

any person served by an interstate pipeline for use by such person in a high-priority use; and (3) petroleum products will be available for use by such powerplant or installation throughout the period the order is in effect.

(d) Limitations

The President may specify in any order issued under this section the periods of time during which such order will be in effect and the quantity (or rate of use) of natural gas that may be burned by an electric powerplant or major fuel-burning installation during such period, including the burning of natural gas by an electric powerplant to meet peak load requirements. No such order may continue in effect after the termination or expiration of such natural gas supply emergency.

(e) Exemption for secondary uses

The President shall exempt from any order issued under this section the burning of natural gas for the necessary processes of ignition, startup, testing, and flame stabilization by an electric powerplant or major fuel-burning installation.

(f) Exemption for air-quality emergencies

The President shall exempt any electric powerplant or major fuel-burning installation in whole or in part, from any order issued under this section for such period and to such extent as the President determines necessary to alleviate any imminent and substantial endangerment to the health of persons within the meaning of section 7603 of title 42.

(g) Limitation on injunctive relief

(1) Except as provided in paragraph (2), no court shall have jurisdiction to grant any injunctive relief to stay or defer the implementation of any order issued under this section unless such relief is in connection with a final judgment entered with respect to such order.

(2)(A) On the petition of any person aggrieved by an order issued under this section, the United States District Court for the District of Columbia may, after an opportunity for a hearing before such court and on an appropriate showing, issue a preliminary injunction temporarily enjoining, in whole or in part, the implementation of such order.

(B) For purposes of this paragraph, subpoenas for witnesses who are required to attend the District Court for the District of Columbia may be served in any judicial district of the United States, except that no writ of subpoena under the authority of this section shall issue for witnesses outside of the District of Columbia at a greater distance than 100 miles from the place of holding court unless the permission of the District Court for the District of Columbia has been granted after proper application and cause shown.

(h) Definitions

For purposes of this section—

(1) The terms “electric powerplant”, “powerplant”, “major fuel-burning installation”, and “installation” shall have the same meanings as such terms have under section 8302 of title 42.

(2) The term “petroleum products” means crude oil, or any product derived from crude oil other than propane.

(3) The term “high priority use” means any—

(A) use of natural gas in a residence;

(B) use of natural gas in a commercial establishment in amounts less than 50 Mcf on a peak day; or

(C) any use of natural gas the curtailment of which the President determines would endanger life, health, or maintenance of physical property.

(4) The term “Mcf”, when used with respect to natural gas, means 1,000 cubic feet of natural gas measured at a pressure of 14.73 pounds per square inch (absolute) and a temperature of 60 degrees Fahrenheit.

(i) Use of general terms

In applying the provisions of this section in the case of natural gas subject to a prohibition order issued under this section, the term “petroleum products” (as defined in subsection (h)(2) of this section) shall be substituted for the term “heavy petroleum fuel oil” (as defined in section 717y(e)(7) of this title) if the person subject to any order under this section demonstrates to the Commission that the acquisition and use of heavy petroleum fuel oil is not technically or economically feasible.

(Pub. L. 95-617, title VI, § 607, Nov. 9, 1978, 92 Stat. 3171.)

Editorial Notes

CODIFICATION

Section was enacted as part of the Public Utility Regulatory Policies Act of 1978, and not as part of the Natural Gas Act which comprises this chapter.

Statutory Notes and Related Subsidiaries

DEFINITIONS

For definitions of terms used in this section, see section 2602 of Title 16, Conservation.

Executive Documents

DELEGATION OF FUNCTIONS

Functions of President under this section, except for authority to declare, extend, and terminate a natural gas supply emergency pursuant to subsecs. (a) and (b) of this section, delegated to Secretary of Energy, see section 1-102 of Ex. Ord. No. 12235, Sept. 3, 1980, 45 F.R. 58803, set out as a note under section 3364 of this title.

CHAPTER 15C—ALASKA NATURAL GAS TRANSPORTATION

Sec.	
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§ 719. Congressional findings

The Congress finds and declares that—

(1) a natural gas supply shortage exists in the contiguous States of the United States;

(2) large reserves of natural gas in the State of Alaska could help significantly to alleviate this supply shortage;

(3) the expeditious construction of a viable natural gas transportation system for delivery of Alaska natural gas to United States markets is in the national interest; and

(4) the determinations whether to authorize a transportation system for delivery of Alaska natural gas to the contiguous States and, if so, which system to select, involve questions of the utmost importance respecting national energy policy, international relations, national security, and economic and environmental impact, and therefore should appropriately be addressed by the Congress and the President in addition to those Federal officers and agencies assigned functions under law pertaining to the selection, construction, and initial operation of such a system.

(Pub. L. 94-586, § 2, Oct. 22, 1976, 90 Stat. 2903.)

Statutory Notes and Related Subsidiaries

EXPIRATION DATE

Pub. L. 94-586, § 20, Oct. 22, 1976, 90 Stat. 2916, provided that: "This Act [this chapter] shall terminate in the event that no decision of the President takes effect under section 8 of this Act [section 719f of this title], such termination to occur at the end of the last day on which a decision could be, but is not, approved under such section."

SHORT TITLE

Pub. L. 94-586, § 1, Oct. 22, 1976, 90 Stat. 2903, provided that: "This Act [enacting this chapter and provisions set out as notes under this section and section 1651 of Title 43, Public Lands] may be cited as the 'Alaska Natural Gas Transportation Act of 1976'."

ANTITRUST STUDY

Pub. L. 94-586, § 19, Oct. 22, 1976, 90 Stat. 2916, directed Attorney General of United States to conduct a thorough study of antitrust issues and problems relating to production and transportation of Alaska natural gas and, not later than six months after Oct. 22, 1976, to complete such study and submit to Congress a report containing his findings and recommendations with respect thereto.

§ 719a. Congressional statement of purpose

The purpose of this chapter is to provide the means for making a sound decision as to the selection of a transportation system for delivery of Alaska natural gas to the contiguous States for construction and initial operation by providing for the participation of the President and the Congress in the selection process, and, if such a system is approved under this chapter, to expedite its construction and initial operation by (1) limiting the jurisdiction of the courts to

review the actions of Federal officers or agencies taken pursuant to the direction and authority of this chapter, and (2) permitting the limitation of administrative procedures and effecting the limitation of judicial procedures related to such actions. To accomplish this purpose it is the intent of the Congress to exercise its constitutional powers to the fullest extent in the authorizations and directions herein made, and particularly with respect to the limitation of judicial review of actions of Federal officers or agencies taken pursuant thereto.

(Pub. L. 94-586, § 3, Oct. 22, 1976, 90 Stat. 2903.)

§ 719b. Definitions

As used in this chapter:

(1) the term "Alaska natural gas" means natural gas derived from the area of the State of Alaska generally known as the North Slope of Alaska, including the Continental Shelf thereof;

(2) the term "Commission" means the Federal Power Commission;

(3) the term "Secretary" means the Secretary of the Interior;

(4) the term "provision of law" means any provision of a Federal statute or rule, regulation, or order issued thereunder; and

(5) the term "approved transportation system" means the system for the transportation of Alaska natural gas designated by the President pursuant to section 719e(a) or 719f(b) of this title and approved by joint resolution of the Congress pursuant to section 719f of this title.

(Pub. L. 94-586, § 4, Oct. 22, 1976, 90 Stat. 2904.)

Statutory Notes and Related Subsidiaries

TRANSFER OF FUNCTIONS

The Federal Power Commission was terminated, and its functions, personnel, property, funds, etc., were transferred to the Secretary of Energy (except for certain functions which were transferred to the Federal Energy Regulatory Commission) by sections 7151(b), 7171(a), 7172(a)(1), 7291, and 7293 of Title 42, The Public Health and Welfare.

§ 719c. Federal Power Commission reviews and reports

(a) Proceedings: suspension, vacation or removal of suspension; issuance of certificate of convenience and necessity

(1) Notwithstanding any provision of the Natural Gas Act or any other provision of law, the Commission shall suspend all proceedings pending before the Commission on October 22, 1976, relating to a system for the transportation of Alaska natural gas as soon as the Commission determines to be practicable after such date, and the Commission may refuse to act on any application, amendment thereto, or other requests for action under the Natural Gas Act relating to a system for the transportation of Alaska natural gas until such time as (A) a decision of the President designating such a system for approval takes effect pursuant to section 719f of this title, (B) no such decision takes effect pursuant to section 719f of this title, or (C) the President decides not to designate such a sys-

tem for approval under section 719f of this title and so advises the Congress pursuant to section 719e of this title.

(2) In the event a decision of the President designating such a system takes effect pursuant to this chapter, the Commission shall forthwith vacate proceedings suspended under paragraph (1) and, pursuant to section 719g of this title and in accordance with the President's decision, issue a certificate of public convenience and necessity respecting such system.

