# Crossing borders: The approvals needed to move Alaska gas through Canada

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No Alaska natural gas can physically cross the border into Canada without a handful of government agencies - in the United States and Canada - blessing the event.

But getting government permission for the gas itself to leave Alaska and enter Canada on its way to Lower 48 markets will be a relative snap compared to the years-long ordeal to sanction construction of the proposed multibillion-dollar natural gas pipeline from Alaska's North Slope. It's like the difference between issuing a hall pass to the school nurse's office vs. actually building the school.

In the United States, the key actors will be the Department of Energy and Federal Energy Regulatory Commission. Between them, they must issue two authorizations and a presidential permit needed to ship North Slope gas through Canada.

In Canada, the National Energy Board licenses gas flows into and out of the country.

While getting permission to export gas is relatively simple, it also is absolutely critical. No gas can exit Alaska for Canada - or leave Canada for the Lower 48 - without this permission.

And on the path to that approval, the applicant will brush against a potpourri of policies and players that include a landmark foreign trade agreement, a small agency that keeps the borderline itself tidy, a Depression-era leader's fancy about how government should work, and the queen's man in Canada.


Below we look at the steps involved.

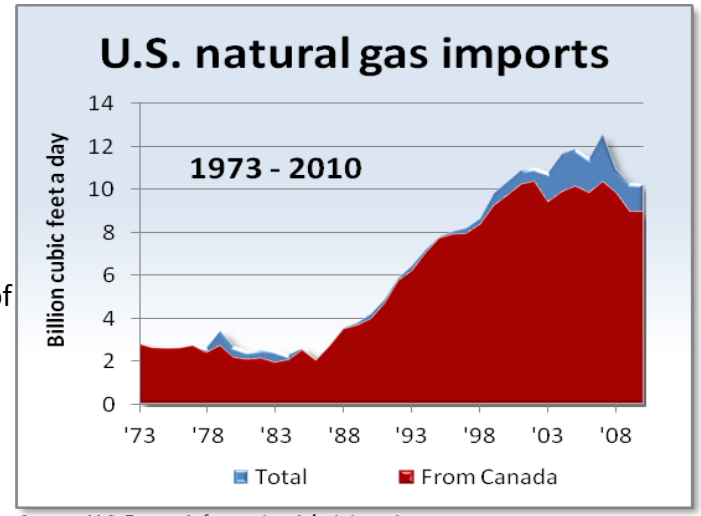
## Gas across borders

The movement of natural gas between the United States and Canada is a case study in how to simplify government oversight.

Just a couple decades ago the cross-border movement of gas required extensive consideration, regulatory dockets, mulling of the national interest and sometimes excited debates about whether piping gas to another country might cause shortages at home.

When the Alaska North Slope gas pipeline was on the drawing boards in the 1970s, the United States and Canada actually signed a treaty whose sole purpose was to detail how Alaska gas would move through Canada to the Lower 48. The **Transit Pipeline Treaty** detailed everything from construction start dates to Yukon property taxes to how Canada can replace the loss if Whitehorse siphons gas for local use. The project's southern portion - from Alberta to the Lower 48 - was finished in the early 1980s, enabling a surge in Canadian gas exports to the U.S.

Massive volumes of gas move across the U.S.-Canada border today. Last year, the United States **imported about** 9 billion cubic feet a day of natural gas on average from Canada - twice the proposed volume from Alaska's North Slope. About one-tenth of the natural gas that U.S. furnaces burn and U.S. industry consumes comes from Canada. The United States also **exported about** 2 bcf a day on average to Canada, some of it actually Canadian gas taking a shortcut to eastern Canada via a U.S. pipeline south of Lake Superior and Lake Huron.



Source: U.S. Energy Information Administration

These days, gas freely flows across the border. The U.S. government in particular takes a light hand with this gas, thanks to the North American Free Trade Agreement that took effect in 1994. That agreement basically says the United States will treat gas from Canada as if the gas came from the U.S., and vice versa. No tariffs. No duties. No weighty paperwork. Especially on the U.S. side. Canada's process for long-term export approval is a little more burdensome.

The catch, and it's a small one, is that each country wants to know exactly how much gas is entering or leaving. In a way it's similar to how passports work: Crossing the U.S.-Canada border is pretty easy, but someone is going to glance at your passport and ask a question or two.

