

117TH CONGRESS  
2D SESSION

**S.** \_\_\_\_\_

To amend the Natural Gas Act to bolster fairness and transparency in the consideration of interstate natural gas pipeline permits, to provide for greater public input opportunities in the natural gas pipeline permitting process, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

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Mr. KAINE (for himself and Mr. WARNER) introduced the following bill; which was read twice and referred to the Committee on \_\_\_\_\_

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**A BILL**

To amend the Natural Gas Act to bolster fairness and transparency in the consideration of interstate natural gas pipeline permits, to provide for greater public input opportunities in the natural gas pipeline permitting process, 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 “Pipeline Fairness,  
5 Transparency, and Responsible Development Act of  
6 2022”.

1 **SEC. 2. NOTICE TO AFFECTED LANDOWNERS.**

2 (a) INITIAL NOTICE.—Section 7(d) of the Natural  
3 Gas Act (15 U.S.C. 717f(d)) is amended—

4 (1) by striking the subsection designation and  
5 all that follows through “Application for certificates”  
6 and inserting the following:

7 “(d) APPLICATION FOR CERTIFICATE OF PUBLIC  
8 CONVENIENCE AND NECESSITY.—

9 “(1) IN GENERAL.—Subject to paragraph (2),  
10 an application for a certificate”; and

11 (2) by adding at the end the following:

12 “(2) REQUIREMENTS.—

13 “(A) APPLICATION.—An application for a  
14 certificate of public convenience and necessity  
15 under paragraph (1) shall include—

16 “(i) the name and address of each in-  
17 terested party on whom the Commission or  
18 the applicant is required to serve notice of  
19 the application under that paragraph; and

20 “(ii) a copy of the notice proposed to  
21 be served on each interested party under  
22 that paragraph.

23 “(B) NOTICE.—

24 “(i) IN GENERAL.—A notice served on  
25 an interested party under paragraph (1)  
26 shall include the following:

1                   “(I) A description of the pro-  
2                   ceeding before the Commission relat-  
3                   ing to the application for a certificate  
4                   of public convenience and necessity,  
5                   which shall include the following  
6                   statement:

7                   “‘If the applicant ([name of appli-  
8                   cant]) wants to build the pipeline on  
9                   property that you own, and the Com-  
10                  mission issues the requested certifi-  
11                  cate of public convenience and neces-  
12                  sity, then the applicant will have the  
13                  right, subject to paying just com-  
14                  pensation, to take your property for  
15                  its project.’.

16                  “(II) Complete instructions on  
17                  how the interested party can move to  
18                  intervene in the proceeding described  
19                  in the notice, including instructions on  
20                  how to intervene—

21                                 “(aa) electronically; and

22                                 “(bb) through a paper filing.

23                  “(III) A clear statement of the  
24                  contents required to be included in a

1 motion to intervene in the proceeding  
2 described in the notice.

3 “(IV) The deadline for the inter-  
4 ested party to move to intervene in  
5 the proceeding described in the notice.

6 “(V) A section, separated from  
7 the remaining text of the notice and  
8 clearly displayed in bold print, inform-  
9 ing the interested party that—

10 “(aa) in order to preserve  
11 the right to seek judicial review  
12 of a decision by the Commission  
13 relating to the certificate of pub-  
14 lic convenience and necessity, the  
15 interested party must intervene  
16 in the proceeding described in the  
17 notice; and

18 “(bb) intervention in the  
19 proceeding described in the notice  
20 is the only way to preserve the  
21 right to judicial review described  
22 in item (aa).

23 “(ii) REVIEW.—The Commission  
24 shall—

1           “(I) review each notice submitted  
2 to the Commission under subpara-  
3 graph (A)(ii) to determine whether  
4 the notice meets the requirements de-  
5 scribed in clause (i); and

6           “(II) approve the notice only if  
7 the notice meets—

8                   “(aa) those requirements;  
9 and

10                   “(bb) any other require-  
11 ments that the Commission de-  
12 termines to be necessary to pro-  
13 vide adequate notice.