(3) In the event such a decision of the President does not take effect pursuant to this chapter or the President decides not to designate such a system and so advises the Congress pursuant to section 719e of this title, the suspension provided for in paragraph (1) of this subsection shall be removed.

(b) Recommendation; submittal to President; rule for presentation of data, views, and arguments; Federal agency cooperation

(1) The Commission shall review all applications for the issuance of a certificate of public convenience and necessity relating to the transportation of Alaska natural gas pending on October 22, 1976, and any amendments thereto which are timely made, and after consideration of any alternative transportation system which the Commission determines to be reasonable, submit to the President not later than May 1, 1977, a recommendation concerning the selection of such a transportation system. Such recommendation may be in the form of a proposed certificate of public convenience and necessity, or in such other form as the Commission determines to be appropriate, or may recommend that no decision respecting the selection of such a transportation system be made at this time or pursuant to this chapter. Any recommendation that the President approve a particular transportation system shall (A) include a description of the nature and route of the system, (B) designate a person to construct and operate the system, which person shall be the applicant, if any, which filed for a certificate of public convenience and necessity to construct and operate such system, (C) if such recommendation is for an all-land pipeline transportation system, or a transportation system involving water transportation, include provision for new facilities to the extent necessary to assure direct pipeline delivery of Alaska natural gas contemporaneously to points both east and west of the Rocky Mountains in the lower continental United States.

(2) The Commission may, by rule, provide for the presentation of data, views, and arguments before the Commission or a delegate of the Commission pursuant to such procedures as the Commission determines to be appropriate to carry out its responsibilities under paragraph (1) of this subsection. Such a rule shall, to the extent determined by the Commission, apply, notwithstanding any provision of law that would otherwise have applied to the presentation of data, views, and arguments.

(3) The Commission may request such information and assistance from any Federal agency as the Commission determines to be necessary or appropriate to carry out its responsibilities under this chapter. Any Federal agency re-

quested to submit information or provide assistance shall submit such information to the Commission at the earliest practicable time after receipt of a Commission request.

(c) Report; public availability; factors to be discussed

The Commission shall accompany any recommendation under subsection (b)(1) with a report, which shall be available to the public, explaining the basis for such recommendation and including for each transportation system reviewed or considered a discussion of the following:

(1) for each year of the 20-year period which begins with the first year following October 22, 1976, the estimated—

(A) volumes of Alaska natural gas which would be available to each region of the United States directly, or indirectly by displacement or otherwise, and

(B) transportation costs and delivered prices of any such volumes of gas by region;

(2) the effects of each of the factors described in subparagraphs (A) and (B) of paragraph (1) on the projected natural gas supply and demand for each region of the United States and on the projected supplies of alternative fuels available by region to offset shortages of natural gas occurring in such region for each such year;

(3) the impact upon competition;

(4) the extent to which the system provides a means for the transportation to United States markets of natural resources or other commodities from sources in addition to the Prudhoe Bay Reserve;

(5) environmental impacts;

(6) safety and efficiency in design and operation and potential for interruption in deliveries of Alaska natural gas;

(7) construction schedules and possibilities for delay in such schedules or for delay occurring as a result of other factors;

(8) feasibility of financing;

(9) extent of reserves, both proven and probable and their deliverability by year for each year of the 20-year period which begins with the first year following October 22, 1976;

(10) the estimate of the total delivered cost to users of the natural gas to be transported by the system by year for each year of the 20-year period which begins with the first year following October 22, 1976;

(11) capability and cost of expanding the system to transport additional volumes of natural gas in excess of initial system capacity;

(12) an estimate of the capital and operating costs, including an analysis of the reliability of such estimates and the risk of cost overruns; and

(13) such other factors as the Commission determines to be appropriate.

(d) Recommendation not based upon Canadian pipeline system decision

The recommendation by the Commission pursuant to this section shall not be based upon the fact that the Government of Canada or agencies thereof have not, by then rendered a decision as to authorization of a pipeline system to transport Alaska natural gas through Canada.

(e) Transportation system: recommendation, submittal to President; environmental impact statement: submittal to President

If the Commission recommends the approval of a particular transportation system, it shall submit to the President with such recommendation (1) an identification of those facilities and operations which are proposed to be encompassed within the term "construction and initial operation" in order to define the scope of directions contained in section 719g of this title and (2) the terms and conditions permitted under the Natural Gas Act [15 U.S.C. 717 et seq.], which the Commission determines to be appropriate for inclusion in a certificate of public convenience and necessity to be issued respecting such system. The Commission shall submit to the President contemporaneously with its report an environmental impact statement prepared respecting the recommended system, if any, and each environmental impact statement which may have been prepared respecting any other system reported on under this section.

(Pub. L. 94-586, § 5, Oct. 22, 1976, 90 Stat. 2904.)

Editorial Notes

REFERENCES IN TEXT

The Natural Gas Act, referred to in subsecs. (a)(1) and (e), 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.

Statutory Notes and Related Subsidiaries

TRANSFER OF FUNCTIONS

The Federal Power Commission was terminated, and its functions, personnel, property, funds, etc., were transferred to the Secretary of Energy (except for certain functions which were transferred to the Federal Energy Regulatory Commission) by sections 7151(b), 7171(a), 7172(a)(1), 7291, and 7293 of Title 42, The Public Health and Welfare.

Executive Documents

TRANSFER OF FUNCTIONS

Enforcement functions authorized by, and supplemental enforcement authority created by this chapter 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.

§ 719d. Federal and State officer or agency and other interested persons' reports

(a) Federal officer or agency comments; submittal to President; public availability

Not later than July 1, 1977, any Federal officer or agency may submit written comments to the

President with respect to the recommendation and report of the Commission and alternative methods for transportation of Alaska natural gas for delivery to the contiguous States. Such comments shall be made available to the public by the President when submitted to him, unless expressly exempted from this requirement in whole or in part by the President, under section 552(b)(1) of title 5. Any such written comment shall include information within the competence of such Federal officer or agency with respect to—

- (1) environmental considerations, including air and water quality and noise impacts;
- (2) the safety of the transportation systems;
- (3) international relations, including the status and time schedule for any necessary Canadian approvals and plans;
- (4) national security, particularly security of supply;
- (5) sources of financing for capital costs;
- (6) the impact upon competition;
- (7) impact on the national economy, including regional natural gas requirements; and
- (8) relationship of the proposed transportation system to other aspects of national energy policy.

(b) State officer or agency and other interested persons' comments; submittal to President

Not later than July 1, 1977, the Governor of any State, any municipality, State utility commission, and any other interested person may submit to the President such written comments with respect to the recommendation and report of the Commission and alternative systems for delivering Alaska natural gas to the contiguous States as they determine to be appropriate.

(c) Report of Federal officer or agency to the President

Not later than July 1, 1977, each Federal officer or agency shall report to the President with respect to actions to be taken by such officer or agency under section 719g(a) of this title relative to each transportation system reported on by the Commission under section 719c(c) of this title and shall include such officer's or agency's recommendations with respect to any provision of law to be waived pursuant to section 719f(g) of this title in conjunction with any decision of the President which designates a system for approval.

(d) Report of Council on Environmental Quality to the President

Following receipt by the President of the Commission's recommendations, the Council on Environmental Quality shall afford interested persons an opportunity to present oral and written data, views, and arguments respecting the environmental impact statements submitted by the Commission under section 719c(e) of this title. Not later than July 1, 1977, the Council on Environmental Quality shall submit to the President a report, which shall be contemporaneously made available by the Council to the public, summarizing any data, views, and arguments received and setting forth the Council's views concerning the legal and factual sufficiency of each such environmental impact statement and other matters related to environ-

mental impact as the Council considers to be relevant.

(Pub. L. 94-586, §6, Oct. 22, 1976, 90 Stat. 2906.)

Statutory Notes and Related Subsidiaries

TRANSFER OF FUNCTIONS

The Federal Power Commission was terminated, and its functions, personnel, property, funds, etc., were transferred to the Secretary of Energy (except for certain functions which were transferred to the Federal Energy Regulatory Commission) by sections 7151(b), 7171(a), 7172(a)(1), 7291, and 7293 of Title 42, The Public Health and Welfare.

Executive Documents

TRANSFER OF FUNCTIONS

Enforcement functions authorized by, and supplemental enforcement authority created by this chapter 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.

§ 719e. Presidential decision and report

(a) **Dateline for decision; transmission to Congress, delay; notice to Congress; contents of decision; chairman, appointment; Federal inspector of construction: duties, including establishment of joint surveillance and monitoring agreement**

(1) As soon as practicable after July 1, 1977, but not later than September 1, 1977, the President shall issue a decision as to whether a transportation system for delivery of Alaska natural gas should be approved under this chapter. If he determines such a system should be so approved, his decision shall designate such a system for approval pursuant to section 719f of this title and shall be consistent with section 719c(b)(1)(C) of this title to assure delivery of Alaska natural gas to points both east and west of the Rocky Mountains in the continental United States. The President in making his decision shall take into consideration the Commission's recommendation pursuant to section 719c of this title, the report under section 719c(c) of this title, and any comments submitted under section 719d of this title; and his decision to designate a system for approval shall be based on his determination as to which system, if any, best serves the national interest.

