

with respect to pre-construction, construction, and initial operation of transportation system for Canadian and Alaskan natural gas transferred to Federal Inspector, Office of Federal Inspector for Alaska Natural Gas Transportation System, until first anniversary of date of initial operation of Alaska Natural Gas Transportation System, see Reorg. Plan No. 1 of 1979, §§102(h)(1), 203(a), 44 F.R. 33663, 33666, 93 Stat. 1373, 1376, effective July 1, 1979, set out under section 719e of this title. Office of Federal Inspector for the Alaska Natural Gas Transportation System abolished and functions and authority vested in Inspector transferred to Secretary of Energy by section 3012(b) of Pub. L. 102-486, set out as an Abolition of Office of Federal Inspector note under section 719e of this title. Functions and authority vested in Secretary of Energy subsequently transferred to Federal Coordinator for Alaska Natural Gas Transportation Projects by section 720d(f) of this title.

CHAPTER 15D—ALASKA NATURAL GAS PIPELINE

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§ 720. Definitions

In this chapter:

(1) Alaska natural gas

The term “Alaska natural gas” means natural gas derived from the area of the State of Alaska lying north of 64 degrees north latitude.

(2) Alaska natural gas transportation project

The term “Alaska natural gas transportation project” means any natural gas pipeline system that carries Alaska natural gas to the border between Alaska and Canada (including related facilities subject to the jurisdiction of the Commission) that is authorized under—

- (A) the Alaska Natural Gas Transportation Act of 1976 (15 U.S.C. 719 et seq.); or
- (B) section 720a of this title.

(3) Alaska natural gas transportation system

The term “Alaska natural gas transportation system” means the Alaska natural gas transportation project authorized under the Alaska Natural Gas Transportation Act of 1976 (15 U.S.C. 719 et seq.) and designated and described in section 2 of the President’s decision.

(4) Commission

The term “Commission” means the Federal Energy Regulatory Commission.

(5) Federal Coordinator

The term “Federal Coordinator” means the head of the Office of the Federal Coordinator for Alaska Natural Gas Transportation Projects established by section 720d(a) of this title.

(6) President’s decision

The term “President’s decision” means the decision and report to Congress on the Alaska natural gas transportation system—

- (A) issued by the President on September 22, 1977, in accordance with section 7 of the Alaska Natural Gas Transportation Act of 1976 (15 U.S.C. 719e); and
- (B) approved by Public Law 95-158 (15 U.S.C. 719f note; 91 Stat. 1268).

(7) Secretary

The term “Secretary” means the Secretary of Energy.

(8) State

The term “State” means the State of Alaska.

(Pub. L. 108-324, div. C, §102, Oct. 13, 2004, 118 Stat. 1255.)

Editorial Notes

REFERENCES IN TEXT

This chapter, referred to in text, was in the original “this division”, meaning division C of Pub. L. 108-324, Oct. 13, 2004, 118 Stat. 1255, which is classified principally to this chapter. For complete classification of division C to the Code, see Short Title note set out below and Tables.

The Alaska Natural Gas Transportation Act of 1976, referred to in pars. (2)(A) and (3), is Pub. L. 94-586, Oct. 22, 1976, 90 Stat. 2903, which is classified generally to chapter 15C (§719 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 719 of this title and Tables.

Statutory Notes and Related Subsidiaries

SHORT TITLE

Pub. L. 108-324, div. C, §101, Oct. 13, 2004, 118 Stat. 1255, provided that: “This division [enacting this chapter and amending section 719h of this title] may be cited as the ‘Alaska Natural Gas Pipeline Act.’”

§ 720a. Issuance of certificate of public convenience and necessity

(a) Authority of the Commission

Notwithstanding the Alaska Natural Gas Transportation Act of 1976 (15 U.S.C. 719 et seq.), the Commission may, in accordance with section 7(c) of the Natural Gas Act (15 U.S.C. 717f(c)), consider and act on an application for the issuance of a certificate of public convenience and necessity authorizing the construction and operation of an Alaska natural gas transportation project other than the Alaska natural gas transportation system.

(b) Issuance of certificate

(1) In general

The Commission shall issue a certificate of public convenience and necessity authorizing the construction and operation of an Alaska natural gas transportation project under this

section if the applicant has satisfied the requirements of section 7(e) of the Natural Gas Act (15 U.S.C. 717f(e)).

(2) Considerations

In considering an application under this section, the Commission shall presume that—

(A) a public need exists to construct and operate the proposed Alaska natural gas transportation project; and

(B) sufficient downstream capacity will exist to transport the Alaska natural gas moving through the project to markets in the contiguous United States.

(c) Expedited approval process

Not later than 60 days after the date of issuance of the final environmental impact statement under section 720b of this title for an Alaska natural gas transportation project, the Commission shall issue a final order granting or denying any application for a certificate of public convenience and necessity for the project under section 7(c) of the Natural Gas Act (15 U.S.C. 717f(c)) and this section.

(d) Prohibition of certain pipeline route

No license, permit, lease, right-of-way, authorization, or other approval required under Federal law for the construction of any pipeline to transport natural gas from land within the Prudhoe Bay oil and gas lease area may be granted for any pipeline that follows a route that—

(1) traverses land beneath navigable waters (as defined in section 1301 of title 43) beneath, or the adjacent shoreline of, the Beaufort Sea; and

(2) enters Canada at any point north of 68 degrees north latitude.

(e) Open season

(1) In general

Not later than 120 days after October 13, 2004, the Commission shall issue regulations governing the conduct of open seasons for Alaska natural gas transportation projects (including procedures for the allocation of capacity).

(2) Regulations

The regulations referred to in paragraph (1) shall—

(A) include the criteria for and timing of any open seasons;

(B) promote competition in the exploration, development, and production of Alaska natural gas; and

(C) for any open season for capacity exceeding the initial capacity, provide the opportunity for the transportation of natural gas other than from the Prudhoe Bay and Point Thomson units.

(3) Applicability

Except in a case in which an expansion is ordered in accordance with section 720c of this title, initial or expansion capacity on any Alaska natural gas transportation project shall be allocated in accordance with procedures to be established by the Commission in regulations issued under paragraph (1).