14           “(iii) SERVICE.—

15                   “(I) IN GENERAL.—An applicant  
16 may not serve notice on an interested  
17 party under paragraph (1) unless the  
18 notice has been approved by the Com-  
19 mission under clause (ii).

20                   “(II) DEADLINE.—A notice  
21 under paragraph (1) shall be served  
22 on an interested party not later than  
23 90 days before the last day on which  
24 the interested party may intervene in  
25 the proceeding described in the notice.

1                   “(C) PUBLIC AVAILABILITY OF INFORMA-  
2                   TION RELATING TO INTERESTED PARTIES.—On  
3                   request of any person, the Commission shall  
4                   disclose the names and addresses submitted to  
5                   the Commission under subparagraph (A)(i),  
6                   subject to such reasonable terms and conditions  
7                   as the Commission determines to be appro-  
8                   priate.”.

9                   (b) SUBSEQUENT NOTICE.—Section 7(e) of the Nat-  
10                  ural Gas Act (15 U.S.C. 717f(e)) is amended—

11                  (1) by striking the subsection designation and  
12                  all that follows through “of this section,” in the first  
13                  sentence and inserting the following:

14                  “(e) ISSUANCE OF CERTIFICATE.—

15                  “(1) IN GENERAL.—Except in the cases gov-  
16                  erned by the provisos in subparagraphs (A) and (B)  
17                  of subsection (e)(1), and subject to paragraphs (2)  
18                  through (4),”;

19                  (2) in paragraph (1) (as so designated), by  
20                  striking “necessity; otherwise” in the first sentence  
21                  and all that follows through “The Commission” in  
22                  the second sentence and inserting the following: “ne-  
23                  cessity.”

1           “(2) REQUIREMENT.—The Commission shall  
2 deny any application for which the Commission has  
3 not made the findings described in paragraph (1).

4           “(3) TERMS AND CONDITIONS.—The Commis-  
5 sion”; and

6           (3) by adding at the end the following:

7           “(4) NOTICE OF ISSUANCE.—

8                 “(A) IN GENERAL.—On issuance of a cer-  
9 tificate of public convenience and necessity by  
10 the Commission, the applicant requesting the  
11 certificate shall provide to each interested party  
12 on whom the applicant served notice of the ap-  
13 plication under subsection (d) a notice of the  
14 issuance of the certificate.

15                 “(B) REQUIREMENTS.—Each notice under  
16 subparagraph (A) shall include—

17                         “(i) complete instructions on how the  
18 recipient of the notice may apply for a re-  
19 hearing before the Commission;

20                         “(ii) a clear statement of the contents  
21 required to be included in an application  
22 for a rehearing before the Commission;

23                         “(iii) the deadline for the recipient to  
24 file that application;

1           “(iv) the time period for seeking judi-  
2           cial review of a decision of the Commission  
3           on an application for rehearing;

4           “(v) a statement in bold print inform-  
5           ing the recipient that judicial review will  
6           not be available with respect to a decision  
7           of the Commission on any issue for which  
8           the recipient has not sought rehearing be-  
9           fore the Commission; and

10          “(vi) a clear reference to—

11                 “(I) subsections (a) and (b) of  
12                 section 19; and

13                 “(II) any rules issued under  
14                 those subsections relating to the time  
15                 or manner of seeking—

16                         “(aa) a rehearing before the  
17                         Commission; or

18                         “(bb) judicial review of a de-  
19                         cision of the Commission under  
20                         this section, including any deci-  
21                         sion on a rehearing.

22          “(C) EFFECT OF NOTICE.—No court shall  
23          have jurisdiction over any action to exercise the  
24          right of eminent domain under subsection (h)  
25          with respect to any property covered by the ap-



1           plicable certificate of public convenience and ne-  
2           cessity issued under this subsection unless the  
3           holder of the certificate has provided notice  
4           under this paragraph to each interested party  
5           described in subparagraph (A).”.