(2) The President, for a period of up to 90 additional calendar days after September 1, 1977, may delay the issuance of his decision and transmittal thereof to the House of Representatives and the Senate, if he determines (A) that there exists no environmental impact statement

prepared relative to a system he wishes to consider or that any prepared environmental impact statement relative to a system he wishes to consider is legally or factually insufficient, or (B) that the additional time is otherwise necessary to enable him to make a sound decision on an Alaska natural gas transportation system. The President shall promptly, but in no case any later than September 1, 1977, notify the House of Representatives and the Senate if he so delays his decision and submit a full explanation of the basis of any such delay.

(3) If, on or before May 1, 1977, the President determines to delay issuance and transmittal of his decision to the House of Representatives and the Senate pursuant to paragraph (2) of this subsection, he may authorize a delay of not more than 90 days in the date of taking of any action specified in sections 719c and 719d of this title. The President shall promptly notify the House of Representatives and the Senate of any such authorization of delay and submit a full explanation of the basis of any such authorization.

(4) If the President determines to designate for approval a transportation system for delivery of Alaska natural gas to the contiguous States, he shall in such decision—

(A) describe the nature and route of the system designated for approval;

(B) designate a person to construct and operate such a system, which person shall be the applicant, if any, which filed for a certificate of public convenience and necessity to construct and operate such system;

(C) identify those facilities, the construction of which, and those operations, the conduct of which, shall be encompassed within the term "construction and initial operation" for purposes of defining the scope of the directions contained in section 719g of this title, taking into consideration any recommendation of the Commission with respect thereto; and

(D) identify those provisions of law, relating to any determination of a Federal officer or agency as to whether a certificate, permit, right-of-way, lease, or other authorization shall be issued or be granted, which provisions the President finds (i) involve determinations which are subsumed in his decision and (ii) require waiver pursuant to section 719f(g) of this title in order to permit the expeditious construction and initial operation of the transportation system.

(5) Repealed. Pub. L. 102-486, title XXX, §3012(a), Oct. 24, 1992, 106 Stat. 3128.

(6) If the President determines to designate for approval a transportation system for delivery of Alaska natural gas to the contiguous States, he may identify in such decision such terms and conditions permissible under existing law as he determines appropriate for inclusion with respect to any issuance or authorization directed to be made pursuant to section 719g of this title.

(b) **Transmittal to Congress**

The decision of the President made pursuant to subsection (a) of this section shall be transmitted to both Houses of Congress and shall be considered received by such Houses for the purposes of this section on the first day on which both are in session occurring after such decision

is transmitted. Such decision shall be accompanied by a report explaining in detail the basis for his decision with specific reference to the factors set forth in sections 719c(c) and 719d(a) of this title, and the reasons for any revision, modification of, or substitution for, the Commission recommendation.

(c) Financial analysis

The report of the President pursuant to subsection (b) of this section shall contain a financial analysis for the transportation system designated for approval. Unless the President finds and states in his report submitted pursuant to this section that he reasonably anticipates that the system designated by him can be privately financed, constructed, and operated, his report shall also be accompanied by his recommendation concerning the use of existing Federal financing authority or the need for new Federal financing authority.

(d) Views and objectives involving intergovernmental and international cooperation

In making his decision under subsection (a) the President shall inform himself, through appropriate consultation, of the views and objectives of the States, the Government of Canada, and other governments with respect to those aspects of such a decision that may involve intergovernmental and international cooperation among the Government of the United States, the States, the Government of Canada, and any other government.

(e) Decision effective as provided in section 719f of this title; financing authority unaffected

If the President determines to designate a transportation system for approval, the decision of the President shall take effect as provided in section 719f of this title, except that the approval of a decision of the President shall not be construed as amending or otherwise affecting the laws of the United States so as to grant any new financing authority as may have been identified by the President pursuant to subsection (c).

(Pub. L. 94-586, § 7, Oct. 22, 1976, 90 Stat. 2907; Pub. L. 102-486, title XXX, § 3012(a), Oct. 24, 1992, 106 Stat. 3128.)

Editorial Notes

AMENDMENTS

1992—Subsec. (a)(5). Pub. L. 102-486 struck out par. (5) which provided for Presidential appointment of officer or board to serve as Federal inspector of construction of Alaska natural gas transportation system and specified duties and powers of such inspector.

Statutory Notes and Related Subsidiaries

TRANSFER OF FUNCTIONS

The Federal Power Commission was terminated, and its functions, personnel, property, funds, etc., were transferred to the Secretary of Energy (except for certain functions which were transferred to the Federal Energy Regulatory Commission) by sections 7151(b), 7171(a), 7172(a)(1), 7291, and 7293 of Title 42, The Public Health and Welfare.

ABOLITION OF OFFICE OF FEDERAL INSPECTOR

Pub. L. 102-486, title XXX, § 3012(b), Oct. 24, 1992, 106 Stat. 3128, provided that: “The Office of Federal Inspec-

tor of Construction for the Alaska Natural Gas Transportation System [also known as “Office of the Federal Inspector for the Alaska Natural Gas Transportation System”], created pursuant to the paragraph [15 U.S.C. 719e(a)(5)] repealed by subsection (a) of this section, is abolished. All functions and authority vested in the Inspector are hereby transferred to the Secretary of Energy.”

[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.]

Executive Documents

TRANSFER OF FUNCTIONS

Enforcement functions authorized by, and supplemental enforcement authority created by this chapter, all functions assigned to the person or board to be appointed by the President under subsec. (a)(5) of this section, and, pursuant to subsec. (a)(6) of this section, function of enforcing terms and conditions described in section 5 of the Decision and Report to the Congress on the Alaska Natural Gas Transportation System, approved by Congress pursuant to Pub. L. 95-158, set out under section 719f of this title, 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 sections 102(h) and 203(a) of Reorg. Plan No. 1 of 1979 set out below. Subsec. (a)(5) of this section was repealed, Office of the Federal Inspector for the Alaska Natural Gas Transportation System, created pursuant to subsec. (a)(5) abolished, and functions and authority vested in Inspector transferred to Secretary of Energy by section 3012(b) of Pub. L. 102-486, set out below. 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.

REORGANIZATION PLAN NO. 1 OF 1979

Eff. July 1, 1979, 44 F.R. 33663, 93 Stat. 1373

Prepared by the President and transmitted to the Senate and House of Representatives in Congress assembled, April 2, 1979, pursuant to the provisions of Chapter 9 of Title 5 of the United States Code.

OFFICE OF THE FEDERAL INSPECTOR FOR CONSTRUCTION OF THE ALASKA NATURAL GAS TRANSPORTATION SYSTEM

PART I. OFFICE OF THE FEDERAL INSPECTOR AND TRANSFER OF FUNCTIONS

SECTION 101. ESTABLISHMENT OF THE OFFICE OF FEDERAL INSPECTOR FOR THE ALASKA NATURAL GAS TRANSPORTATION SYSTEM

(a) There is hereby established as an independent establishment in the executive branch, the Office of the Federal Inspector for the Alaska Natural Gas Transportation System (the “Office”).

(b) The Office shall be headed by a Federal Inspector for the Alaska Natural Gas Transportation System (the “Federal Inspector”) who shall be appointed by the President, by and with the advice and consent of the Senate, and shall be compensated at the rate now or hereafter prescribed by law for Level III of the Executive Schedule [5 U.S.C. 5314], and who shall serve at the pleasure of the President.

(c) Each Federal agency having statutory responsibilities over any aspect of the Alaska Natural Gas Transportation System shall appoint an Agency Authorized Officer to represent that authority on all matters pertaining to pre-construction, construction, and initial operation of the system.