(f) Projects in the contiguous United States

(1) In general

An application for additional or expanded pipeline facilities that may be required to

transport Alaska natural gas from Canada to markets in the contiguous United States may be made in accordance with the Natural Gas Act [15 U.S.C. 717 et seq.].

(2) Expansion

To the extent that a pipeline facility described in paragraph (1) includes the expansion of any facility constructed in accordance with the Alaska Natural Gas Transportation Act of 1976 (15 U.S.C. 719 et seq.), that Act shall continue to apply.

(g) Study of in-State needs

The holder of the certificate of public convenience and necessity issued, modified, or amended by the Commission for an Alaska natural gas transportation project shall demonstrate that the holder has conducted a study of Alaska in-State needs, including tie-in points along the Alaska natural gas transportation project for in-State access.

(h) Alaska royalty gas

(1) In general

Except as provided in paragraph (2), the Commission, on a request by the State and after a hearing, may provide for reasonable access to the Alaska natural gas transportation project by the State (or State designee) for the transportation of royalty gas of the State for the purpose of meeting local consumption needs within the State.

(2) Exception

The rates of shippers of subscribed capacity on an Alaska natural gas transportation project described in paragraph (1), as in effect as of the date on which access under that paragraph is granted, shall not be increased as a result of such access.

(i) Regulations

The Commission may issue such regulations as are necessary to carry out this section.

(Pub. L. 108-324, div. C, §103, Oct. 13, 2004, 118 Stat. 1256.)

Editorial Notes

REFERENCES IN TEXT

The Alaska Natural Gas Transportation Act of 1976, referred to in subsecs. (a) and (f)(2), is Pub. L. 94-586, Oct. 22, 1976, 90 Stat. 2903, which is classified generally to chapter 15C (§719 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 719 of this title and Tables.

The Natural Gas Act, referred to in subsec. (f)(1), is act June 21, 1938, ch. 556, 52 Stat. 821, which is classified generally to chapter 15B (§717 et seq.) of this title. For complete classification of this Act to the Code, see section 717w of this title and Tables.

§ 720b. Environmental reviews

(a) Compliance with NEPA

The issuance of a certificate of public convenience and necessity authorizing the construction and operation of any Alaska natural gas transportation project under section 720a of this title shall be treated as a major Federal action significantly affecting the quality of the human environment within the meaning of section

102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)).

(b) Designation of lead agency

(1) In general

The Commission—

(A) shall be the lead agency for purposes of complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and

(B) shall be responsible for preparing the environmental impact statement required by section 102(2)(c)¹ of that Act [42 U.S.C. 4332(2)(C)] with respect to an Alaska natural gas transportation project under section 720a of this title.

(2) Consolidation of statements

In carrying out paragraph (1), the Commission shall prepare a single environmental impact statement, which shall consolidate the environmental reviews of all Federal agencies considering any aspect of the Alaska natural gas transportation project covered by the environmental impact statement.

(c) Other agencies

(1) In general

Each Federal agency considering an aspect of the construction and operation of an Alaska natural gas transportation project under section 720a of this title shall—

(A) cooperate with the Commission; and

(B) comply with deadlines established by the Commission in the preparation of the environmental impact statement under this section.

(2) Satisfaction of NEPA requirements

The environmental impact statement prepared under this section shall be adopted by each Federal agency described in paragraph (1) in satisfaction of the responsibilities of the Federal agency under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) with respect to the Alaska natural gas transportation project covered by the environmental impact statement.

(d) Expedited process

The Commission shall—

(1) not later than 1 year after the Commission determines that the application under section 720a of this title with respect to an Alaska natural gas transportation project is complete, issue a draft environmental impact statement under this section; and

(2) not later than 180 days after the date of issuance of the draft environmental impact statement, issue a final environmental impact statement, unless the Commission for good cause determines that additional time is needed.

(Pub. L. 108-324, div. C, §104, Oct. 13, 2004, 118 Stat. 1257.)

Editorial Notes

REFERENCES IN TEXT

The National Environmental Policy Act of 1969, referred to in subsec. (b)(1)(A), is Pub. L. 91-190, Jan. 1,

1970, 83 Stat. 852, which is classified generally to chapter 55 (§4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

§ 720c. Pipeline expansion

(a) Authority

With respect to any Alaska natural gas transportation project, on a request by 1 or more persons and after giving notice and an opportunity for a hearing, the Commission may order the expansion of the Alaska natural gas project if the Commission determines that such an expansion is required by the present and future public convenience and necessity.

(b) Responsibilities of Commission

Before ordering an expansion under subsection (a), the Commission shall—

(1) approve or establish rates for the expansion service that are designed to ensure the recovery, on an incremental or rolled-in basis, of the cost associated with the expansion (including a reasonable rate of return on investment);

(2) ensure that the rates do not require existing shippers on the Alaska natural gas transportation project to subsidize expansion shippers;

(3) find that a proposed shipper will comply with, and the proposed expansion and the expansion of service will be undertaken and implemented based on, terms and conditions consistent with the tariff of the Alaska natural gas transportation project in effect as of the date of the expansion;

(4) find that the proposed facilities will not adversely affect the financial or economic viability of the Alaska natural gas transportation project;

(5) find that the proposed facilities will not adversely affect the overall operations of the Alaska natural gas transportation project;

(6) find that the proposed facilities will not diminish the contract rights of existing shippers to previously subscribed certificated capacity;

(7) ensure that all necessary environmental reviews have been completed; and

(8) find that adequate downstream facilities exist or are expected to exist to deliver incremental Alaska natural gas to market.

(c) Requirement for a firm transportation agreement

Any order of the Commission issued in accordance with this section shall be void unless the person requesting the order executes a firm transportation agreement with the Alaska natural gas transportation project within such reasonable period of time as the order may specify.

(d) Limitation

Nothing in this section expands or otherwise affects any authority of the Commission with respect to any natural gas pipeline located outside the State.

(e) Regulations

The Commission may issue such regulations as are necessary to carry out this section.

(Pub. L. 108-324, div. C, §105, Oct. 13, 2004, 118 Stat. 1258.)

¹ So in original. Probably should be section “102(2)(C)”.

