

116TH CONGRESS
2D SESSION

H. R. 7878

To bolster evaluation procedures in consideration of interstate natural gas pipelines in relation to National Scenic Trails, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 30, 2020

Ms. KUSTER of New Hampshire (for herself, Mr. NEAL, Mr. MALINOWSKI, Mr. RASKIN, Mr. MCGOVERN, and Mr. RUIZ) introduced the following bill; which was referred to the Committee on Energy and Commerce

A BILL

To bolster evaluation procedures in consideration of interstate natural gas pipelines in relation to National Scenic Trails, 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 “Scenic Trail Viewshed
5 Protection Act”.

6 **SEC. 2. FINDING.**

7 Congress finds that—

8 (1) prior to issuing a certificate of public con-
9 venience and necessity under section 7 of the Nat-

1 ural Gas Act (15 U.S.C. 717f) with respect to a
 2 pipeline for the transportation of natural gas that
 3 will cross a national scenic trail established under
 4 section 5 of the National Trails System Act (16
 5 U.S.C. 1244), the Federal Energy Regulatory Com-
 6 mission should specifically consider the conservation
 7 and recreation value of the land impacted; and

8 (2) if such certificate, or an action taken pursu-
 9 ant to such certificate, is under court review, the
 10 court should consider the loss of any natural, cul-
 11 tural, scenic, and recreational values in determining
 12 whether an overriding public need for such pipeline
 13 exists.

14 **SEC. 3. CERTIFICATES FOR PIPELINES THAT INTERSECT**
 15 **NATIONAL SCENIC TRAILS.**

16 (a) APPLICABILITY.—

17 (1) PIPELINE.—This section applies with re-
 18 spect to a pipeline for the transportation of natural
 19 gas that will—

20 (A) intersect a trail described in paragraph

21 (2); or

22 (B) affect the surrounding radius of the
 23 viewshed of a trail described in paragraph (2),
 24 as determined as the result of a viewshed anal-
 25 ysis performed and submitted to the Federal

1 Energy Regulatory Commission by the admin-
2 istering agency of the trail or its cooperative
3 agreement designated partner.

4 (2) TRAIL.—A trail described in this paragraph
5 is a national scenic trail established under section 5
6 of the National Trails System Act (16 U.S.C. 1244).

7 (b) DETERMINATION.—The Federal Energy Regu-
8 latory Commission may issue a certificate of public con-
9 venience and necessity under section 7 of the Natural Gas
10 Act (15 U.S.C. 717f) for a pipeline described in subsection
11 (a)(1) only if the Commission determines that—

12 (1) the pipeline is the only prudent and feasible
13 alternative to meet an overriding public need;

14 (2) the applicant, in order to result in no, or
15 minimal, adverse effect to a trail described in sub-
16 section (a)(2) and the viewshed of such a trail, thor-
17 oughly considered, in this order, avoidance measures,
18 minimization measures, mitigation measures, and
19 enhancement measures, including alternative routes,
20 expanding existing pipeline infrastructure, and poli-
21 cies to reduce energy demand in the region of need;

22 (3) minimal road construction will be required
23 to construct and operate the pipeline;

1 (4) construction of the pipeline will use the best
2 available technology in order to minimize, as much
3 as possible, the potential for leakage;

4 (5) if the pipeline will intersect a trail described
5 in subsection (a)(2), the pipeline will intersect the
6 trail—

7 (A) at a point that is already subject to
8 significant impact, including an existing energy
9 or transportation infrastructure crossing, or the
10 applicant made a documented effort to consider
11 such a route; and

12 (B) only once and using the shortest path
13 possible in crossing the trail;

14 (6) the pipeline will not affect the surrounding
15 viewshed of a trail described in subsection (a)(2) in
16 an area that—

17 (A) has been identified, through the
18 viewshed analysis of the trail described in
19 (a)(1)(B), as an area of high conservation, rec-
20 reational, or scenic value;

21 (B) is a protected wilderness area, as de-
22 fined by the Wilderness Act of 1964, an old-
23 growth forest, or an alpine area; or

24 (C) has an existing designated location for
25 a shelter or campsite;

1 (7) construction techniques to be used for the
2 pipeline will produce a minimal disturbance to any
3 trail described in subsection (a)(2) and surrounding
4 conserved lands;

5 (8) the applicant has demonstrated plans for
6 the ongoing maintenance and operation of the pipe-
7 line that ensures such maintenance and operation is
8 done in a way that minimizes impact on any trail
9 described in subsection (a)(2) that the pipeline will
10 intersect, or the viewshed of which will be affected
11 by the pipeline, and surrounding conserved lands;
12 and

13 (9) the applicant clearly acknowledges that it
14 has an affirmative duty to—

15 (A) protect any trail described in sub-
16 section (a)(2) that the pipeline will intersect, or
17 the viewshed of which will be affected by the
18 pipeline, and surrounding environment; and

19 (B) ensure the health and safety of the
20 public who use such trail and surrounding envi-
21 ronment.

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