6 **SEC. 3. CONDITIONED CERTIFICATES.**

7           Section 7(e) of the Natural Gas Act (15 U.S.C.  
8           717f(e)) (as amended by section 2(b)) is amended by add-  
9           ing at the end the following:

10           “(5) RESTRICTIONS.—

11           “(A) EMINENT DOMAIN.—

12           “(i) COMMENCEMENT OF ACTION.—A  
13           holder of a certificate of public convenience  
14           and necessity may not commence an action  
15           under subsection (h) until the earlier of—

16           “(I) the earliest date on which all  
17           timely applications for rehearing  
18           under section 19(a) have received a  
19           ruling on the merits by the Commis-  
20           sion under that section; and

21           “(II) the date that is 90 days  
22           after the latest date on which a timely  
23           application for rehearing under sec-  
24           tion 19(a) has been deemed denied

1 under paragraph (3)(B)(i) of that sec-  
2 tion.

3 “(ii) JURISDICTION OVER EMINENT  
4 DOMAIN ACTIONS.—No court shall have ju-  
5 risdiction over any action to exercise the  
6 right of eminent domain under subsection  
7 (h) with respect to any property covered by  
8 the applicable certificate of public conven-  
9 ience and necessity if the holder of that  
10 certificate has not received all certifi-  
11 cations, authorizations, approvals, permits,  
12 or other permissions required under Fed-  
13 eral law—

14 “(I) to begin construction; and

15 “(II) to complete the entire  
16 project for which the certificate was  
17 issued.

18 “(B) CONSTRUCTION.—

19 “(i) IN GENERAL.—Except as pro-  
20 vided in clause (ii), the holder of a certifi-  
21 cate of public convenience and necessity  
22 may not begin construction,  
23 preconstruction, or land-disturbing activi-  
24 ties under that certificate until the later  
25 of—

1           “(I) the earliest date on which  
2           the holder has received all required  
3           certifications, authorizations, approv-  
4           als, permits, or other permissions de-  
5           scribed in subparagraph (A)(ii); and

6           “(II) the earliest date on which  
7           all timely applications for rehearing  
8           under section 19(a) have either—

9                   “(aa) received a ruling on  
10                  the merits by the Commission  
11                  under that section; or

12                  “(bb) been deemed denied  
13                  under paragraph (3)(B)(i) of  
14                  that section.

15           “(ii) EXCEPTION.—Clause (i) shall  
16           not apply to activities described in that  
17           clause that are carried out—

18                   “(I) on land that is owned by the  
19                  holder of the certificate of public con-  
20                  venience and necessity; or

21                   “(II) in an existing utility right-  
22                  of-way.”.

23 **SEC. 4. EMINENT DOMAIN.**

24           (a) STATEMENT OF POLICY.—With respect to the  
25           construction and operation of natural gas pipelines, it is

1 the policy of the United States to protect the rights of  
2 citizens of the United States to their private property, in-  
3 cluding by limiting the taking of private property by the  
4 Federal Government and the use of eminent domain au-  
5 thority granted under any Federal statute to situations  
6 in which the taking is for public use, with just compensa-  
7 tion, and required by the public convenience and necessity,  
8 and not merely to advance the economic interests of pri-  
9 vate parties that would be given ownership or use of the  
10 property taken.

11 (b) **JUST COMPENSATION.**—Section 7(h) of the Nat-  
12 ural Gas Act (15 U.S.C. 717f(h)) is amended—

13 (1) by striking the subsection designation and  
14 all that follows through “When any holder” in the  
15 first sentence and inserting the following:

16 “(h) **EMINENT DOMAIN.**—

17 “(1) **IN GENERAL.**—When any holder”;

18 (2) in paragraph (1) (as so designated), in the  
19 second sentence—

20 (A) by striking “The practice” and insert-  
21 ing the following:

22 “(2) **PRACTICE AND PROCEDURE.**—

23 “(A) **IN GENERAL.**—Subject to subpara-  
24 graph (B), the practice”;

1           (3) in paragraph (2)(A) (as so designated), by  
2 striking “situated: Provided, That the” and insert-  
3 ing the following “situated.

