

115TH CONGRESS
1ST SESSION

S. 1340

To provide for an expedited permitting process for critical energy infrastructure projects relating to the establishment of a regional energy hub in Appalachia, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 12, 2017

Mrs. CAPITO introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

A BILL

To provide for an expedited permitting process for critical energy infrastructure projects relating to the establishment of a regional energy hub in Appalachia, 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 “Appalachian Energy
5 and Manufacturing Infrastructure Revitalization Act”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

1 (1) APPALACHIA.—The term “Appalachia”
2 means the region comprised of the following States:

3 (A) Kentucky.

4 (B) Ohio.

5 (C) Pennsylvania.

6 (D) West Virginia.

7 (2) APPALACHIAN REGIONAL ENERGY HUB.—

8 The term “Appalachian regional energy hub” means
9 a regional energy hub in Appalachia for natural gas
10 and natural gas liquids, including storage and asso-
11 ciated pipelines.

12 (3) APPLICABLE FEDERAL AGENCY.—The term
13 “applicable Federal agency” means a Federal agency
14 responsible for the permitting, or administrative or
15 environmental review or approval, of a critical en-
16 ergy infrastructure project or an aspect of a critical
17 energy infrastructure project.

18 (4) APPLICABLE STATE.—The term “applicable
19 State” means a State in Appalachia in which a crit-
20 ical energy infrastructure project or an aspect of a
21 critical energy infrastructure project is or is pro-
22 posed be located.

23 (5) APPLICABLE STATE AGENCY.—The term
24 “applicable State agency” means the State agency
25 responsible for the permitting, or administrative or

1 environmental review or approval, of a critical en-
 2 ergy infrastructure project or an aspect of a critical
 3 energy infrastructure project.

4 (6) CRITICAL ENERGY INFRASTRUCTURE
 5 PROJECT.—The term “critical energy infrastructure
 6 project” means a project designated under section
 7 3(a) as a critical energy infrastructure project eligi-
 8 ble for expedited permitting under section 4.

9 (7) PROJECT SPONSOR.—The term “project
 10 sponsor” means a Federal or State agency or private
 11 entity proposing the development of a critical energy
 12 infrastructure project.

13 (8) SECRETARIES.—The term “Secretaries”
 14 means the Secretary of Commerce and the Secretary
 15 of Energy.

16 **SEC. 3. CRITICAL ENERGY INFRASTRUCTURE PROJECTS.**

17 (a) IN GENERAL.—In accordance with this section,
 18 the Secretaries may designate one or more eligible projects
 19 as critical energy infrastructure projects eligible for expe-
 20 dited permitting under section 4.

21 (b) ELIGIBLE PROJECTS.—To be eligible to be des-
 22 ignated as a critical energy infrastructure project under
 23 subsection (a), a project—

24 (1) shall relate to the establishment of an Ap-
 25 palachian regional energy hub; and

1 (2) shall be—

2 (A) an ongoing project; or

3 (B) a proposed project.

4 (c) APPLICATION PROCESS.—

5 (1) IN GENERAL.—A project sponsor seeking
6 for a project to be designated as a critical energy in-
7 frastructure project shall submit to the Secretaries
8 an application at such time, in such manner, and
9 containing such information as the Secretaries may
10 require.

11 (2) CONTENTS OF APPLICATION.—

12 (A) MINIMUM CRITERIA.—An application
13 submitted under paragraph (1), at a minimum,
14 shall include—

15 (i) a description of the contribution
16 the project will make toward achieving the
17 objective of an Appalachian regional en-
18 ergy hub;

19 (ii) a description of the direct and in-
20 direct economic benefits and impacts an-
21 ticipated to be derived from the project, in-
22 cluding the number of jobs to be created
23 that will be held by residents of Appa-
24 lachia;

1 (iii) the availability of immediate pri-
2 vate funding, including loan guarantees,
3 loans, and grants to implement, operate, or
4 maintain the project;

5 (iv) the cost of the project;

6 (v) the amount of Federal or State
7 funding, if any, necessary to implement,
8 operate, or maintain the project; and

9 (vi) the status of the project if the
10 project is an ongoing project.

11 (B) ADDITIONAL CRITERIA.—In addition
12 to the minimum criteria described in clauses (i)
13 through (vi) of subparagraph (A), the Secre-
14 taries may require an application submitted
15 under paragraph (1) to describe how the project
16 will meet one or more of the following criteria:

17 (i) Improve the performance of energy
18 infrastructure and overall energy effi-
19 ciency.

20 (ii) Promote the development and use
21 of energy sources found in Appalachia.

22 (iii) Contribute to the revitalization of
23 manufacturing capacity in Appalachia.

1 (iv) Support the goal of reducing en-
2 ergy costs and ensuring affordable energy
3 supplies for consumers and businesses.

4 (d) IDENTIFICATION OF APPLICABLE STATE AGEN-
5 CIES.—Not later than 30 days after the date on which
6 the Secretaries receive an application under subsection
7 (c)(1), the Secretaries, in consultation with the Governor
8 of each applicable State, shall identify all applicable State
9 agencies for the project.