§ 720d. Federal Coordinator**(a) Establishment**

There is established, as an independent office in the executive branch, the Office of the Federal Coordinator for Alaska Natural Gas Transportation Projects.

(b) Federal Coordinator**(1) Appointment**

The Office shall be headed by a Federal Coordinator for Alaska Natural Gas Transportation Projects, who shall be appointed by the President, by and with the advice and consent of the Senate, to serve a term to last until 1 year following the completion of the project referred to in section 720a of this title.

(2) Compensation

The Federal Coordinator shall be compensated at the rate prescribed for level III of the Executive Schedule (5 U.S.C. 5314).

(c) Duties

The Federal Coordinator shall be responsible for—

- (1) coordinating the expeditious discharge of all activities by Federal agencies with respect to an Alaska natural gas transportation project; and
- (2) ensuring the compliance of Federal agencies with the provisions of this chapter.

(d) Reviews and actions of other Federal agencies**(1) Expedited reviews and actions**

All reviews conducted and actions taken by any Federal agency relating to an Alaska natural gas transportation project authorized under this section shall be expedited, in a manner consistent with completion of the necessary reviews and approvals by the deadlines under this chapter.

(2) Prohibition of certain terms and conditions

No Federal agency may include in any certificate, right-of-way, permit, lease, or other authorization issued to an Alaska natural gas transportation project any term or condition that may be permitted, but is not required, by any applicable law if the Federal Coordinator determines that the term or condition would prevent or impair in any significant respect the expeditious construction and operation, or an expansion, of the Alaska natural gas transportation project.

(3) Prohibition of certain actions

Unless required by law, no Federal agency shall add to, amend, or abrogate any certificate, right-of-way, permit, lease, or other authorization issued to an Alaska natural gas transportation project if the Federal Coordinator determines that the action would prevent or impair in any significant respect the expeditious construction and operation, or an expansion, of the Alaska natural gas transportation project.

(4) Limitation

The Federal Coordinator shall not have authority to—

- (A) override—

- (i) the implementation or enforcement of regulations issued by the Commission under section 720a of this title; or

- (ii) an order by the Commission to expand the project under section 720c of this title; or

- (B) impose any terms, conditions, or requirements in addition to those imposed by the Commission or any agency with respect to construction and operation, or an expansion of, the project.

(e) State coordination**(1) In general**

The Federal Coordinator and the State shall enter into a joint surveillance and monitoring agreement similar to the agreement in effect during construction of the Trans-Alaska Pipeline, to be approved by the President and the Governor of the State, for the purpose of monitoring the construction of the Alaska natural gas transportation project.

(2) Primary responsibility

With respect to an Alaska natural gas transportation project—

- (A) the Federal Government shall have primary surveillance and monitoring responsibility in areas where the Alaska natural gas transportation project crosses Federal land or private land; and

- (B) the State government shall have primary surveillance and monitoring responsibility in areas where the Alaska natural gas transportation project crosses State land.

(f) Transfer of Federal Inspector functions and authority

On appointment of the Federal Coordinator by the President, all of the functions and authority of the Office of Federal Inspector of Construction for the Alaska Natural Gas Transportation System vested in the Secretary under section 3012(b) of the Energy Policy Act of 1992 (15 U.S.C. 719e note; Public Law 102-486), including all functions and authority described and enumerated in the Reorganization Plan No. 1 of 1979 (44 Fed. Reg. 33663), Executive Order No. 12142 of June 21, 1979 (44 Fed. Reg. 36927), and section 5 of the President's decision, shall be transferred to the Federal Coordinator.

(g) Temporary authority

The functions, authorities, duties, and responsibilities of the Federal Coordinator shall be vested in the Secretary until the earlier of the appointment of the Federal Coordinator by the President, or 18 months after October 13, 2004.

(h) Administration**(1) Personnel appointments****(A) In general**

The Federal Coordinator may appoint and terminate such personnel as the Federal Coordinator determines to be appropriate.

(B) Authority of Federal Coordinator

Personnel appointed by the Federal Coordinator under subparagraph (A) shall be appointed without regard to the provisions of title 5 governing appointments in the competitive service.

(2) Compensation**(A) In general**

Subject to subparagraph (B), personnel appointed by the Federal Coordinator under paragraph (1)(A) shall be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5 (relating to classification and General Schedule pay rates).

(B) Maximum level of compensation

The rate of pay for personnel appointed by the Federal Coordinator under paragraph (1)(A) shall not exceed the maximum level of rate payable for level III of the Executive Schedule (5 U.S.C. 5314).

(C) Allowances

Section 5941 of title 5 shall apply to personnel appointed by the Federal Coordinator under paragraph (1)(A).

(3) Temporary services**(A) In general**

The Federal Coordinator may procure temporary and intermittent services in accordance with section 3109(b) of title 5.

(B) Maximum level of compensation

The level of compensation of an individual employed on a temporary or intermittent basis under subparagraph (A) shall not exceed the maximum level of rate payable for level III of the Executive Schedule (5 U.S.C. 5314).

(4) Fees, charges, and commissions**(A) In general**

With respect to the duties of the Federal Coordinator, as described in this chapter, the Federal Coordinator shall have similar authority to establish, change, and abolish reasonable filing and service fees, charges, and commissions, require deposits of payments, and provide refunds as provided to the Secretary of the Interior in section 1734 of title 43.

(B) Authority of Secretary of the Interior

Subparagraph (A) shall not affect the authority of the Secretary of the Interior to establish, change, and abolish reasonable filing and service fees, charges, and commissions, require deposits of payments, and provide refunds under section 1734 of title 43.

(C) Use of funds

The Federal Coordinator is authorized to use, without further appropriation, amounts collected under subparagraph (A) to carry out this section.

(Pub. L. 108–324, div. C, §106, Oct. 13, 2004, 118 Stat. 1259; Pub. L. 109–148, div. A, title VIII, §8128, Dec. 30, 2005, 119 Stat. 2731; Pub. L. 110–140, title VIII, §802, Dec. 19, 2007, 121 Stat. 1717.)