SEC. 102. TRANSFER OF FUNCTIONS TO THE FEDERAL INSPECTOR

Subject to the provisions of Sections 201, 202, and 203 of this Plan, all functions insofar as they relate to enforcement of Federal statutes or regulations and to enforcement of terms, conditions, and stipulations of grants, certificates, permits and other authorizations issued by Federal agencies with respect to pre-construction, construction, and initial operation of an "approved transportation system" for transport of Canadian natural gas and "Alaskan natural gas," as such terms are defined in the Alaska Natural Gas Transportation Act of 1976 (15 U.S.C. 719 et seq.), hereinafter called the "Act", are hereby transferred to the Federal Inspector. This transfer shall vest in the Federal Inspector exclusive responsibility for enforcement of all Federal statutes relevant in any manner to pre-construction, construction, and initial operation. With respect to each of the statutory authorities cited below, the transferred functions include all enforcement functions of the given agencies or their officials under the statutes as may be related to the enforcement of such terms, conditions, and stipulations, including but not limited to the specific sections of the statute cited. "Enforcement", for purposes of this transfer of functions, includes monitoring and any other compliance or oversight activities reasonably related to the enforcement process. These transferred functions include:

(a) Such enforcement functions of the Administrator or other appropriate official or entity in the Environmental Protection Agency related to compliance with: national pollutant discharge elimination system permits provided for in Section 402 of the Federal Water Pollution Control Act (33 U.S.C. 1342); spill prevention, containment and countermeasure plans in Section 311 of the Federal Water Pollution Control Act (33 U.S.C. 1321); review of the Corps of Engineers' dredged and fill material permits issued under Section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1344); new source performance standards in Section 111 of the Clean Air Act, as amended by the Clean Air Act Amendments of 1977 (42 U.S.C. 7411); prevention of significant deterioration review and approval in Sections 160-169 of the Clean Air Act, as amended by the Clean Air Amendments of 1977 (42 U.S.C. 7470 et seq.); and the resource conservation and recovery permits issued under the Resource Conservation and Recovery Act of 1976 (42 U.S.C. 6901 et seq.);

(b) Such enforcement functions of the Secretary of the Army, the Chief of Engineers, or other appropriate officer or entity in the Corps of Engineers of the United States Army related to compliance with: dredged and fill material permits issued under Section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1344); and permits for structures in navigable waters, issued under Section 10 of the Rivers and Harbors Appropriation Act of 1899 (33 U.S.C. 403);

(c) Such enforcement functions of the Secretary or other appropriate officer or entity in the Department of Transportation related to compliance with: the Natural Gas Pipeline Safety Act of 1968, as amended (49 U.S.C. 1671, et seq.) and the gas pipeline safety regulations issued thereunder; the Federal Aviation Act of 1958, as amended (49 U.S.C. 1301, et seq.) and authorizations and regulations issued thereunder; and permits for bridges across navigable waters, issued under Section 9 of the Rivers and Harbors Appropriation Act of 1899 (33 U.S.C. 401);

(d) Such enforcement functions of the Secretary or other appropriate officer or entity in the Department of Energy and such enforcement functions of the Commission, Commissioners, or other appropriate officer or entity in the Federal Energy Regulatory Commission related to compliance with: the certificates of public convenience and necessity, issued under Section 7 of the Natural Gas Act, as amended (15 U.S.C. 717f); and authorizations for importation of natural gas from Alberta as predeliveries of Alaskan gas issued under Section 3 of the Natural Gas Act, as amended (15 U.S.C. 717b);

(e) Such enforcement functions of the Secretary or other appropriate officer or entity in the Department of the Interior related to compliance with: grants of rights-of-way and temporary use permits for Federal land, issued under Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185); land use permits for temporary use of public lands and other associated land uses, issued under Sections 302, 501, and 503-511 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1732, 1761, and 1763-1771); materials sales contracts under the Materials Act of 1947 (30 U.S.C. 601-603); rights-of-way across Indian lands, issued under the Rights of Way Through Indian Lands Act (25 U.S.C. 321, et seq.); removal permits issued under the Materials Act of 1947 (30 U.S.C. 601-603); approval to cross national wildlife refuges, National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd-668jj) and the Upper Mississippi River Wildlife and Fish Refuge Act (16 U.S.C. 721-731); wildlife consultation in the Fish and Wildlife Coordination Act (16 U.S.C. 661 et seq.); protection of certain birds in the Migratory Bird Treaty Act (16 U.S.C. 703 et seq.); Bald and Golden Eagles Protection Act (16 U.S.C. 668-668d); review of Corps of Engineers dredged and fill material permits issued under Section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1344); rights-of-way across recreation lands issued under the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 4601-4—4601-11) [see 54 U.S.C. 200301 et seq.]; historic preservation under the National Historic Preservation Act of 1966 as amended (16 U.S.C. 470-470f) [see 54 U.S.C. 300101 et seq.]; permits issued under the Antiquities Act of 1906 ([former] 16 U.S.C. 432, 433) [see 18 U.S.C. 1866(b), 54 U.S.C. 320301(a) to (c), 320302, 320303]; and system activities requiring coordination and approval under general authorities of the National Trails System Act, as amended (16 U.S.C. 1241-1249), the Wilderness Act, as amended (16 U.S.C. 1131-1136), the Wild and Scenic Rivers Act, as amended (16 U.S.C. 1271-1287), the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), the Act of April 27, 1935 (prevention of soil erosion) (16 U.S.C. 590a-f), and an Act to Provide for the Preservation of Historical and Archeological Data, as amended (16 U.S.C. 469-469c) [see 54 U.S.C. 312501 et seq.];

(f) Such enforcement functions of the Secretary or other appropriate officer or entity in the Department of Agriculture, insofar as they involve lands and programs under the jurisdiction of that Department, related to compliance with: associated land use permits authorized for and in conjunction with grants of rights-of-way across Federal lands issued under Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185); land use permits for other associated land uses issued under Sections 501 and 503-511 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1761, 1763-1771), under the Organic Administration Act of June 4, 1897, as amended (16 U.S.C. 473, 474-482, 551), and under Title III of the Bankhead-Jones Farm Tenant Act of 1937, as amended (7 U.S.C. 1010-1012); removal of materials under the Materials Act of 1947 (30 U.S.C. 601-603) and objects of antiquity under the Antiquities Act of 1906 ([former] 16 U.S.C. 432, 433) [see 18 U.S.C. 1866(b), 54 U.S.C. 320301(a) to (c), 320302, 320303]; construction and utilization of national forest roads under the Roads and Trails System Act of 1964 (16 U.S.C. 532-538); and system activities requiring coordination and approval under general authorities of the National Forest Management Act of 1976 (16 U.S.C. 1600 et seq.); the Multiple Use-Sustained-Yield Act of 1960 (16 U.S.C. 528-531); the Forest and Rangelands Renewable Resources Planning Act of 1974 (16 U.S.C. 1601-1610); the National Trails System Act, as amended (16 U.S.C. 1241-1249); the Wilderness Act, as amended (16 U.S.C. 1131-1136); the Wild and Scenic Rivers Act, as amended (16 U.S.C. 1271-1287); the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 460 et seq.) [see 54 U.S.C. 200301 et seq.]; the Federal Water Pollution Control Act of 1972 (33 U.S.C. 1151 et seq.) [33 U.S.C. 1251 et seq.]; the Fish and Wildlife Coordination Act and Fish and Game

Sanctuaries Act (16 U.S.C. 661 et seq. and 694, 694a–b, respectively); the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470–470f) [see 54 U.S.C. 300101 et seq.]; an Act to Provide for the Preservation of Historical and Archeological Data, as amended (16 U.S.C. 469–469c) [see 54 U.S.C. 312501 et seq.]; the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); the Watershed Protection and Flood Prevention Act, as amended (16 U.S.C. 1001 et seq.); the Soil and Water [Resources] Conservation Act of 1977 (16 U.S.C. 2001 et seq.); and the Act of April 27, 1935 (prevention of soil erosion) (16 U.S.C. 590a–f);

(g) Such enforcement functions of the Secretary or other appropriate officer or entity in the Department of the Treasury related to compliance with permits for interstate transport of explosives and compliance with regulations for the storage of explosives, Title XI of the Organized Crime Control Act of 1970 (18 U.S.C. 841–848);

(h)(1) The enforcement functions authorized by, and supplemental enforcement authority created by the Act (15 U.S.C. 719 et seq.);

(2) All functions assigned to the person or board to be appointed by the President under Section 7(a)(5) of the Act (15 U.S.C. 719e); and

(3) Pursuant to Section 7(a)(6) of the Act (15 U.S.C. 719e), enforcement of the terms and conditions described in Section 5 of the Decision and Report to the Congress on the Alaska Natural Gas Transportation System, as approved by the Congress pursuant to Public Law 95–158 (91 Stat. 1268), November 2[8], 1977 [set out under 15 U.S.C. 719f], (hereinafter the “Decision”).

PART II. OTHER PROVISIONS

SEC. 201. EXECUTIVE POLICY BOARD

The Executive Policy Board for the Alaska Natural Gas Transportation System, hereinafter the “Executive Policy Board”, which shall be established by executive order, shall advise the Federal Inspector on the performance of the Inspector’s functions. All other functions assigned, or which could be assigned pursuant to the Decision, to the Executive Policy Board are hereby transferred to the Federal Inspector.