4           “(B) LIMITATION.—The”; and

5           (4) by adding at the end the following:

6           “(3) JUST COMPENSATION.—

7           “(A) DEFINITION OF LOST CONSERVATION  
8 VALUE.—In this paragraph, the term ‘lost con-  
9 servation value’ means—

10           “(i) the value of any use of land for  
11 conservation purposes (as defined in sec-  
12 tion 1.170A–14(d) of title 26, Code of  
13 Federal Regulations (or a successor regula-  
14 tion)) that is interrupted or prevented by  
15 the exercise of the right of eminent domain  
16 under paragraph (1);

17           “(ii) any decrease in the value of land  
18 due to the interruption or prevention of a  
19 use described in clause (i); and

20           “(iii) any lost benefit or decrease in  
21 the value of a benefit due to the interrup-  
22 tion or prevention of a use described in  
23 clause (i).

24           “(B) LAND SUBJECT TO A CONSERVATION  
25 EASEMENT.—In determining the just compensa-

1           tion for property acquired by the exercise of the  
2           right of eminent domain under paragraph (1),  
3           in the case of land subject to a conservation  
4           easement, the court with jurisdiction over the  
5           proceeding shall consider the lost conservation  
6           value of that land.”.

7   **SEC. 5. APPRAISALS, OFFERS OF COMPENSATION, AND POS-**  
8                           **SESSION.**

9           Section 7(h) of the Natural Gas Act (15 U.S.C.  
10 717f(h)) (as amended by section 4(b)) is amended by add-  
11 ing at the end the following:

12                   “(4) APPRAISALS AND OFFERS OF COMPENSA-  
13           TION.—

14                   “(A) APPRAISALS.—

15                   “(i) IN GENERAL.—The holder of a  
16                   certificate of public convenience and neces-  
17                   sity shall have the property covered by the  
18                   certificate independently appraised in ac-  
19                   cordance with generally accepted appraisal  
20                   standards.

21                   “(ii) REQUIREMENT.—The owner of  
22                   the applicable property (or a designated  
23                   representative of the owner) shall be given  
24                   the opportunity to accompany the ap-  
25                   praiser during any inspection of the prop-

1                   erty that is part of an appraisal under  
2                   clause (i).

3                   “(iii) TIMING.—An appraisal under  
4                   clause (i) shall be carried out before the  
5                   holder of the certificate of public conven-  
6                   ience and necessity makes an offer of com-  
7                   pensation to the owner of the applicable  
8                   property.

9                   “(B) OFFERS OF COMPENSATION.—Any  
10                  offer of compensation made to an owner of  
11                  property that is covered by a certificate of pub-  
12                  lic convenience and necessity—

13                         “(i) shall be made in writing;

14                         “(ii) may not be for an amount less  
15                         than the fair market value of the property,  
16                         as determined by an appraisal carried out  
17                         under subparagraph (A); and

18                         “(iii) shall include damages to any  
19                         property of the owner that is adjacent to  
20                         the property covered by the certificate.

21                   “(5) JURISDICTION OVER EMINENT DOMAIN AC-  
22                  TIONS.—No court shall have jurisdiction over any  
23                  action to exercise the right of eminent domain under  
24                  this subsection unless—

1           “(A) an appraisal has been carried out in  
2           accordance with subparagraph (A) of paragraph  
3           (4); and

4           “(B) the holder of the certificate of public  
5           convenience and necessity has made an offer of  
6           compensation to the owner of the applicable  
7           property in accordance with subparagraph (B)  
8           of that paragraph.

9           “(6) RIGHT OF POSSESSION.—An owner of  
10          property covered by a certificate of public conven-  
11          ience and necessity shall not be required to sur-  
12          render possession of the property unless the holder  
13          of the certificate—

14                 “(A) has paid to the owner the agreed pur-  
15                 chase price; or

16                 “(B) has deposited with the applicable  
17                 court the amount of the award of compensation  
18                 in the condemnation proceeding for the prop-  
19                 erty.”.