Editorial Notes**REFERENCES IN TEXT**

This chapter, referred to in subsecs. (c)(2) and (d)(1), was in the original “this division”, meaning division C of Pub. L. 108–324, Oct. 13, 2004, 118 Stat. 1255, which is

classified principally to this chapter. This chapter, referred to in subsec. (h)(4)(A), was in the original “this Act”, also meaning division C of Pub. L. 108–324 as provided in section 2 of Pub. L. 108–324, 118 Stat. 1220. For complete classification of division C to the Code, see Short Title note set out under section 720 of this title and Tables.

Reorganization Plan No. 1 of 1979, referred to in subsec. (f), is set out as a note under section 719e of this title.

Executive Order No. 12142, referred to in subsec. (f), is set out as a note under section 719e of this title.

AMENDMENTS

2007—Subsec. (h). Pub. L. 110–140 added subsec. (h).

2005—Subsec. (g). Pub. L. 109–148 substituted “earlier” for “later”.

Statutory Notes and Related Subsidiaries**EFFECTIVE DATE OF 2007 AMENDMENT**

Amendment by Pub. L. 110–140 effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110–140, set out as an Effective Date note under section 1824 of Title 2, The Congress.

§ 720e. Judicial review**(a) Exclusive jurisdiction**

Except for review by the Supreme Court on writ of certiorari, the United States Court of Appeals for the District of Columbia Circuit shall have original and exclusive jurisdiction to determine—

(1) the validity of any final order or action (including a failure to act) of any Federal agency or officer under this chapter;

(2) the constitutionality of any provision of this chapter, or any decision made or action taken under this chapter; or

(3) the validity of any determination, permit, approval, authorization, review, or other related action taken under any provision of law relating to a gas transportation project constructed and operated in accordance with section 720a of this title, including—

(A) subchapter II of chapter 5, and chapter 7, of title 5 (commonly known as the “Administrative Procedure Act”);

(B) the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.);

(C) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.);

(D) chapter 2003 of title 54;¹ and

(E) the Alaska National Interest Lands Conservation Act (16 U.S.C. 3101 et seq.).

(b) Deadline for filing claim

A claim arising under this chapter may be brought not later than 60 days after the date of the decision or action giving rise to the claim.

(c) Expedited consideration

The United States Court of Appeals for the District of Columbia Circuit shall set any action brought under subsection (a) for expedited consideration, taking into account the national interest of enhancing national energy security by providing access to the significant gas reserves in Alaska needed to meet the anticipated demand for natural gas.

¹ So in original. Probably should be “division A of subtitle III of title 54;”.

(Pub. L. 108–324, div. C, §107, Oct. 13, 2004, 118 Stat. 1261; Pub. L. 111–11, title XIII, §13003, Mar. 30, 2009, 123 Stat. 1448; Pub. L. 113–287, §5(c), Dec. 19, 2014, 128 Stat. 3264.)

Editorial Notes

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a) and (b), was in the original “this division”, meaning division C of Pub. L. 108–324, Oct. 13, 2004, 118 Stat. 1255, which is classified principally to this chapter. For complete classification of division C to the Code, see Short Title note set out under section 720 of this title and Tables.

The Endangered Species Act of 1973, referred to in subsec. (a)(3)(B), is Pub. L. 93–205, Dec. 28, 1973, 87 Stat. 884, which is classified principally to chapter 35 (§1531 et seq.) of Title 16, Conservation. For complete classification of this Act to the Code, see Short Title note set out under section 1531 of Title 16 and Tables.

The National Environmental Policy Act of 1969, referred to in subsec. (a)(3)(C), is Pub. L. 91–190, Jan. 1, 1970, 83 Stat. 852, which is classified generally to chapter 55 (§4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

The Alaska National Interest Lands Conservation Act, referred to in subsec. (a)(3)(E), is Pub. L. 96–487, Dec. 2, 1980, 94 Stat. 2371. For complete classification of this Act to the Code, see Short Title note set out under section 3101 of Title 16, Conservation, and Tables.

CODIFICATION

Section is comprised of section 107 of Pub. L. 108–324. Subsec. (d) of section 107 of Pub. L. 108–324 amended section 719h of this title.

AMENDMENTS

2014—Subsec. (a)(3)(D). Pub. L. 113–287, which directed the substitution of “chapter 2003 of title 54” for “the National Historic Preservation Act (16 U.S.C. 470 et seq.)” in section 1072(a)(3)(D) of the Alaska Natural Gas Pipeline Act, was executed to this section, which is section 107 of the Alaska Natural Gas Pipeline Act, to reflect the probable intent of Congress.

2009—Subsec. (a)(3). Pub. L. 111–11 added par. (3) and struck out former par. (3) which read as follows: “the adequacy of any environmental impact statement prepared under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) with respect to any action under this chapter.”

§ 720f. State jurisdiction over in-State delivery of natural gas

(a) Local distribution

Any facility receiving natural gas from an Alaska natural gas transportation project for delivery to consumers within the State—

(1) shall be deemed to be a local distribution facility within the meaning of section 1(b) of the Natural Gas Act (15 U.S.C. 717(b)); and

(2) shall not be subject to the jurisdiction of the Commission.

(b) Additional pipelines

Except as provided in section 720a(d) of this title, nothing in this chapter shall preclude or otherwise affect a future natural gas pipeline that may be constructed to deliver natural gas to Fairbanks, Anchorage, Matanuska-Susitna Valley, or the Kenai peninsula or Valdez or any other site in the State for consumption within or distribution outside the State.

(c) Rate coordination

(1) In general

In accordance with the Natural Gas Act [15 U.S.C. 717 et seq.], the Commission shall establish rates for the transportation of natural gas on any Alaska natural gas transportation project.

(2) Consultation

In carrying out paragraph (1), the Commission, in accordance with section 17(b) of the Natural Gas Act (15 U.S.C. 717p(b)), shall consult with the State regarding rates (including rate settlements) applicable to natural gas transported on and delivered from the Alaska natural gas transportation project for use within the State.

(Pub. L. 108–324, div. C, §108, Oct. 13, 2004, 118 Stat. 1261.)

Editorial Notes

REFERENCES IN TEXT

This chapter, referred to in subsec. (b), was in the original “this division”, meaning division C of Pub. L. 108–324, Oct. 13, 2004, 118 Stat. 1255, which is classified principally to this chapter. For complete classification of division C to the Code, see Short Title note set out under section 720 of this title and Tables.