SEC. 202. FEDERAL INSPECTOR AND AGENCY AUTHORIZED OFFICERS

(a) The Agency Authorized Officers shall be detailed to and located within the Office. The Federal Inspector shall delegate to each Agency Authorized Officer the authority to enforce the terms, conditions, and stipulations of each grant, permit, or other authorization issued by the Federal agency which appointed the Agency Authorized Officer. In the exercise of these enforcement functions, the Agency Authorized Officers shall be subject to the supervision and direction of the Federal Inspector, whose decision on enforcement matters shall constitute “action” for purposes of Section 10 of the Act (15 U.S.C. 719h).

(b) The Federal Inspector shall be responsible for coordinating the expeditious discharge of nonenforcement activities by Federal agencies and coordinating the compliance by all the Federal agencies with Section 9 of the Act (15 U.S.C. 719g). Such coordination shall include requiring submission of scheduling plans for all permits, certificates, grants or other necessary authorizations, and coordinating scheduling of system-related agency activities. Such coordination may include serving as the “one window” point for filing for and issuance of all necessary permits, certificates, grants or other authorizations, and, consistent with law, Federal government requests for data or information related to any application for a permit, certificate, grant or other authorization. Upon agreement between the Federal Inspector and the head of any agency, that agency may delegate to the Federal Inspector any statutory function vested in such agency related to the functions of the Federal Inspector.

(c) The Federal Inspector and Agency Authorized Officers in implementing the enforcement authorities herein transferred shall carry out the enforcement poli-

cies and procedures established by the Federal agencies which nominally administer these authorities, except where the Federal Inspector determines that such policies and procedures would require action inconsistent with Section 9 of the Act (15 U.S.C. 719g).

(d) Under the authority of Section 15 of the Act (15 U.S.C. 719m), the Federal Inspector will undertake to obtain appropriations for all aspects of the Federal Inspector’s operations. Such undertaking shall include appropriations for all of the functions specified in the Act and in the general terms and conditions of the Decision as well as for the enforcement activities of the Federal Inspector. The Federal Inspector will consult with the various Federal agencies as to resource requirements for enforcing their respective permits and other authorizations in preparing a unified budget for the Office. The budget shall be reviewed by the Executive Policy Board.

SEC. 203. SUBSEQUENT TRANSFER PROVISION

(a) Effective upon the first anniversary of the date of initial operation of the Alaska Natural Gas Transportation System, the functions transferred by Section 102 of this Plan shall be transferred to the agency which performed the functions on the date prior to date the provisions of Section 102 of this Plan were made effective pursuant to Section 205 of this Plan.

(b) Upon the issuance of the final determination order by the Director of the Office of Management and Budget for the transfers provided for by subsection (a) of this section, the Office and the position of Federal Inspector shall, effective on the date of that order, stand abolished.

SEC. 204. INCIDENTAL TRANSFERS

So much of the personnel, property, records and unexpended balances of appropriations, allocations and other funds employed, used, held, available, or to be made available in connection with the functions transferred under this Plan, as the Director of the Office of Management and Budget shall determine, shall be transferred to the appropriate agency or component at such time or times as the Director of the Office of Management and Budget shall provide, except that no such unexpended balances transferred shall be used for purposes other than those for which the appropriation was originally made. The Director of the Office of Management and Budget shall provide for the terminating of the affairs of the Office and the Federal Inspector upon their abolition pursuant to this Plan and for such further measures and dispositions as such Director deems necessary to effectuate the purposes of this Plan.

SEC. 205. EFFECTIVE DATE

This Plan shall become effective at such time or times as the President shall specify, but not sooner than the earliest time allowable under Section 906 of Title 5 of the United States Code, except that the provisions of Section 203 shall occur as provided by the terms of that Section.

[Pursuant to Ex. Ord. No. 12142, June 21, 1979, 44 F.R. 36927, this Reorg. Plan is effective July 1, 1979].

[For abolition of Office of the Federal Inspector for the Alaska Natural Gas Transportation System and transfer of functions and authority, see section 3012(b) of Pub. L. 102–486, set out as an Abolition of Office of Federal Inspector note above.]

MESSAGE OF THE PRESIDENT

To the Congress of the United States:

I am submitting to you today Reorganization Plan No. 1 of 1979 to create the Office of Federal Inspector for the Alaska Natural Gas Transportation System and establish the position of Federal Inspector. Creation of this Office and the transfer of appropriate Federal enforcement authority and responsibility is consistent with my September 1977 Decision and Report to the Congress on the Alaska Natural Gas Transportation System. This decision was approved by the Congress November 2, 1977.

The Alaska Gas Transportation System is a 4,748-mile pipeline to be constructed in partnership with Canada. Canada completed legislation enacting a similar transfer last year and has already appointed an official to coordinate its activities prior to and during pipeline construction. The Northwest Alaska Pipeline Company has been selected to construct the pipeline, with completion scheduled in late 1984. Estimated construction costs are \$10-\$15 billion, to be financed by private investment.

Natural gas is among the Nation's most valuable fuels. It is in the national interest to bring Alaskan gas reserves to market at the lowest possible price for consumers. Construction of a gas pipeline from the Prudhoe Bay reserves in Alaska through Canada to points in the West and Midwest United States will provide a system which will deliver more Alaskan natural gas at less cost to a greater number of Americans than any alternative transportation system. Every effort must be made to ensure timely completion of the pipeline at the lowest possible cost consistent with Federal regulatory policies.

As a result of our experience in construction of the Trans-Alaska Oil Pipeline, we recognize the need for the Federal Government to be in a strong position to manage its own role in this project through prompt, coordinated decisionmaking in pre-construction approval functions and in enforcing the terms and conditions of the permits, certificates, leases, and other authorizations to be issued by various Federal agencies. We must avoid duplicating the delays and cost escalations experienced in the construction of the Trans-Alaska Pipeline System. The Plan I am submitting would establish clear responsibility for the efficient functioning of Federal enforcement activities by assigning the Federal Inspector authority to carry out these responsibilities.

The Alaska Natural Gas Transportation Act of 1976 [15 U.S.C. 719 et seq.] only provided for monitoring the construction of the pipeline. The Plan transfers to the Federal Inspector the authority to supervise the enforcement of terms and conditions of the permits and other authorizations, including those to be issued by the Departments of Agriculture, Interior, Transportation, and Treasury, and the Environmental Protection Agency, the Federal Energy Regulatory Commission, and the U.S. Army Corps of Engineers. The Plan provides for the Federal Inspector to coordinate other Federal activities directly related to the pipeline project. Federal agencies retain their authority to issue permits and related authorizations, but enforcement of the terms and conditions of these authorizations is transferred to the Federal Inspector. Transfer of enforcement authority from Federal agencies to the Federal Inspector is limited in scope to their participation in this project and in duration to the pre-construction, construction, and initial operation phases of the project.

The Decision and Report to the Congress recommended an Executive Policy Board with policy-making and supervisory authority over the Federal Inspector. I plan to sign an Executive Order upon approval of this Plan by the Congress which will create an Executive Policy Board which will be only advisory, but which will enhance communication and coordinate among Federal agencies and with the Federal Inspector. The Plan modifies the Decision and Report in that regard. The Federal Inspector will use the policies and procedures of the agencies involved in exercising the transferred enforcement responsibilities to the maximum extent practicable. The Board provides the opportunity for agencies to contribute to the policy deliberations of the Inspector and exercises an oversight role to insure that pipeline activities are carried on within existing regulatory policy. The Board is required to review the budget of the Office of the Federal Inspector and periodically report to me on the progress of construction and on major problems encountered. I am convinced that the Federal Inspector must have authority commensurate with his responsibilities.

Each of the provisions of this proposed reorganization would accomplish one or more of the purposes set forth

in Section 901(a) of Title 5 of the United States Code. The appointment and compensation of the Federal Inspector is in accordance with the provisions of the Alaska Natural Gas Transportation Act of 1976 [15 U.S.C. 719 et seq.], and the Reorganization Act of 1977. The provisions for appointment and pay in this Plan are necessary by reason of a reorganization made by the Plan. The rate of compensation is comparable to rates for similar positions within the Executive Branch. This reorganization will result in a reduction in the cost of construction for the pipeline system and ultimately in savings to American consumers. A small increase in cost to the Federal government will result from the creation of the Office of the Federal Inspector. The Plan requires that the Office and the position of Federal Inspector will be abolished upon the first anniversary date after the pipeline becomes operational.

JIMMY CARTER.

THE WHITE HOUSE, April 2, 1979.