20 **SEC. 6. PROCESS COORDINATION FOR ENVIRONMENTAL**  
21 **REVIEW.**

22          Section 15 of the Natural Gas Act (15 U.S.C. 717n)  
23 is amended by adding at the end the following:

24          “(g) ENVIRONMENTAL REVIEW FOR INTERSTATE  
25 NATURAL GAS PIPELINES.—



1           “(1) DEFINITIONS.—In this subsection:

2                   “(A) FEDERAL AUTHORIZATION.—

3                           “(i) IN GENERAL.—The term ‘Federal  
4 authorization’ means any authorization re-  
5 quired under Federal law with respect to  
6 an application for a certificate of public  
7 convenience and necessity under section 7.

8                           “(ii) INCLUSIONS.—The term ‘Federal  
9 authorization’ includes any permits, special  
10 use authorizations, certifications, opinions,  
11 or other approvals as may be required  
12 under Federal law with respect to an appli-  
13 cation for a certificate of public conven-  
14 ience and necessity under section 7.

15                   “(B) PROJECT.—The term ‘project’ means  
16 a project for the construction or extension of fa-  
17 cilities for the transportation in interstate com-  
18 merce of natural gas that requires Federal au-  
19 thorization.

20           “(2) CUMULATIVE IMPACTS ANALYSIS.—In con-  
21 sidering an application for Federal authorization for  
22 a project in a State, if, during the 1-year period be-  
23 ginning on the date on which the application is filed,  
24 an application for Federal authorization for a sepa-  
25 rate project is filed, and that project is located in

1 the same State and within 100 miles of the first  
2 project, the Commission shall consider both projects  
3 to be 1 project for purposes of complying with the  
4 National Environmental Policy Act of 1969 (42  
5 U.S.C. 4321 et seq.).

6 “(3) SUPPLEMENTAL ENVIRONMENTAL IMPACT  
7 STATEMENTS.—

8 “(A) IN GENERAL.—If the Commission de-  
9 termines that comments submitted in response  
10 to a draft environmental impact statement pre-  
11 pared with respect to an application for Federal  
12 authorization raise issues that exceed the initial  
13 scope of the draft environmental impact state-  
14 ment, a supplemental environmental impact  
15 statement shall be prepared for the project.

16 “(B) MITIGATION PLANS.—If a draft envi-  
17 ronmental impact statement prepared with re-  
18 spect to an application for Federal authoriza-  
19 tion does not include information about mitiga-  
20 tion plans for adverse impacts that cannot rea-  
21 sonably be avoided, a supplemental environ-  
22 mental impact statement shall be prepared that  
23 includes that information.

24 “(4) PUBLIC MEETING REQUIREMENTS.—

1           “(A) IN GENERAL.—In complying with the  
2 National Environmental Policy Act of 1969 (42  
3 U.S.C. 4321 et seq.) with respect to an applica-  
4 tion for Federal authorization, the Commission  
5 shall ensure that public meetings shall be  
6 held—

7                   “(i) in each county or equivalent sub-  
8 division in which the project will be lo-  
9 cated; and

10                   “(ii) during each period of public com-  
11 ment preceding, if applicable, publication  
12 of—

13                           “(I) a draft environmental im-  
14 pact statement;

15                           “(II) a final environmental im-  
16 pact statement; and

17                           “(III) any supplemental environ-  
18 mental impact statement.

19           “(B) NOTICE.—The Commission shall en-  
20 sure that notice of each meeting held under  
21 subparagraph (A)—

22                   “(i) is provided to the public and each  
23 interested party not later than 30 days be-  
24 fore the date of the meeting; and

1                   “(ii) includes the information de-  
2                   scribed in section 7(d)(2)(B)(i).”.