The Natural Gas Act, referred to in subsec. (c)(1), is act June 21, 1938, ch. 556, 52 Stat. 821, which is classified generally to chapter 15B (§717 et seq.) of this title. For complete classification of this Act to the Code, see section 717w of this title and Tables.

§ 720g. Study of alternative means of construction

(a) Requirement of study

If no application for the issuance of a certificate or amended certificate of public convenience and necessity authorizing the construction and operation of an Alaska natural gas transportation project has been filed with the Commission by the date that is 18 months after October 13, 2004, the Secretary shall conduct a study of alternative approaches to the construction and operation of such an Alaska natural gas transportation project.

(b) Scope of study

The study under subsection (a) shall take into consideration the feasibility of—

(1) establishing a Federal Government corporation to construct an Alaska natural gas transportation project; and

(2) securing alternative means of providing Federal financing and ownership (including alternative combinations of Government and private corporate ownership) of the Alaska natural gas transportation project.

(c) Consultation

In conducting the study under subsection (a), the Secretary shall consult with the Secretary of the Treasury and the Secretary of the Army (acting through the Chief of Engineers).

(d) Report

On completion of any study under subsection (a), the Secretary shall submit to Congress a report that describes—

(1) the results of the study; and

(2) any recommendations of the Secretary (including proposals for legislation to implement the recommendations).

(Pub. L. 108-324, div. C, §109, Oct. 13, 2004, 118 Stat. 1262.)

§ 720h. Clarification of ANGTA status and authorities

(a) Savings clause

Nothing in this chapter affects—

(1) any decision, certificate, permit, right-of-way, lease, or other authorization issued under section 9 of the Alaska Natural Gas Transportation Act of 1976 (15 U.S.C. 719g); or

(2) any Presidential finding or waiver issued in accordance with that Act [15 U.S.C. 719 et seq.].

(b) Clarification of authority to amend terms and conditions to meet current project requirements

Any Federal agency responsible for granting or issuing any certificate, permit, right-of-way, lease, or other authorization under section 9 of the Alaska Natural Gas Transportation Act of 1976 (15 U.S.C. 719g) may add to, amend, or rescind any term or condition included in the certificate, permit, right-of-way, lease, or other authorization to meet current project requirements (including the physical design, facilities, and tariff specifications), if the addition, amendment, or rescission—

(1) would not compel any change in the basic nature and general route of the Alaska natural gas transportation system as designated and described in section 2 of the President's decision; or

(2) would not otherwise prevent or impair in any significant respect the expeditious construction and initial operation of the Alaska natural gas transportation system.

(c) Updated environmental reviews

The Secretary shall require the sponsor of the Alaska natural gas transportation system to submit such updated environmental data, reports, permits, and impact analyses as the Secretary determines are necessary to develop detailed terms, conditions, and compliance plans required by section 5 of the President's decision.

(Pub. L. 108-324, div. C, §110, Oct. 13, 2004, 118 Stat. 1262.)

Editorial Notes

REFERENCES IN TEXT

This chapter, referred to in subsec. (a), was in the original “this division”, meaning division C of Pub. L. 108-324, Oct. 13, 2004, 118 Stat. 1255, which is classified principally to this chapter. For complete classification of division C to the Code, see Short Title note set out under section 720 of this title and Tables.

The Alaska Natural Gas Transportation Act of 1976, referred to in subsec. (a)(2), is Pub. L. 94-586, Oct. 22, 1976, 90 Stat. 2903, which is classified generally to chapter 15C (§719 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 719 of this title and Tables.

§ 720i. Sense of Congress concerning use of steel manufactured in North America and negotiation of a project labor agreement

It is the sense of Congress that—

(1) an Alaska natural gas transportation project would provide significant economic benefits to the United States and Canada; and

(2) to maximize those benefits, the sponsors of the Alaska natural gas transportation project should make every effort to—

(A) use steel that is manufactured in North America; and

(B) negotiate a project labor agreement to expedite construction of the pipeline.

(Pub. L. 108-324, div. C, §111, Oct. 13, 2004, 118 Stat. 1263.)

§ 720j. Sense of Congress concerning participation by small business concerns

(a) Definition of small business concern

In this section, the term “small business concern” has the meaning given the term in section 632(a) of this title.

(b) Sense of Congress

It is the sense of Congress that—

(1) an Alaska natural gas transportation project would provide significant economic benefits to the United States and Canada; and

(2) to maximize those benefits, the sponsors of the Alaska natural gas transportation project should maximize the participation of small business concerns in contracts and subcontracts awarded in carrying out the project.

(Pub. L. 108-324, div. C, §112, Oct. 13, 2004, 118 Stat. 1263; Pub. L. 111-68, div. A, title I, §1501(b), Oct. 1, 2009, 123 Stat. 2041.)

Editorial Notes

AMENDMENTS

2009—Subsec. (c). Pub. L. 111-68 struck out subsec. (c) which related to study to determine extent to which small business concerns participate in construction of oil and gas pipelines in the United States.

§ 720k. Alaska pipeline construction training program

(a) Program

(1) Establishment

The Secretary of Labor (in this section referred to as the “Secretary”) shall make grants to the Alaska Workforce Investment Board—

(A) to recruit and train adult and dislocated workers in Alaska, including Alaska Natives, in the skills required to construct and operate an Alaska gas pipeline system; and

(B) for the design and construction of a training facility to be located in Fairbanks, Alaska, to support an Alaska gas pipeline training program.

(2) Coordination with existing programs

The training program established with the grants authorized under paragraph (1) shall be consistent with the vision and goals set forth in the State of Alaska unified plan or combined plan, as appropriate, as developed pursuant to section 3112 or 3113, as appropriate, of title 29.

(b) Requirements for grants

The Secretary shall make a grant under subsection (a) only if—

(1) the Governor of the State of Alaska requests the grant funds and certifies in writing to the Secretary that there is a reasonable expectation that the construction of the Alaska natural gas pipeline system will commence by the date that is 2 years after the date of the certification; and

(2) the Secretary of Energy concurs in writing to the Secretary with the certification made under paragraph (1) after considering—

(A) the status of necessary Federal and State permits;

(B) the availability of financing for the Alaska natural gas pipeline project; and

(C) other relevant factors.