EX. ORD. NO. 12142. ALASKA NATURAL GAS
TRANSPORTATION SYSTEM

Ex. Ord. No. 12142, June 21, 1979, 44 F.R. 36927, provided:

By the authority vested in me as President by the Constitution and laws of the United States of America, including Section 301 of Title 3 of the United States Code and Sections 201 and 205 of Reorganization Plan No. 1 of 1979 [set out above], it is hereby ordered as follows:

1-101. Reorganization Plan No. 1 of 1979 [set out above], not having been disapproved by Congress (S. Res. 126, 125 Cong. Rec. S 6563-64 (May 23, 1979) [Cong. Rec., vol. 125, pt. 10, pp. 12413-12414, May 23, 1979]; H. Res. 199, 125 Cong. Rec. H 3950-51 (May 31, 1979) [Cong. Rec., vol. 125, pt. 10, pp. 13052-13053, May 31, 1979]), shall be effective on July 1, 1979.

1-102. In accord with Section 201 of that Plan, there is hereby established the Executive Policy Board for the system for the transportation of Alaska natural gas ("the System") as such system is defined in the Alaska Natural Gas Transportation Act of 1976 (15 U.S.C. 719 et seq.).

1-103. The Board shall consist of the Secretaries of the Departments of Agriculture, Energy, Labor, Transportation, and the Interior, the Administrator of the Environmental Protection Agency, the Chief of Engineers of the United States Army, and the Chairman of the Federal Energy Regulatory Commission. Additional members may be elected to the Board by vote of a majority of the members. The Board will by majority vote elect a Chairman to serve for a one-year term.

1-104. The Board shall perform the following functions:

(a) Advise the Federal Inspector for the Alaska Natural Gas Transportation System (the "Federal Inspector") established by Reorganization Plan No. 1 of 1979, on policy issues in accord with applicable law and existing Departmental or Agency policies.

(b) Provide advice, through the Federal Inspector, to the officers representing and exercising the functions of the Federal Departments and Agencies that concern the System ("Agency Authorized Officers").

(c) Advise the Federal Inspector and the Agency Authorized Officers on matters concerning enforcement actions.

(d) At least every six months, assess the progress made and problems encountered in constructing the System and make necessary recommendations to the Federal Inspector.

1-105. The Federal Inspector shall keep the Board informed of the progress made and problems encountered in the course of construction of the System.

1-106. Whenever the Federal Inspector determines that implementation of Departmental or Agency enforcement policies and procedures would require action inconsistent with Section 9 of the Alaska Natural Gas Transportation Act of 1976 [15 U.S.C. 719g], the Federal Inspector shall issue a written statement of such deter-

mination including a complete factual and legal basis for the determination. A copy of each statement shall be forwarded promptly to the Board and made available to the public by the Federal Inspector.

1-107. After written notice of a proposed enforcement action is given by the Federal Inspector, the Federal Inspector will be subject to the rules of procedure for ex parte contacts as reflected in the guidelines and policies of Departments and Agencies from which the specific enforcement authority is transferred.

1-108. The Federal Inspector and all employees of the Office of the Federal Inspector shall be subject to the provisions of Executive Order No. 11222 concerning standards of conduct for Federal employees. The Federal Inspector shall issue standards of conduct, pursuant to the Order, for the Office of the Federal Inspector.

1-109. To the extent permitted by law, each Department and Agency shall cooperate with and furnish necessary information and assistance to the Board in the performance of its functions.

1-110. This Order shall be effective on July 1, 1979.

JIMMY CARTER.

§ 719f. Congressional review

(a) Effectiveness of decision designating transportation system for approval upon enactment of joint resolution

Any decision under section 719e(a) of this title or subsection (b) designating for approval a transportation system for the delivery of Alaska natural gas shall take effect upon enactment of a joint resolution within the first period of 60 calendar days of continuous session of Congress beginning on the date after the date of receipt by the Senate and House of Representatives of a decision transmitted pursuant to section 719e(b) of this title or subsection (b) of this section.

(b) New decision: statement of reasons for proposal; transmittal to Congress

If the Congress does not enact such a joint resolution within such 60-day period, the President, not later than the end of the 30th day following the expiration of the 60-day period, may propose a new decision and shall provide a detailed statement concerning the reasons for such proposal. The new decision shall be submitted in accordance with section 719e(a) of this title and transmitted to the House of Representatives and the Senate on the same day while both are in session and shall take effect pursuant to subsection (a) of this section. In the event that a resolution respecting the President's decision was defeated by vote of either House, no new decision may be transmitted pursuant to this subsection unless such decision differs in a material respect from the previous decision.

(c) Sessions of Congress

For purposes of this section—

(1) continuity of session of Congress is broken only by an adjournment sine die; and

(2) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of the 60-day calendar period.

(d) Rules under rulemaking powers of Congress; change of rules; "resolution" defined; referral to Congressional committees; debate limitation; motion for consideration of resolution; debate on resolution; nondebateable motions and appeals from procedural decisions

(1) This subsection is enacted by Congress—

(A) as an exercise of the rulemaking power of each House of Congress, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of resolutions described by paragraph (2) of this subsection; and it supersedes other rules only to the extent that it is inconsistent therewith; and

(B) with full recognition of the constitutional right of either House to change the rules (so far as those rules relate to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of such House.

(2) For purposes of this chapter, the term "resolution" means (A) a joint resolution, the resolving clause of which is as follows: "That the House of Representatives and Senate approve the Presidential decision on an Alaska natural gas transportation system submitted to the Congress on _____, 19__, and find that any environmental impact statements prepared relative to such system and submitted with the President's decision are in compliance with the Natural¹ Environmental Policy Act of 1969."; the blank space therein shall be filled with the date on which the President submits his decision to the House of Representatives and the Senate; or (B) a joint resolution described in subsection (g).

(3) A resolution once introduced with respect to a Presidential decision on an Alaska natural gas transportation system shall be referred to one or more committees (and all resolutions with respect to the same Presidential decision on an Alaska natural gas transportation system shall be referred to the same committee or committees) by the President of the Senate or the Speaker of the House of Representatives, as the case may be.

(4)(A) If any committee to which a resolution with respect to a Presidential decision on an Alaska natural gas transportation system has been referred has not reported it at the end of 30 calendar days after its referral, it shall be in order to move either to discharge such committee from further consideration of such resolution or to discharge such committee from consideration of any other resolution with respect to such Presidential decision on an Alaska natural gas transportation system which has been referred to such committee.

(B) A motion to discharge may be made only by an individual favoring the resolution, shall be highly privileged (except that it may not be made after the committee has reported a resolution with respect to the same Presidential decision on an Alaska natural gas transportation system), and debate thereon shall be limited to not more than 1 hour, to be divided equally between those favoring and those opposing the resolution. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(C) If the motion to discharge is agreed to or disagreed to, the motion may not be made with respect to any other resolution with respect to

¹ So in original. Probably should be "National".

the same Presidential decision on an Alaska natural gas transportation system.

(5)(A) When any committee has reported, or has been discharged from further consideration of, a resolution, but in no case earlier than 30 days after the date of receipt of the President's decision to the Congress, it shall be at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion shall be highly privileged and shall not be debatable. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(B) Debate on the resolution described in paragraph (2)(A) of this subsection shall be limited to not more than 10 hours and on any resolution described in subsection (g) to one hour. This time shall be divided equally between those favoring and those opposing such resolution. A motion further to limit debate shall not be debatable. An amendment to, or motion to recommit the resolution shall not be in order, and it shall not be in order to move to reconsider the vote by which such resolution was agreed to or disagreed to or, thereafter within such 60-day period, to consider any other resolution respecting the same Presidential decision.

(6)(A) Motions to postpone, made with respect to the discharge from committee, or the consideration of a resolution and motions to proceed to the consideration of other business, shall be decided without debate.

(B) Appeals from the decision of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedures relating to a resolution shall be decided without debate.

(e) Presidential finding respecting and supplementation or modification of environmental impact statement; submittal to Congressional committees

The President shall find that any required environmental impact statement relative to the Alaska natural gas transportation system designated for approval by the President has been prepared and that such statement is in compliance with the National Environmental Policy Act of 1969 [42 U.S.C. 4321 et seq.]. Such finding shall be set forth in the report of the President submitted under section 719e of this title. The President may supplement or modify the environmental impact statements prepared by the Commission or other Federal officers or agencies. Any such environmental impact statement shall be submitted contemporaneously with the transmittal to the Senate and House of Representatives of the President's decision pursuant to section 719e(b) of this title or subsection (b) of this section.

(f) Report of Commission: submittal to Congress; Council on Environmental Quality: hearings, report, submittal to Congress; Congressional committee hearings

Within 20 days of the transmittal of the President's decision to the Congress under section 719e(b) of this title or under subsection (b) of this section, (1) the Commission shall submit to the Congress a report commenting on the deci-

sion and including any information with regard to that decision which the Commission considers appropriate, and (2) the Council on Environmental Quality shall provide an opportunity to any interested person to present oral and written data, views, and arguments on any environmental impact statement submitted by the President relative to any system designated by him for approval which is different from any system reported on by the Commission under section 719c(c) of this title, and shall submit to the Congress a report summarizing any such views received. The committees in each House of Congress to which a resolution has been referred under subsection (d)(3) shall conduct hearings on the Council's report and include in any report of the committee respecting such resolution the findings of the committee on the legal and factual sufficiency of any environmental impact statement submitted by the President relative to any system designated by him for approval.