This catch is where the U.S. Department of Energy comes in. Anyone who wants to import or export natural gas must apply to the department's **Office of Fossil Energy** for authorization.

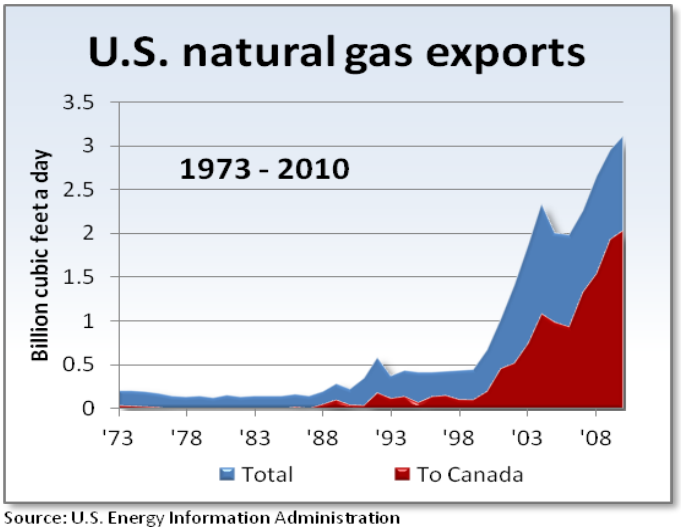
The application is informal: A letter shortly before imports or exports are to begin that says who you are, how much gas you want to move, for how long and for what purpose, plus a copy of the gas purchase or sales contract. Typical import applicants include local gas utilities, electrical power companies and industrial users.

Because of NAFTA, authorization is automatic and comes quickly: Within a few days for imports or exports lasting up to two years, within a few weeks for longer-term exports - the U.S. authorizes about 130 short-term and five to 10 long-term applications each year.

The authorization order usually is only a few pages long, enough space to repeat the who, when and how much, as well as to require the importer/exporter to report monthly on the volumes moved.

Authorizations involving export of LNG, or liquefied natural gas, typically are trickier than those for pipeline gas to or from Canada.

LNG is different in part because the gas usually is coming from or going to countries with which the United States lacks free-trade agreements. The United States has **free trade agreements** with Canada and 16 other nations. But not with such countries as Trinidad, Nigeria and Egypt that export LNG to the United States, or Japan that has received U.S. LNG.



Source: U.S. Energy Information Administration

The Natural Gas Act, Section 3, says the Energy Department can deny a proposed export to a non-free trade agreement country if the export "will not be consistent with the public interest." The department considers the domestic need for the gas, whether the export threatens the security of U.S. natural gas supplies and possibly the environmental impact of any construction.

So the department publishes notice of LNG applications in the Federal Register, considers the pleas of interveners, and holds hearings if necessary. Months can elapse from when an application is filed to when the department issues or denies an authorization.

This explains the extra hurdles the ConocoPhillips/Marathon LNG export plant at Nikiski faced over the years to get Fossil Energy Office permission to ship gas to Japan. For example, the office's 2008 order allowing Alaska LNG exports came 17 months after ConocoPhillips and Marathon applied. Southcentral utilities had unsuccessfully protested that exporting LNG would deny them the natural gas they needed.

If North Slope gas is piped to Valdez for export as LNG to Asia, the gas owner will need to go through the longer Fossil Energy Office authorization process than if the gas were piped through Canada.