(c) Authorization of appropriations

There are authorized to be appropriated to the Secretary to carry out this section \$20,000,000. Not more than 15 percent of the funds may be used for the facility described in subsection (a)(1)(B).

(Pub. L. 108-324, div. C, §113, Oct. 13, 2004, 118 Stat. 1264; Pub. L. 113-128, title V, §512(c), July 22, 2014, 128 Stat. 1706.)

Editorial Notes

AMENDMENTS

2014—Subsec. (a)(2). Pub. L. 113-128 substituted “consistent with the vision and goals set forth in the State of Alaska unified plan or combined plan, as appropriate, as developed pursuant to section 3112 or 3113, as appropriate, of title 29” for “consistent with the vision and goals set forth in the State of Alaska Unified Plan, as developed pursuant to the Workforce Investment Act of 1998 (29 U.S.C. 2801 et seq.)”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2014 AMENDMENT

Amendment by Pub. L. 113-128 effective on the first day of the first full program year after July 22, 2014 (July 1, 2015), see section 506 of Pub. L. 113-128, set out as an Effective Date note under section 3101 of Title 29, Labor.

§ 720l. Sense of Congress concerning natural gas demand

It is the sense of Congress that—

(1) North American demand for natural gas will increase dramatically over the course of the next several decades;

(2) both the Alaska Natural Gas Pipeline and the Mackenzie Delta Natural Gas project in Canada will be necessary to help meet the increased demand for natural gas in North America;

(3) Federal and State officials should work together with officials in Canada to ensure both projects can move forward in a mutually beneficial fashion;

(4) Federal and State officials should acknowledge that the smaller scope, fewer permitting requirements, and lower cost of the Mackenzie Delta project means it will most likely be completed before the Alaska Natural Gas Pipeline;

(5) natural gas production in the 48 contiguous States and Canada will not be able to meet all domestic demand in the coming decades; and

(6) as a result, natural gas delivered from Alaskan North Slope will not displace or reduce the commercial viability of Canadian natural gas produced from the Mackenzie Delta or production from the 48 contiguous States.

(Pub. L. 108-324, div. C, §114, Oct. 13, 2004, 118 Stat. 1264.)

§ 720m. Sense of Congress concerning Alaskan ownership

It is the sense of Congress that—

(1) Alaska Native Regional Corporations, companies owned and operated by Alaskans, and individual Alaskans should have the opportunity to own shares of the Alaska natural gas pipeline in a way that promotes economic development for the State; and

(2) to facilitate economic development in the State, all project sponsors should negotiate in good faith with any willing Alaskan person that desires to be involved in the project.

(Pub. L. 108-324, div. C, §115, Oct. 13, 2004, 118 Stat. 1265.)

§ 720n. Loan guarantees

(a) Authority

(1) The Secretary may enter into agreements with 1 or more holders of a certificate of public convenience and necessity issued under section 720a(b) of this title or section 719g of this title or with an entity the Secretary determines is qualified to construct and operate a liquefied natural gas project to transport liquefied natural gas from Southcentral Alaska, to issue Federal guarantee instruments with respect to loans and other debt obligations for a qualified infrastructure project.

(2) Subject to the requirements of this section, the Secretary may also enter into agreements with 1 or more owners of the Canadian portion of a qualified infrastructure project to issue Federal guarantee instruments with respect to loans and other debt obligations for a qualified infrastructure project as though such owner were a holder described in paragraph (1).

(3) The authority of the Secretary to issue Federal guarantee instruments under this section for a qualified infrastructure project shall expire on the date that is 2 years after the date on which the final certificate of public convenience and necessity (including any Canadian certificates of public convenience and necessity) is issued for the project. A final certificate shall be considered to have been issued when all certificates of public convenience and necessity have been issued that are required for the initial transportation of commercially economic quantities of natural gas from Alaska.

(b) Conditions

(1) The Secretary may issue a Federal guarantee instrument for a qualified infrastructure project only after a certificate of public convenience and necessity under section 720a(b) of this title or an amended certificate under section 719g of this title has been issued for the project, or after the Secretary certifies there exists a qualified entity to construct and operate a liq-

uefied natural gas project to transport liquefied natural gas from Southcentral Alaska. In no case shall loan guarantees be issued for more than one qualified project.

(2) The Secretary may issue a Federal guarantee instrument under this section for a qualified infrastructure project only if the loan or other debt obligation guaranteed by the instrument has been issued by an eligible lender.

(3) The Secretary shall not require as a condition of issuing a Federal guarantee instrument under this section any contractual commitment or other form of credit support of the sponsors (other than equity contribution commitments and completion guarantees), or any throughput or other guarantee from prospective shippers greater than such guarantees as shall be required by the project owners.

(4) Such loan guarantee may be utilized only by the project chosen by the Federal Energy Regulatory Commission as the qualified project.

(c) Limitations on amounts

(1) The amount of loans and other debt obligations guaranteed under this section for a qualified infrastructure project shall not exceed 80 percent of the total capital costs of the project, including interest during construction.

(2) The principal amount of loans and other debt obligations guaranteed under this section shall not exceed, in the aggregate, \$18,000,000,000, which amount shall be indexed for United States dollar inflation from October 13, 2004, as measured by the Consumer Price Index, except that the total amount of principal that may be guaranteed for a qualified liquefied natural gas project may not exceed a principal amount in which the cost of loan guarantees, as defined by section 661a(5) of title 2, exceeds \$2,000,000,000.

(d) Loan terms and fees

(1) The Secretary may issue Federal guarantee instruments under this section that take into account repayment profiles and grace periods justified by project cash flows and project-specific considerations. The term of any loan guaranteed under this section shall not exceed 30 years.

(2) An eligible lender may assess and collect from the borrower such other fees and costs associated with the application and origination of the loan or other debt obligation as are reasonable and customary for a project finance transaction in the oil and gas sector.

(e) Regulations

The Secretary may issue regulations to carry out this section.