(g) Waiver; submittal to Congress

(1) At any time after a decision designating a transportation system is submitted to the Congress pursuant to this section, if the President finds that any provision of law applicable to actions to be taken under subsection (a) or (c) of section 719g of this title require waiver in order to permit expeditious construction and initial operation of the approved transportation system, the President may submit such proposed waiver to both Houses of Congress.

(2) Such provision shall be waived with respect to actions to be taken under subsection (a) or (c) of section 719g of this title upon enactment of a joint resolution pursuant to the procedures specified in subsections (c) and (d) of this section (other than subsection (d)(2) thereof) within the first period of 60 calendar days of continuous session of Congress beginning on the date after the date of receipt by the Senate and House of Representatives of such proposal.

(3) The resolving clause of the joint resolution referred to in this subsection is as follows: "That the House of Representatives and Senate approve the waiver of the provision of law () as proposed by the President, submitted to the Congress on , 19 .". The first blank space therein being filled with the citation to the provision of law and the second blank space therein being filled with the date on which the President submits his decision to the House of Representatives and the Senate.

(4) In the case of action with respect to a joint resolution described in this subsection, the phrase "a waiver of a provision of law" shall be substituted in subsection (d) for the phrase "the Alaska natural gas transportation system."

(Pub. L. 94-586, § 8, Oct. 22, 1976, 90 Stat. 2909.)

Editorial Notes

REFERENCES IN TEXT

The National Environmental Policy Act of 1969, referred to in subsecs. (d)(2) and (e), 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.

Statutory Notes and Related Subsidiaries**TRANSFER OF FUNCTIONS**

The Federal Power Commission was terminated, and its functions, personnel, property, funds, etc., were transferred to the Secretary of Energy (except for certain functions which were transferred to the Federal Energy Regulatory Commission) by sections 7151(b), 7171(a), 7172(a)(1), 7291, and 7293 of Title 42, The Public Health and Welfare.

CONGRESSIONAL APPROVAL OF PRESIDENTIAL RECOMMENDATIONS FOR WAIVER OF LAW TO PERMIT EXPEDITIOUS CONSTRUCTION AND INITIAL OPERATION OF SYSTEM

Pub. L. 97-93, Dec. 15, 1981, 95 Stat. 1204, provided: "That the House of Representatives and Senate approve the waiver of the provision of law (Public Law 95-158 [set out as a note below], Public Law numbered 688, Seventy-fifth Congress, second session [section 717 et seq. of this title], and Public Law 94-163 [42 U.S.C. 6201 et seq.]) as proposed by the President, submitted to the Congress on October 15, 1981." [The Message of the President, dated Oct. 15, 1981, submitting the findings and proposed waiver of law, is set out in 17 Weekly Compilation of Presidential Documents 1135, Oct. 19, 1981.]

CONGRESSIONAL APPROVAL OF PRESIDENTIAL DECISION ON ALASKA NATURAL GAS TRANSPORTATION SYSTEM

Pub. L. 95-158, Nov. 8, 1977, 91 Stat. 1268, provided: "That the House of Representatives and Senate approve the Presidential decision on an Alaska natural gas transportation system submitted to the Congress on September 22, 1977, and find that any environmental impact statements prepared relative to such system and submitted with the President's decision are in compliance with the Natural [National] Environmental Policy Act of 1969 [section 4321 et seq. of Title 42, The Public Health and Welfare]."

Executive Documents**TRANSFER OF FUNCTIONS**

Enforcement functions authorized by, and supplemental enforcement authority created by this chapter 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.

§ 719g. Transportation system certificates, rights-of-way, permits, leases, or other authorizations**(a) Earliest practicable date for issuance or grant of authorizations**

To the extent that the taking of any action which is necessary or related to the construction and initial operation of the approved transportation system requires a certificate, right-of-way, permit, lease, or other authorization to be issued or granted by a Federal officer or agency, such Federal officer or agency shall—

(1) to the fullest extent permitted by the provisions of law administered by such officer or agency, but

(2) without regard to any provision of law which is waived pursuant to section 719f(g) of this title issue or grant such certificates, permits, rights-of-way, leases, and other authorizations at the earliest practicable date.

(b) Expedition and precedence of actions on applications or requests

All actions of a Federal officer or agency with respect to consideration of applications or requests for the issuance or grant of a certificate, right-of-way, permit, lease, or other authorization to which subsection (a) applies shall be expedited and any such application or request shall take precedence over any similar applications or requests of the Federal officer or agency.

(c) Required terms and conditions

Any certificate, right-of-way, permit, lease, or other authorization issued or granted pursuant to the direction under subsection (a) shall include the terms and conditions required by law unless waived pursuant to a resolution under section 719f(g) of this title, and may include terms and conditions permitted by law, except that with respect to terms and conditions permitted but not required, the Federal officer or agency, notwithstanding any such other provision of law, shall have no authority to include terms and conditions as would compel a change in the basic nature and general route of the approved transportation system or those the inclusion of which would otherwise prevent or impair in any significant respect the expeditious construction and initial operation of such transportation system.

(d) Additions to, and amendment or abrogation of authorizations; exception

Any Federal officer or agency, with respect to any certificate, permit, right-of-way, lease, or other authorization issued or granted by such officer or agency, may, to the extent permitted under laws administered by such officer or agency add to, amend or abrogate any term or condition included in such certificate, permit, right-of-way, lease, or other authorization except that with respect to any such action which is permitted but not required by law, such Federal officer or agency, notwithstanding any such other provision of law, shall have no authority to take such action if the terms and conditions to be added, or as amended, would compel a change in the basic nature and general route of the approved transportation system or would otherwise prevent or impair in any significant respect the expeditious construction and initial operation of such transportation system.

(e) Appropriate terms and conditions

Any Federal officer or agency to which subsection (a) applies, to the extent permitted under laws administered by such officer or agency, shall include in any certificate, permit, right-of-way, lease, or authorization issued or granted those terms and conditions identified in the President's decision as appropriate for inclusion except that the requirement to include such

terms and conditions shall not limit the Federal officer or agency's authority under subsection (d) of this section.

(Pub. L. 94-586, §9, Oct. 22, 1976, 90 Stat. 2912.)

Executive Documents

TRANSFER OF FUNCTIONS

Enforcement functions authorized by, and supplemental enforcement authority created by this chapter 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.

§ 719h. Judicial review

(a) Exclusiveness of remedy

Notwithstanding any other provision of law, the actions of Federal officers or agencies taken pursuant to section 719g of this title, shall not be subject to judicial review except as provided in this section.

(b) Limitations for filing claims

(1) Claims alleging the invalidity of this chapter may be brought not later than the 60th day following the date a decision takes effect pursuant to section 719f of this title.

(2) Claims alleging that an action will deny rights under the Constitution of the United States, or that an action is in excess of statutory jurisdiction, authority, or limitations, or short of statutory right may be brought not later than the 60th day following the date of such action, except that if a party shows that he did not know of the action complained of, and a reasonable person acting in the circumstances would not have known, he may bring a claim alleging the invalidity of such action on the grounds stated above not later than the 60th day following the date of his acquiring actual or constructive knowledge of such action.

(c) Jurisdiction

(1) Special Courts

(A) In general

A claim under subsection (b) shall be barred unless a complaint is filed prior to the expiration of such time limits in the United States Court of Appeals for the District of Columbia acting as a Special Court.

(B) Exclusive jurisdiction

The Special Court shall have exclusive jurisdiction to determine such proceeding in accordance with the procedures hereinafter provided, and no other court of the United States, or any State, territory, or possession

of the United States, or of the District of Columbia, shall have jurisdiction of any such claim in any proceeding instituted prior to or on or after October 22, 1976.

(2) Expedited consideration

The Special Court shall set any action brought under this section for expedited consideration, taking into account the national interest described in section 719 of this title.

(3) Environmental impact statements

The enactment of a joint resolution under section 719f of this title approving the decision of the President shall be conclusive as to the legal and factual sufficiency of the environmental impact statements submitted by the President relative to the approved transportation system and no court shall have jurisdiction to consider questions respecting the sufficiency of such statements under the National Environmental Policy Act of 1969 [42 U.S.C. 4321 et seq.].

(Pub. L. 94-586, §10, Oct. 22, 1976, 90 Stat. 2913; Pub. L. 98-620, title IV, §402(16), Nov. 8, 1984, 98 Stat. 3358; Pub. L. 108-324, div. C, §107(d), Oct. 13, 2004, 118 Stat. 1261.)