10 (e) EVALUATION OF PROJECT.—

11 (1) IN GENERAL.—Not later than 60 days after
12 the date on which the Secretaries receive an applica-
13 tion under subsection (c)(1), the Secretaries, in con-
14 sultation with the Governors of the applicable States
15 and the applicable State agencies identified under
16 subsection (d), shall evaluate the project, including
17 by evaluating the extent to which—

18 (A) the project application meets minimum
19 criteria described in subsection (c)(2)(A); and

20 (B) the project meets one or more of the
21 additional criteria described in subsection
22 (c)(2)(B), if any were required by the Secre-
23 taries.

1 (2) PUBLIC INVOLVEMENT.—As soon as prac-
 2 ticable after completing the evaluation under para-
 3 graph (1), the Secretaries shall—

4 (A) make the evaluation available to the
 5 public; and

6 (B) allow for a period of 30 days for the
 7 submission of comments by residents of the ap-
 8 plicable States on matters relating to the des-
 9 ignation of the project as a critical energy in-
 10 frastructure project.

11 (f) ACTION BY THE SECRETARIES.—

12 (1) IN GENERAL.—Not later than 30 days after
 13 the date on which the public comment period under
 14 subsection (e)(2)(B) relating to an application con-
 15 cludes, the Secretaries shall determine whether to
 16 designate the project proposed by the application as
 17 a critical energy infrastructure project.

18 (2) PUBLICATION.—The Secretaries shall make
 19 publicly available the justifications for the deter-
 20 mination under paragraph (1).

21 **SEC. 4. EXPEDITED PERMITTING PROCESS.**

22 (a) FEDERAL EXPEDITED PERMITTING PROCESS.—

23 (1) IN GENERAL.—Not later than 30 days after
 24 the date on which a project is designated as a crit-
 25 ical energy infrastructure project under section 3(a),

1 the Secretaries shall coordinate with all applicable
2 Federal agencies to expedite the Federal permitting
3 process relating to the critical energy infrastructure
4 project.

5 (2) FEDERAL AGENCY LIAISONS.—On the re-
6 quest of the Secretaries and not later than 30 days
7 after the date on which such a request is received,
8 each applicable Federal agency shall designate a liai-
9 son within the applicable Federal agency who shall
10 be responsible for coordinating with all other appli-
11 cable Federal agencies and applicable State agencies
12 with respect to critical energy infrastructure
13 projects.

14 (3) FERC REVIEW.—The Federal Energy Reg-
15 ulatory Commission shall complete a review of any
16 application or license relating to the critical energy
17 infrastructure project.

18 (4) EXPEDITED REVIEWS AND ACTIONS OF
19 FEDERAL AGENCIES.—

20 (A) IN GENERAL.—Notwithstanding any
21 other provision of law, in any case in which a
22 decision under any other Federal law relating to
23 a critical energy infrastructure project is re-
24 quired to be made, each applicable Federal
25 agency shall complete any relevant review not

1 later than 60 days after the date on which the
2 Federal Energy Regulatory Commission com-
3 pletes the review described in paragraph (3).

4 (B) EFFECT OF NONCOMPLIANCE.—

5 (i) IN GENERAL.—A permit, license,
6 or other similar application for approval
7 relating to a critical energy infrastructure
8 project that requires approval or other ac-
9 tion by a Federal agency shall be consid-
10 ered to be approved by the Federal agency
11 if the Federal agency fails to approve or
12 otherwise take an action relating to the
13 permit, license, or other similar application
14 by the deadline described in subparagraph
15 (A).

16 (ii) FINAL AGENCY ACTION.—

17 (I) IN GENERAL.—An approval
18 under clause (i) shall be considered to
19 be a final agency action, which may
20 not be reversed by any agency.

21 (II) REVIEW.—In any action
22 under chapter 7 of title 5, United
23 States Code, that seeks review of a
24 final agency action under subclause
25 (I), a court may not set aside the ac-

1 tion based on the action having been
2 made final under that subclause.

3 (b) EXPEDITED PERMITTING PROCESS COMPLI-
4 ANCE.—On written notification by the project sponsor of
5 the failure of an applicable Federal agency to adhere to
6 the expedited permitting process required under sub-
7 section (a), the Secretaries shall take necessary actions en-
8 sure that the permitting of the critical energy infrastruc-
9 ture project is expedited.

10 (c) PRIORITIZATION.—To the maximum extent prac-
11 ticable, the Secretaries shall prioritize the expedited per-
12 mitting of each critical energy infrastructure project under
13 this section.

14 (d) FEDERAL GRANTS AND LOANS.—The Secretaries
15 and the liaisons designated under subsection (a)(2) shall
16 cooperate to ensure expedited review of any application by
17 a critical energy infrastructure project for a Federal
18 grant, loan, or loan guarantee that is—

19 (1) pending as of the date of enactment of this
20 Act; or

21 (2) submitted after the date of enactment of
22 this Act.

1 **SEC. 5. SAVINGS CLAUSE.**

2 Nothing in this Act alters any other Federal law, in-
3 cluding any other legal requirement under any other Fed-
4 eral law.