(f) Authorization of appropriations

There are authorized to be appropriated such sums as may be necessary to cover the cost of loan guarantees under this section, as defined by section 661a(5) of title 2. Such sums shall remain available until expended.

(g) Definitions

In this section:

(1) Consumer Price Index

The term “Consumer Price Index” means the Consumer Price Index for all-urban consumers, United States city average, as pub-

lished by the Bureau of Labor Statistics, or if such index shall cease to be published, any successor index or reasonable substitute thereof.

(2) Eligible lender

The term “eligible lender” means any non-Federal qualified institutional buyer (as defined by section 230.144A(a) of title 17, Code of Federal Regulations (or any successor regulation), known as Rule 144A(a) of the Securities and Exchange Commission and issued under the Securities Act of 1933 [15 U.S.C. 77a et seq.]), including—

(A) a qualified retirement plan (as defined in section 4974(c) of title 26) that is a qualified institutional buyer; and

(B) a governmental plan (as defined in section 414(d) of title 26) that is a qualified institutional buyer.

(3) Federal guarantee instrument

The term “Federal guarantee instrument” means any guarantee or other pledge by the Secretary to pledge the full faith and credit of the United States to pay all of the principal and interest on any loan or other debt obligation entered into by a holder of a certificate of public convenience and necessity.

(4) Qualified infrastructure project

The term “qualified infrastructure project” means an Alaskan natural gas transportation project or system consisting of the design, engineering, finance, construction, and completion of pipelines and related transportation and production systems (including gas treatment plants, liquification plants, and liquefied natural gas tankers for transportation of liquefied natural gas from southcentral Alaska), and appurtenances thereto, that are used to transport natural gas from the Alaska North Slope.

(Pub. L. 108-324, div. C, §116, Oct. 13, 2004, 118 Stat. 1265; Pub.L. 108-199, div. H, §146, Jan. 23, 2004, 118 Stat. 444; Pub. L. 108-447, div. J, title I, §114, Dec. 8, 2004, 118 Stat. 3346; Pub. L. 117-58, div. D, title IV, §40401(d), Nov. 15, 2021, 135 Stat. 1037.)

Editorial Notes

REFERENCES IN TEXT

The Securities Act of 1933, referred to in subsec. (g)(2), is title I of act May 27, 1933, ch. 38, 48 Stat. 74, which is classified generally to subchapter I (§77a et seq.) of chapter 2A of this title. For complete classification of this Act to the Code, see section 77a of this title and Tables.

AMENDMENTS

2021—Subsec. (a)(1). Pub. L. 117-58, §40401(d)(1)(A), struck out “to West Coast States” after “Alaska”.

Subsec. (a)(3). Pub. L. 117-58, §40401(d)(1)(B), struck out “to the continental United States” after “Alaska”.

Subsec. (b)(1). Pub. L. 117-58, §40401(d)(2), struck out “to West Coast States” after “Alaska”.

Subsec. (g)(4). Pub. L. 117-58, §40401(d)(3), substituted “plants, liquification plants, and” for “plants liquification plants and” and struck out “to the West Coast” after “southcentral Alaska” and “to the continental United States” after “Alaska North Slope”.

2004—Subsec. (a)(1). Pub.L. 108-199, §146(1), as amended by Pub. L. 108-447, §114(a)(1), (2), which directed the

amendment of subsec. (a) by inserting “or with an entity the Secretary determines is qualified to construct and operate a liquefied natural gas project to transport liquefied natural gas from Southcentral Alaska to West Coast States,” before “to issue”, was executed to par. (1) of subsec. (a) to reflect the probable intent of Congress.

Subsec. (b)(1). Pub.L. 108-199, §146(2), as amended by Pub. L. 108-447, §114(1)-(3), inserted before period at end “, or after the Secretary certifies there exists a qualified entity to construct and operate a liquefied natural gas project to transport liquefied natural gas from Southcentral Alaska to West Coast States. In no case shall loan guarantees be issued for more than one qualified project”.

Subsec. (b)(4). Pub. L. 108-447, §114(b), added par. (4).
 Subsec. (c)(2). Pub. L. 108-199, §146(3), as amended by Pub. L. 108-447, §114(1), (2), (4), which directed the amendment of subsec. (a)(2) by inserting “, except that the total amount of principal that may be guaranteed for a qualified liquefied natural gas project may not exceed a principal amount in which the cost of loan guarantees, as defined by section 661a(5) of title 2, exceeds \$2,000,000,000” before period at end, was executed by making the amendment to subsec. (c)(2), to reflect the probable intent of Congress.

Subsec. (g)(4). Pub.L. 108-199, §146(4), as amended by Pub. L. 108-447, §114(1), (2), (5), inserted “or system” after “gas transportation project” and “liquefaction plants and liquefied natural gas tankers for transportation of liquefied natural gas from Southcentral Alaska to the West Coast” after “including gas treatment plants”.

Statutory Notes and Related Subsidiaries

WAGE RATE REQUIREMENTS

For provisions relating to rates of wages to be paid to laborers and mechanics on projects for construction, alteration, or repair work funded under div. D or an amendment by div. D of Pub. L. 117-58, including authority of Secretary of Labor, see section 18851 of Title 42, The Public Health and Welfare.

CHAPTER 16—EMERGENCY RELIEF

§§ 721, 722. Omitted

Editorial Notes

CODIFICATION

Sections, acts May 12, 1933, ch. 30, §§1, 2, 48 Stat. 55, 56; Feb. 15, 1934, ch. 13, §1, 48 Stat. 351, were enacted as temporary legislation during the economic emergency in 1933.