Editorial Notes

REFERENCES IN TEXT

The National Environmental Policy Act of 1969, referred to in subsec. (c)(3), 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.

AMENDMENTS

2004—Subsec. (c). Pub. L. 108-324, §107(d)(1), inserted heading.

Subsec. (c)(1). Pub. L. 108-324, §107(d)(1), (2), designated first sentence as subpar. (A) and inserted par. and subpar. headings and designated last sentence as subpar. (B), inserted subpar. heading, and substituted “The Special Court shall have” for “Such court shall have”.

Subsec. (c)(2). Pub. L. 108-324, §107(d)(3), added par. (2).

Subsec. (c)(3). Pub. L. 108-324, §107(d)(4), inserted heading.

1984—Subsec. (c)(2). Pub. L. 98-620 struck out par. (2) which required that any such proceeding had to be assigned for hearing and completed at the earliest possible date, would, to the greatest extent practicable, take precedence over all other matters pending on the docket of the court at that time, and had to be expedited in every way by such court and such court had to render its decision relative to any claim within 90 days from the date such claim was brought unless such court determined that a longer period of time was required to satisfy requirements of the United States Constitution.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-620 not applicable to cases pending on Nov. 8, 1984, see section 403 of Pub. L. 98-620, set out as an Effective Date note under section 1657 of Title 28, Judiciary and Judicial Procedure.

Executive Documents

TRANSFER OF FUNCTIONS

Enforcement functions authorized by, and supplemental enforcement authority created by this chapter

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.

§ 719i. Supplemental enforcement authority

(a) Compliance order or civil action

In addition to remedies available under other applicable provisions of law, whenever any Federal officer or agency determines that any person is in violation of any applicable provision of law administered or enforceable by such officer or agency or any rule, regulation, or order under such provision, including any term or condition of any certificate, right-of-way, permit, lease, or other authorization, issued or granted by such officer or agency, such officer or agency may—

- (1) issue a compliance order requiring such person to comply with such provision or any rule, regulation, or order thereunder, or
- (2) bring a civil action in accordance with subsection (c).

(b) Specificity of compliance order

Any order issued under subsection (a) shall state with reasonable specificity the nature of the violation and a time of compliance, not to exceed 30 days, which the officer or agency, as the case may be, determines is reasonable, taking into account the seriousness of the violation and any good faith efforts to comply with applicable requirements.

(c) Appropriate relief and jurisdiction of civil action

Upon a request of such officer or agency, as the case may be, the Attorney General may commence a civil action for appropriate relief, including a permanent or temporary injunction or a civil penalty not to exceed \$25,000 per day for violations of the compliance order issued under subsection (a). Any action under this subsection may be brought in any district court of the United States for the district in which the defendant is located, resides, or is doing business, and such court shall have jurisdiction to restrain such violation, require compliance, or impose such penalty or give ancillary relief.

(Pub. L. 94-586, §11, Oct. 22, 1976, 90 Stat. 2914.)

Executive Documents

TRANSFER OF FUNCTIONS

Enforcement functions authorized by, and supplemental enforcement authority created by this chapter 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.

§ 719j. Export limitations

Any exports of Alaska natural gas shall be subject to the requirements of the Natural Gas Act [15 U.S.C. 717 et seq.] and section 103¹ of the Energy Policy and Conservation Act, except that in addition to the requirements of such Acts, before any Alaska natural gas in excess of 1,000 Mcf per day may be exported to any nation other than Canada or Mexico, the President must make and publish an express finding that such exports will not diminish the total quantity or quality nor increase the total price of energy available to the United States.

(Pub. L. 94-586, §12, Oct. 22, 1976, 90 Stat. 2914.)

Editorial Notes

REFERENCES IN TEXT

The Natural Gas Act, referred to in text, 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.

The Energy Policy and Conservation Act, referred to in text, is Pub. L. 94-163, Dec. 22, 1975, 89 Stat. 871, which is classified principally to chapter 77 (§6201 et seq.) of Title 42, The Public Health and Welfare. Section 103 of the Act was classified to section 6212 of Title 42, prior to repeal by Pub. L. 114-113, div. O, title I, §101(a), Dec. 18, 2015, 129 Stat. 2987. For complete classification of this Act to the Code, see Short Title note set out under section 6201 of Title 42 and Tables.

Executive Documents

TRANSFER OF FUNCTIONS

Enforcement functions authorized by, and supplemental enforcement authority created by this chapter 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.

¹ See References in Text note below.

§ 719k. Equal access to facilities**(a) Ownership in transportation system**

There shall be included in the terms of any certificate, permit, right-of-way, lease, or other authorization issued or granted pursuant to the directions contained in section 719g of this title, a provision that no person seeking to transport natural gas in the Alaska natural gas transportation system shall be prevented from doing so or be discriminated against in the terms and conditions of service on the basis of degree of ownership, or lack thereof, of the Alaska natural gas transportation system.

(b) Use within Alaska

The State of Alaska is authorized to ship its royalty gas on the approved transportation system for use within Alaska and, to the extent its contracts for the sale of royalty gas so provide, to withdraw such gas from the interstate market for use within Alaska; the Federal Power Commission shall issue all authorizations necessary to effectuate such shipment and withdrawal subject to review by the Commission only of the justness and reasonableness of the rate charged for such transportation.

(Pub. L. 94-586, §13, Oct. 22, 1976, 90 Stat. 2915.)

Statutory Notes and Related Subsidiaries**TRANSFER OF FUNCTIONS**

The Federal Power Commission was terminated, and its functions, personnel, property, funds, etc., were transferred to the Secretary of Energy (except for certain functions which were transferred to the Federal Energy Regulatory Commission) by sections 7151(b), 7171(a), 7172(a)(1), 7291, and 7293 of Title 42, The Public Health and Welfare.

Executive Documents**TRANSFER OF FUNCTIONS**

Enforcement functions authorized by, and supplemental enforcement authority created by this chapter 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.

§ 719l. Antitrust laws

Nothing in this chapter, and no action taken hereunder, shall imply or effect an amendment to, or exemption from, any provision of the antitrust laws.

(Pub. L. 94-586, §14, Oct. 22, 1976, 90 Stat. 2915.)

§ 719m. Authorization of appropriations

There is hereby authorized to be appropriated beginning in fiscal year 1978 and each fiscal year

thereafter, such sums as may be necessary to carry out the functions of the Federal inspector appointed by the President with the advice and consent of the Senate under section 719e of this title.

(Pub. L. 94-586, §15, Oct. 22, 1976, 90 Stat. 2915.)

Executive Documents**TRANSFER OF FUNCTIONS**

Enforcement functions authorized by, and supplemental enforcement authority created by this chapter 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.

§ 719n. Separability

If any provision of this chapter, or the application thereof, is held invalid, the remainder of this chapter shall not be affected thereby.

(Pub. L. 94-586, §16, Oct. 22, 1976, 90 Stat. 2915.)

§ 719o. Civil rights; affirmative action of Federal officers and agencies; rules: promulgation and enforcement

All Federal officers and agencies shall take such affirmative action as is necessary to assure that no person shall, on the grounds of race, creed, color, national origin, or sex, be excluded from receiving, or participating in any activity conducted under, any certificates, permit, right-of-way, lease, or other authorization granted or issued pursuant to this chapter. The appropriate Federal officers and agencies shall promulgate such rules as are necessary to carry out the purposes of this section and may enforce this section, and any rules promulgated under this section through agency and department provisions and rules which shall be similar to those established and in effect under title VI of the Civil Rights Act of 1964 [42 U.S.C. 2000d et seq.].

(Pub. L. 94-586, §17, Oct. 22, 1976, 90 Stat. 2915.)

Editorial Notes**REFERENCES IN TEXT**

The Civil Rights Act of 1964, referred to in text, is Pub. L. 88-352, July 2, 1964, 78 Stat. 241. Title VI of the Civil Rights Act of 1964 is classified generally to subchapter V (§2000d et seq.) of chapter 21 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 2000a of Title 42 and Tables.

Executive Documents**TRANSFER OF FUNCTIONS**

Enforcement functions authorized by, and supplemental enforcement authority created by this chapter

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

Sec.	Definitions.
720.	Issuance of certificate of public convenience and necessity.
720a.	Environmental reviews.
720b.	Pipeline expansion.
720c.	Federal Coordinator.
720d.	Judicial review.
720e.	State jurisdiction over in-State delivery of natural gas.
720f.	Study of alternative means of construction.
720g.	Clarification of ANGTA status and authorities.
720h.	Sense of Congress concerning use of steel manufactured in North America and negotiation of a project labor agreement.
720i.	Sense of Congress concerning participation by small business concerns.
720j.	Alaska pipeline construction training program.
720k.	Sense of Congress concerning natural gas demand.
720l.	Sense of Congress concerning Alaskan ownership.
720m.	Loan guarantees.
720n.	

§ 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