## Building on the border

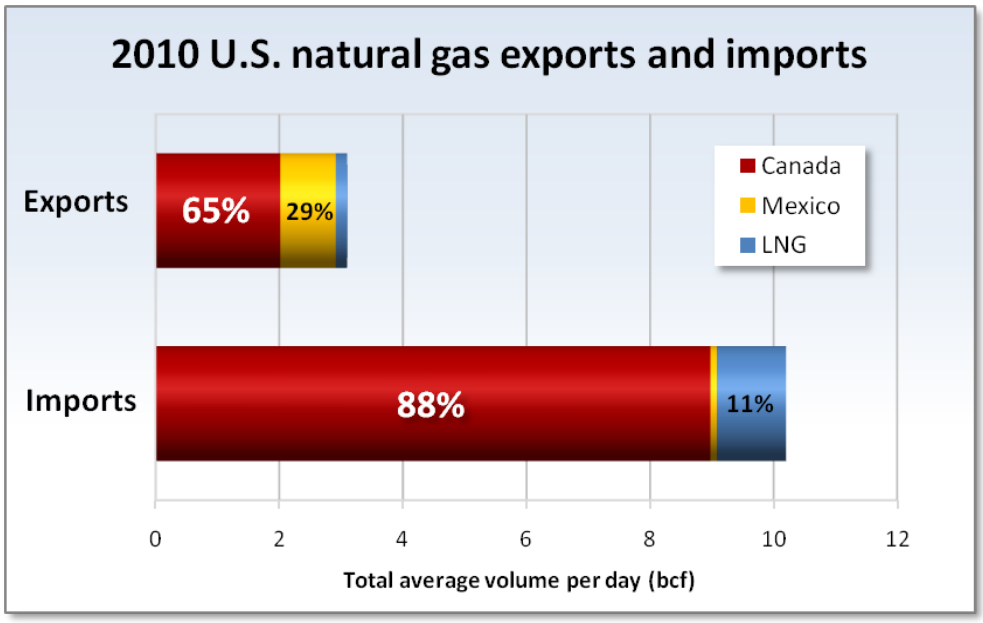
While the gas owner needs the Energy Department nod to move gas molecules across the border, the gas *pipeline* owner needs its own authorizations to plant pipe and any other gear at the border.

A typical pipeline border crossing might be as spare as a Death Valley picnic area - the pipe itself, of course, and a meter to record the gas flow, plus maybe a pressure regulator, an above-ground valve or a pipeline-pig launching station.

On occasion, such as at the major gas-pipeline crossing near Sumas, Wash., a massive complex abuts the border.

The Federal Energy Regulatory Commission issues the U.S. authorization to build a pipeline crossing.

FERC got the jurisdiction via a chain of handoffs that started in 1953 when President Dwight Eisenhower delegated the authority to the Federal Power Commission. Twenty-five years later, in 1978, President Jimmy Carter shifted responsibility to the newly created position of Energy Secretary. The secretary later decreed that FERC should handle the job.



Source: U.S. Energy Information Administration

FERC is a logical choice, as the commission already regulates all other aspects of interstate gas pipelines, from whether they can be built to how much they can charge gas shippers. Because FERC usually oversees the rest of the pipeline, why shouldn't it also get the 10 feet or so at the border?

FERC also is empowered to issue the presidential permit needed before laying a gas pipeline at the border. This authority requires FERC to consult with the departments of State and Defense and other agencies to see if they object. The presidential permit idea stemmed from President

Franklin Roosevelt's Depression-era notion that federal agencies should talk with each other more before making decisions.

To get FERC's OK for border facilities, a gas pipeline developer usually applies in the same paperwork it submits to obtain a certificate of public convenience and necessity from the commission. The certificate is the major document that allows pipeline construction, and it comes after an extensive examination of the project's environmental impact, financial soundness and other factors.

FERC issues the presidential permit and border-facilities authorization at the same time as the construction and operating certificate. But the meat of FERC's effort is its work on the certificate.

FERC usually drafts the presidential permit language within a few weeks of receiving the pipeline builder's permit application, then it sends the draft to the departments of State and Defense. Their sign-off typically comes within a few months.

If the pipeline developer hasn't already notified the **International Boundary Commission** of its plans to dig a trench at the border, FERC will add language to the permit that the developer must do so. The boundary commission is a small U.S.-Canada agency that keeps the physical border with Canada cleared and marked. (In the early 1900s, the commissioners helped settle a feud that flared amid the Klondike gold rush over the precise location of the Alaska-Canada border.)

## The Canadian difference

Canada's view of the Alaska pipeline project differs meaningfully from that of the United States.

While the pipeline developer will need a certificate of public convenience and necessity from FERC before U.S. construction begins, Canada already has issued its certificate - sanctioning the pipeline project envisioned in the 1970s. TransCanada Corp., co-sponsor of the $32 billion to $41 billion pipeline project, holds that Canadian certificate, although the company still will need a stack of federal and provincial permits for its Canadian pipeline leg and compressor stations.

Canada has no equivalent of the special U.S. presidential permit or other explicit authorization to put a pipeline or other infrastructure on the border itself.

