



EXECUTIVE ORDERS

Order on the Issuance of Permits with Respect to Facilities and Land Transportation Crossings at the International Boundaries of the United States

ENERGY & ENVIRONMENT

Issued on: April 10, 2019



By the authority vested in me as President by the Constitution and the laws of the United States of America, including Article II of the Constitution, which gives the President authority over foreign affairs and the authority to seek the opinions of principal officers, it is hereby ordered as follows:

Section 1. Purpose. Presidents have long exercised authority to permit or deny the construction, connection, operation, or maintenance of infrastructure projects at an international border of the United States (cross-border infrastructure). Over the course of several decades, executive actions, Federal regulations, and policies of executive departments and agencies (agencies) related to the process of reviewing applications for Presidential permits, and issuing or denying such permits, have unnecessarily complicated the Presidential permitting process, thereby hindering the economic development of the United States and undermining the efforts of the United States to foster goodwill and mutually productive economic exchanges with its neighboring countries. To promote cross-border infrastructure and facilitate the expeditious delivery of advice to the President regarding Presidential permitting decisions, this order revises the process for the development and issuance of Presidential permits covering the construction, connection, operation, and maintenance of certain facilities and land transportation crossings at the international boundaries of the United States.

Sec. 2. Cross-Border Infrastructure Presidential Permit Application Procedures. (a) The Secretary of State shall adopt procedures to ensure that all actions set forth in subsections (b) through (h) of this section can be completed within 60 days of the receipt of an application for a Presidential permit for the types of cross-border infrastructure identified in subsection (b) of this section.

(b) Except with respect to facilities covered by Executive Order 10485 of September 3, 1953 (Providing for the Performance of Certain Functions Heretofore Performed by the President With Respect to Electric Power and Natural Gas Facilities Located on the Borders of the United States), as amended, and section 5(a) of Executive Order 10530 of May 10, 1954 (Providing for the Performance of Certain Functions Vested in or Subject to the Approval of the President), the Secretary of State is hereby designated to receive all applications for the issuance or amendment of Presidential permits for the construction, connection, operation, or maintenance, at the international boundaries of the United States, of:

- (i) pipelines, conveyor belts, and similar facilities for exportation or importation of all products to or from a foreign country;
- (ii) facilities for the exportation or importation of water or sewage to or from a foreign country;
- (iii) facilities for the transportation of persons or things, or both, to or from a foreign country;
- (iv) bridges, to the extent that congressional authorization is not required;
- (v) similar facilities above or below ground; and
- (vi) border crossings for land transportation, including motor and rail vehicles, to or from a foreign country, whether or not in conjunction with the facilities identified in subsection (b)(iii) of this section.

(c) Upon receipt of an application pursuant to subsection (b) of this section, the Secretary of State may:

(i) request additional information from the applicant that the President may deem necessary; and

(ii) refer the application and pertinent information to heads of agencies specified by the President.

(d) The Secretary of State shall, as soon as practicable after receiving an application pursuant to subsection (b) of this section, advise the President as to whether the President should request the opinion, in writing, of any heads of agencies concerning the application and any related matter. Any agency heads whose opinion the President requests shall provide views and render such assistance as may be requested, consistent with their legal authority, in a timely manner, not to exceed 30 days from the date of a request, unless the President otherwise specifies.

(e) With respect to each application, the Secretary of State may solicit such advice from State, tribal, and local government officials, and foreign governments, as the President may deem necessary. The Secretary shall seek responses within no more than 30 days from the date of a request.

(f) Upon receiving the views and assistance described in subsections (c), (d), and (e) of this section, the Secretary of State shall consider whether additional information may be necessary in order for the President to evaluate the application, and the Secretary shall advise the President accordingly. At the direction of the President, the Secretary shall request any such additional information.

(g) If, at the conclusion of the actions set forth in subsections (b) through (f) of this section, the Secretary of State is of the opinion that the issuance of a Presidential permit to the applicant, or the amendment of an existing Presidential permit, would not serve the foreign policy interests of the United States, the Secretary shall so advise the President, and provide the President with the reasons supporting that opinion, in writing.

(h) If, at the conclusion of the actions set forth in subsections (b) through (f) of this section, the Secretary of State is of the opinion that the issuance of a Presidential permit to the applicant, or the amendment of an existing Presidential permit, would serve the foreign policy interests of the United States, the Secretary shall so advise the President, and provide the President with the reasons supporting that opinion, in writing.

(i) Any decision to issue, deny, or amend a permit under this section shall be made solely by the President.

(j) The Secretary of State shall, consistent with applicable law, review the Department of State's regulations and make any appropriate changes to them to ensure consistency with this order by no later than May 29, 2020.

(k) Executive Order 13337 of April 30, 2004 (Issuance of Permits With Respect to Certain Energy-Related Facilities and Land Transportation Crossings on the International Boundaries of the United States), and Executive Order 11423 of August 16, 1968 (Providing for the Performance of Certain Functions Heretofore Performed by the President With Respect to Certain Facilities Constructed and Maintained on the Borders of the United States), as amended, are hereby revoked.

Sec. 3. Existing Permits. All permits heretofore issued pursuant to the orders enumerated in section 2(k) of this order, and in force at the date of this order, shall remain in full effect in accordance with their terms unless and until modified, amended, suspended, or revoked by the appropriate authority.

Sec. 4. General Provisions. (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.