Public Law 111-139 or the most recent Catalog of Federal Domestic Assistance.

#### RELATED COMMITTEE AND SUBCOMMITTEE HEARINGS

Pursuant to clause 3(c)(6) of rule XIII, the following related hearings were used to develop or consider H.R. 3062:

On February 5, 2025, the Subcommittee on Energy held a hearing on H.R. 3062. The title of the hearing was “Powering America’s Future: Unleashing American Energy.” The Subcommittee received testimony from:

- Amanda Eversole, Executive Vice President and Chief Advocacy Officer, American Petroleum Institute;
- Brigham McCown, Senior Fellow and Director, Initiative on American Energy Security, The Hudson Institute;
- Gary Arnold, Business Manager, Denver Pipefitters Local 208 and;
- Tyler O’Connor, Partner, Crowell & Moring LLP.

On March 5, 2025, the Subcommittee on Energy held a hearing on H.R. 3062. The title of the hearing was “Scaling for Growth: Meeting the Demand for Reliable, Affordable Electricity.” The Subcommittee received testimony from:

- Todd Brickhouse, CEO and General Manager, Basin Electric Power Cooperative;
- Asim Haque, Senior Vice President for Governmental and Member Services, PJM;
- Noel W. Black, Senior VP of Regulatory Affairs, Southern Company and;

- Tyler H. Norris, James B. Duke Fellow, Duke University.

On March 25, 2025, the Subcommittee on Energy held a hearing on H.R. 3062. The title of the hearing was “Keeping the Lights On: Examining the State of Regional Grid Reliability.” The Subcommittee received testimony from:

- Gordon van Welie, President and Chief Executive Officer, ISO New England;
- Richard J. Dewey, President and Chief Executive Officer, New York Independent System Operator;
- Manu Asthana, President and Chief Executive Officer, PJM Interconnection LLC;
- Jennifer Curran, Senior Vice President for Planning and Operations, Midcontinent ISO;
- Lanny Nickell, Chief Operating Officer, Southwest Power Pool;
- Elliot Mainzer, President and Chief Executive Officer, California Independent System Operator and;
- Pablo Vegas President and Chief Executive Officer, Electric Reliability Council of Texas, Inc.

On April 9, 2025, the Committee on Energy and Commerce held a full Committee hearing on H.R. 3062. The title of the hearing was “The Energy Needs for Advancing American Technological Leadership.” The Committee received testimony from:

- Eric Schmidt, Chair, Special Competitive Studies Project;
- Manish Bhatia, Executive Vice President of Global Operations, Micron Technology;
- Alexander Wang, Founder and Chief Executive Officer, Scale AI, and;
- David Turk, Distinguished Visiting Fellow, Center on Global Energy Policy, Columbia University.

On April 30, 2025, the Subcommittee on Energy held a legislative hearing on H.R. 3062. The title of the hearing was



“Assuring Abundant, Reliable American Energy to Power Innovation.” The Subcommittee received testimony from:

- Mike Goff, Acting Undersecretary of Energy, U.S. Department of Energy;
- David L. Morenoff, Acting General Counsel, Federal Energy Regulatory Commission;
- Terry Turpin, Director, Office of Energy Projects, Federal Energy Regulatory Commission;
- Jim Matheson, Chief Executive Officer, National Rural Electric Cooperative Association;
- Amy Andryszak, President and Chief Executive Officer, Interstate Natural Gas Association of America;
- Todd A. Snitchler, President and Chief Executive Officer, Electric Power Supply Association and;
- Kim Smaczniak, Partner, Roselle LLP.

#### COMMITTEE COST ESTIMATE

Pursuant to clause 3(d)(1) of rule XIII, the Committee adopts as its own the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974. At the time this report was filed, the estimate was not available.

#### earmark, limited tax benefits, and limited tariff benefits

Pursuant to clause 9(e), 9(f), and 9(g) of rule XXI, the Committee finds that H.R. 3062 contains no earmarks, limited tax benefits, or limited tariff benefits.

#### ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

#### APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

#### SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

##### *Section 1. Short title*

This section provides the short title of “Promoting Cross-Border Energy Infrastructure Act.”

##### *Section 2. Approval for border-crossing facilities*

Section 2(a)(1) provides that no person may construct, connect, operate, or maintain a border-crossing facility for the import or export of oil or natural gas, or the transmission of electricity, across an international border of the United States without obtaining a certificate of crossing.

Section 2(a)(2) instructs relevant officials or agencies, in consultation with appropriate Federal agencies, to issue a certificate of crossing for a border-crossing facility within 120 days after final action is taken, unless the relevant official or agency finds that the construction, connection, operation, or maintenance of the border-crossing facility is not in the public interest of the United States. The relevant official or agency with respect to border-crossing facilities consisting of oil or natural gas pipelines is the Federal Energy Regulatory Commission. The relevant official or agency with respect to electric transmission facilities is the Secretary of Energy. This section also provides additional requirements for electric transmission facilities.

Section 2(a)(3) instructs that subsection (a) shall not apply to border-crossing facilities that are in operation on the date of enactment of this Act if a permit as described in subsection (d) has been issued, or if a permit as described in subsection (d) is pending and meets certain requirements.

Section 2(a)(4) specifies that nothing in subsection (a) or subsection (e) shall affect the application of any other Federal statute to a project for which a certificate of crossing for a border-crossing facility is requested; the requirement to obtain approval or authorization under sections 3 and 7 of the NGA or the authority of the FERC with respect to oil pipelines under section 60502 of title 49, United States Code.

Section 2(b) amends section 3(c) of the NGA directing FERC to grant an application for the importation of natural gas from, or exportation of natural gas to, Canada and Mexico not later than 30 days after the date on which the Commission receives the complete application.

Section 2(c) repeals section 202(e) of the Federal Power Act, eliminating the requirement to secure an order from FERC to transmit electric energy from the United States to a foreign country. This section also contains conforming amendments related to State regulations and seasonal diversity electricity exchange.

Section 2(d) specifies that no Presidential Permit or any other Executive Order shall be necessary for the construction, connection, operation, or maintenance of an oil or natural gas pipeline or electric transmission facility, or any border-crossing facility.

Section 2(e) directs that no certificate of crossing under subsection (a) or permit described in subsection (d) shall be required for a modification to an oil or natural gas pipeline or electric transmission facility that is operating for the import or export of energy as of the date of enactment of this Act. Additionally, a certificate of crossing or a permit shall not be required for a modification to an oil or natural gas pipeline or electric transmission facility for which a permit described in subsection (d) has been issued, or for which a certificate of crossing has previously been issued under subsection (a).

Section 2(f) specifies that the President may not revoke a Presidential permit issued pursuant to a relevant Executive Order for the construction, connection, operation, or maintenance of an oil or natural gas pipeline or electric transmission facility unless such revocation is authorized by Congress.

Section 2(g) specifies that subsections (a) through (c) shall take effect on the date that is one year after the date of enactment of this Act. Each relevant official or agency shall publish in the Federal Register a notice of a proposed rulemaking to carry out the requirements of subsection (a) within 180 days after the date of enactment of this Act. Not later than one year after the date of enactment, the relevant officials or agencies shall publish a final rule in the Federal Register.

Section 2(h) provides definitions for terms used throughout this section.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

MINORITY, ADDITIONAL, OR DISSENTING VIEWS

EXCHANGE OF LETTERS WITH ADDITIONAL COMMITTEES OF  
REFERRAL