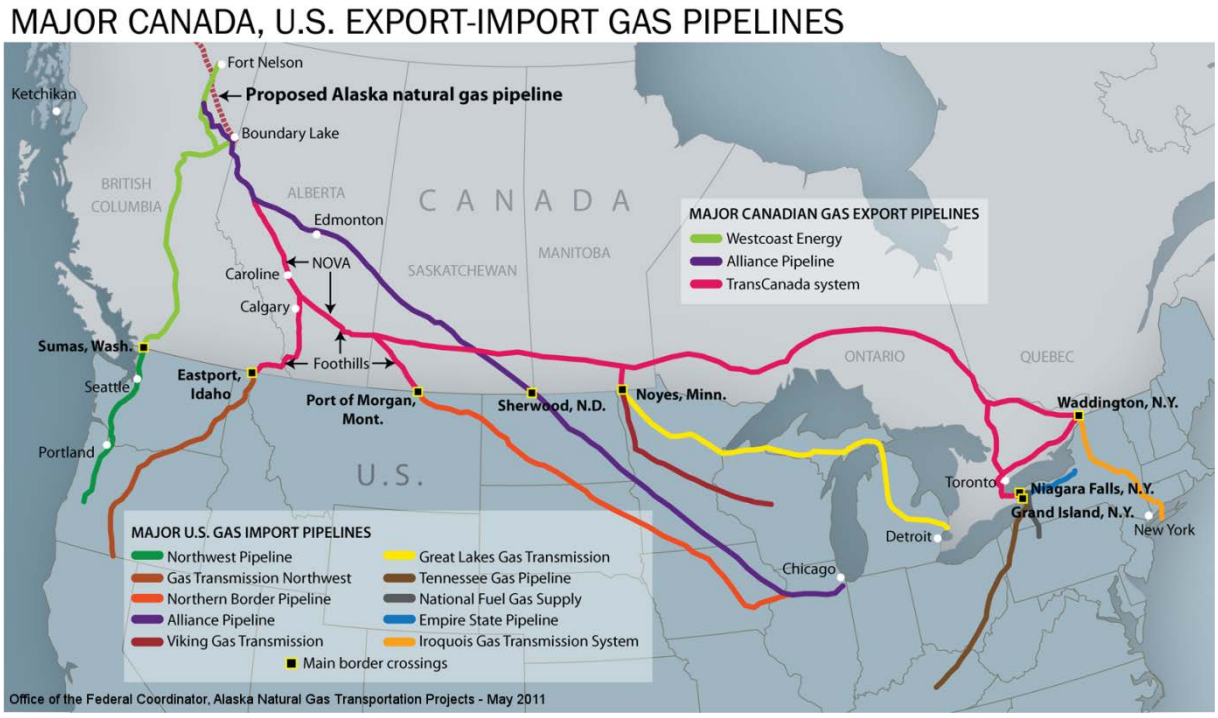
But Canada does require permission to import, export or flow U.S. natural gas through the country.

The National Energy Board issues that permission. The board is Canada's FERC, an independent agency that regulates movement of natural gas, oil and electricity that crosses provincial boundaries.

Like its U.S. counterpart, the NEB has an easy process for getting an import or export order lasting two years or less. Gas owners can apply online and expect quick turnaround, commonly a couple of days.

Almost all gas flows across the U.S.-Canada border today fall under these short-term orders. Note: The gas owner, not the pipeline owner, applies for permission, just as in the United States.

But Alaska gas probably will move under contracts that extend much longer than two years. If the gas is flowing straight through to the Lower 48, the NEB will take a close look to make sure the arrangement doesn't involve dropping off any gas in Canada.




But if the Alaska pipeline project results in gas exports from Canada - if the Alaska gas goes into Canadian storage, then out again, for example - the gas owners will need NEB-issued export licenses.

In Canada, getting this license can take months as the application is scrutinized in a process similar to the way FERC looks at LNG exports. The NEB allows utilities, pipelines and others to intervene. The board's main consideration: Making sure Canadians have enough gas at fair prices for themselves.

Getting a license involves the NEB holding a public hearing and can take months.

However the gas is exported - short-term or long-term - the NEB requires a set of information similar to what's needed in the U.S.: Who wants to import or export the gas, how much gas, for

how long, where will it enter or leave the country, is construction needed that could harm the environment. The NEB wants to see the gas owner's contracts with the pipeline owner and the ultimate user of the gas.

One other difference in Canada: The national "governor general" must approve the license.

The British queen is also queen of Canada and is that nation's official head of state. The **governor general** is delegated the queen's duties. The position is largely symbolic and ceremonial, but the governor signs off on the NEB's import/export licenses, among other official documents in Canada.