3 **SEC. 7. IMPACTS ON CRITICAL NATURAL RESOURCES.**

4           Subsection (g) of section 15 of the Natural Gas Act  
5 (15 U.S.C. 717n) (as added by section 6) is amended by  
6 adding at the end the following:

7                   “(5) NATIONAL SCENIC TRAILS.—

8                   “(A) IN GENERAL.—In preparing an envi-  
9                   ronmental impact statement with respect to an  
10                  application for Federal authorization for a  
11                  project, any evaluation of the visual impacts of  
12                  the project on a national scenic trail designated  
13                  by the National Trails System Act (16 U.S.C.  
14                  1241 et seq.) in the environmental impact  
15                  statement shall—

16                   “(i) consider the cumulative visual im-  
17                   pacts of any similar proposed project—

18                   “(I) for which an application for  
19                   Federal authorization is in the pre-fil-  
20                   ing or filing stage; and

21                   “(II) that impacts the same na-  
22                   tional scenic trail within 100 miles of  
23                   the first project; and

24                   “(ii) include visual impact simulations  
25                   depicting leaf-on and leaf-off views at each

1 location where major visual impacts occur,  
2 as identified, authenticated, and justified  
3 during the period of public comment pre-  
4 ceding the publication of a draft environ-  
5 mental impact statement by the head of  
6 the Federal agency or independent agency  
7 administering the land at the applicable lo-  
8 cation.

9 “(B) NATIONAL FOREST MANAGEMENT  
10 PLANS.—No amendment to a National Forest  
11 management plan under the Forest and Range-  
12 land Renewable Resources Planning Act of  
13 1974 (16 U.S.C. 1600 et seq.) shall be consid-  
14 ered if the result of the amendment represents  
15 net degradation to the resources of a national  
16 scenic trail designated by the National Trails  
17 System Act (16 U.S.C. 1241 et seq.).”

18 **SEC. 8. JUDICIAL REVIEW.**

19 Section 19(a) of the Natural Gas Act (15 U.S.C.  
20 717r(a)) is amended—

21 (1) in the sixth sentence, by striking “Until the  
22 record” and inserting the following:

23 “(5) POWERS OF THE COMMISSION.—Until the  
24 record”;

1           (2) in the fifth sentence, by striking “No pro-  
2           ceeding” and inserting the following:

3           “(4) APPLICATION REQUIRED FOR JUDICIAL  
4           REVIEW.—No proceeding”;

5           (3) by striking the fourth sentence and insert-  
6           ing the following:

7           “(B) EFFECT OF FAILURE TO TIMELY  
8           RULE ON THE MERITS.—

9           “(i) IN GENERAL.—If the Commission  
10           has not ruled on the merits of an applica-  
11           tion for rehearing under this subsection by  
12           the date that is 30 days after the date on  
13           which the application for rehearing is filed  
14           with the Commission, the application for  
15           rehearing shall be deemed denied on that  
16           date.

17           “(ii) ORDERS GRANTING REHEARING  
18           FOR FURTHER CONSIDERATION.—For pur-  
19           poses of clause (i), an order granting an  
20           application for rehearing solely for the pur-  
21           pose of further considering the issues  
22           raised in the application for rehearing shall  
23           not be considered to be a ruling on the  
24           merits of the application for rehearing.

1                   “(iii) JUDICIAL REVIEW.—An applica-  
2                   tion for rehearing that is deemed denied  
3                   under clause (i) may be reviewed by a  
4                   court of appeals of the United States in  
5                   accordance with subsection (b).”;

6                   (4) in the third sentence, by striking “Upon  
7                   such application” and inserting the following:

8                   “(3) DECISION ON APPLICATION.—

9                   “(A) IN GENERAL.—On an application for  
10                  rehearing under this subsection,”;

11                  (5) in the second sentence, by striking “The ap-  
12                  plication” and inserting the following:

13                  “(2) CONTENTS.—An application”; and

14                  (6) by striking the subsection designation and  
15                  all that follows through “Any person” in the first  
16                  sentence and inserting the following:

17                  “(a) APPLICATION FOR REHEARING.—

18                  “(1) IN GENERAL.—Any person”.