SUPPLEMENTARY LEGISLATION

Legislation supplementary to the Federal Emergency Relief Act of 1933 was contained in the following acts, executive orders, and reorganization plans: Res. Apr. 8, 1935, ch. 48, 49 Stat. 115; Aug. 12, 1935, ch. 508, §3, 49 Stat. 596; Aug. 24, 1935, ch. 641, §55, 49 Stat. 781; Feb. 11, 1936, ch. 49, §7, 49 Stat. 1134; Feb. 11, 1936, ch. 51, 49 Stat. 1135; June 22, 1936, ch. 689, title II, 49 Stat. 1608; Res. Feb. 24, 1937, ch. 17, 50 Stat. 21; June 29, 1937, 11 p.m., ch. 401, 50 Stat. 357; Mar. 2, 1938, ch. 38, 52 Stat. 83; June 21, 1938, ch. 554, 52 Stat. 817; Feb. 4, 1939, ch. 1, 53 Stat. 508; Res. Apr. 1, 1939, ch. 34, 53 Stat. 555; Apr. 13, 1939, ch. 62, 53 Stat. 578; Res. June 30, 1939, ch. 252, 53 Stat. 927; Apr. 6, 1940, ch. 77, 54 Stat. 99; June 26, 1940, ch. 428, title II, 54 Stat. 590; Res. June 26, 1940, ch. 432, 54 Stat. 611; June 27, 1940, ch. 437, title I, 54 Stat. 633; Oct. 9, 1940, ch. 780, title I, 54 Stat. 1035; Mar. 1, 1941, ch. 9, §1, 55 Stat. 15; Apr. 5, 1941, ch. 40, §1, 55 Stat. 110; July 1, 1941, ch. 266, 55 Stat. 396; July 1, 1941, ch. 269, title II, 55 Stat. 487; Dec. 17, 1941, ch. 591, 55 Stat. 810; June 27, 1942, ch. 450, §1, 56 Stat. 410; July 2, 1942, ch. 475, title II, 56 Stat. 571; Res. July 2, 1942, ch. 479, 56 Stat. 634; June 22, 1943, ch. 138, 57 Stat. 161; June 26, 1943, ch. 145,

title I, §101, 57 Stat. 180; July 12, 1943, ch. 221, title VII, 57 Stat. 518; July 12, 1943, 4 p.m., E. W. T., ch. 229, title I, 57 Stat. 539, 540; Dec. 23, 1943, ch. 380, title I, 57 Stat. 615; June 28, 1944, ch. 302, title II, 58 Stat. 564; June 28, 1944, ch. 304, title I, 58 Stat. 602; Apr. 25, 1945, ch. 95, title I, §1, 59 Stat. 80.

Ex. Ord. Nos. 7305, Feb. 28, 1936; 7334, Apr. 3, 1936, 1 F.R. 121; 7436, Aug. 21, 1936, 1 F.R. 1204; 7469, Oct. 13, 1936, 1 F.R. 1581; 7512, Dec. 16, 1936, 1 F.R. 2159; 7553, Feb. 17, 1937, 2 F.R. 338.

Reorg. Plan No. I of 1939, §§201, 206, 301, 305, 306, eff. July 1, 1939, 4 F.R. 2728-2730, 53 Stat. 1424-1428.

§ 723. Repealed. Pub. L. 89-554, §8(a), Sept. 6, 1966, 80 Stat. 648

Section, acts May 12, 1933, ch. 30, §3, 46 Stat. 56; Feb. 15, 1934, ch. 13, §1, 48 Stat. 351, was enacted as temporary legislation during the economic emergency in 1933.

§§ 724 to 728. Omitted

Editorial Notes

CODIFICATION

Sections, acts May 12, 1933, ch. 30, §§4-8, 48 Stat. 56-58; Feb. 15, 1934, ch. 13, §1, 48 Stat. 351, were enacted as temporary legislation during the economic emergency in 1933.

CHAPTER 16A—EMERGENCY PETROLEUM ALLOCATION

§§ 751 to 760h. Omitted

Editorial Notes

CODIFICATION

Sections 751 to 760h were omitted pursuant to section 760g of this title.

Section 751, Pub. L. 93-159, §2, Nov. 27, 1973, 87 Stat. 628, provided Congressional findings and declaration of purpose.

Section 752, Pub. L. 93-159, §3, Nov. 27, 1973, 87 Stat. 628, provided definitions for this chapter.

Section 753, Pub. L. 93-159, §4, Nov. 27, 1973, 87 Stat. 629; Pub. L. 93-511, Dec. 5, 1974, 88 Stat. 1608; Pub. L. 94-99, §2, Sept. 29, 1975, 89 Stat. 481; Pub. L. 94-133, §1, Nov. 14, 1975, 89 Stat. 694; Pub. L. 94-163, title IV, §§401(b)(1)-(3), 402(a), 403(a), 451, Dec. 22, 1975, 89 Stat. 946, 948; Pub. L. 96-294, title II, §274, June 30, 1980, 94 Stat. 711, provided for mandatory allocation.

Section 754, Pub. L. 93-159, §5, Nov. 27, 1973, 87 Stat. 633; Pub. L. 94-163, title IV, §452, Dec. 22, 1975, 89 Stat. 948, provided for administration, enforcement, delegation of authority, and civil and criminal penalties.

Section 755, Pub. L. 93-159, §6, Nov. 27, 1973, 87 Stat. 633; Pub. L. 94-163, title IV, §453, Dec. 22, 1975, 89 Stat. 949, related to impact of this chapter on other laws.

Section 756, Pub. L. 93-159, §7, Nov. 27, 1973, 87 Stat. 635, related to monitoring of program by Federal Trade Commission.

Section 757, Pub. L. 93-159, §8, as added Pub. L. 94-163, title IV, §401(a), Dec. 22, 1975, 89 Stat. 941; amended Pub. L. 94-385, title I, §§121, 122, Aug. 14, 1976, 90 Stat. 1132, 1133, related to oil pricing policy.

Section 758, Pub. L. 93-159, §9, as added Pub. L. 94-163, title IV, §401(a), Dec. 22, 1975, 89 Stat. 946, related to passthroughs of cost price decreases.

Section 759, Pub. L. 93-159, §10, as added Pub. L. 94-163, title IV, §402(c), Dec. 22, 1975, 89 Stat. 947, limited pricing authority of President.

Section 760, Pub. L. 93-159, §11, as added Pub. L. 94-163, title IV, §454, Dec. 22, 1975, 89 Stat. 950, related to reevaluation and promulgation of amendments to regulations and report to Congress.

Section 760a, Pub. L. 93-159, §12, as added Pub. L. 94-163, title IV, §455, Dec. 22, 1975, 89 Stat. 950, related to conversion mechanism to standby authorities.