

be needed later and it should be studied now, but it should not be regarded as an alternative for a trans-Alaska pipeline that does not traverse a foreign country.

(Pub. L. 93-153, title II, §202, Nov. 16, 1973, 87 Stat. 584.)

#### SHORT TITLE OF 1990 AMENDMENT

Pub. L. 101-380, title VIII, §8001, Aug. 18, 1990, 104 Stat. 564, provided that: "This title [enacting sections 1642 and 1656 of this title, amending sections 1350 and 1653 of this title and section 3145 of Title 16, Conservation, and enacting provisions set out as notes under this section and section 1653 of this title] may be cited as the 'Trans-Alaska Pipeline System Reform Act of 1990'."

#### SHORT TITLE

Pub. L. 93-153, title II, §201, Nov. 16, 1973, 87 Stat. 584, provided that: "This title [enacting this chapter] may be cited as the 'Trans-Alaska Pipeline Authorization Act'."

#### SEPARABILITY

Pub. L. 93-153, title IV, §411, Nov. 16, 1973, 87 Stat. 594, provided that: "If any provision of this Act [enacting this chapter, section 1456a of this title, and section 3512 of Title 44, Public Printing and Documents, amending section 1608 of this title, sections 45, 46, 53, and 56 of Title 15, Commerce and Trade, section 185 of Title 30, Mineral Lands and Mining, section 3502 of Title 44, and section 391a of former Title 46, Shipping, and enacting provisions set out as notes under sections 1608 and 1651 of this title, section 1904 of Title 12, Banks and Banking, section 45 of Title 15, section 791a of Title 16, Conservation, and section 1221 of Title 33, Navigation and Navigable Waters] or the applicability thereof is held invalid the remainder of this Act shall not be affected thereby."

#### PRESIDENTIAL TASK FORCE

Pub. L. 101-380, title VIII, §8103, Aug. 18, 1990, 104 Stat. 567, established a Presidential Task Force on the Trans-Alaska Pipeline System, to conduct an audit of the Trans-Alaska Pipeline System and make recommendations to the President, Congress, and the Governor of Alaska, authorized appropriations for the Task Force, and required it to transmit its final report to the President, Congress, and the Governor no later than 2 years after the date on which funding was made available.

#### NORTH SLOPE CRUDE OIL; REPORT ON EQUITABLE ALLOCATION

Pub. L. 94-586, §18, Oct. 22, 1976, 90 Stat. 2916, directed that the President, within 6 months of Oct. 22, 1976, determine special expediting procedures necessary to insure the equitable allocation of North Slope crude oil to the Northern Tier States of Washington, Oregon, Idaho, Montana, Illinois, Indiana, and Idaho to carry out the provisions of section 410 of Pub. L. 93-153 [set out below], and to report his findings to Congress, such report to include a statement demonstrating the impact that the delivery system would have on reducing the dependency of New England and the Middle Atlantic States on foreign oil imports.

#### TRANS-CANADA PIPELINE; NEGOTIATIONS WITH CANADA; FEASIBILITY STUDY

Pub. L. 93-153, title III, Nov. 16, 1973, 87 Stat. 588, authorized the President to enter into negotiations with the Government of Canada to determine Canadian willingness to permit construction of pipelines or other transportation systems across its territory to bring gas and oil from Alaska's North Slope to the United States; the need for intergovernmental agreements to protect interests of any parties involved with construction, op-

eration, and maintenance of such natural gas or oil transportation systems; terms and conditions for construction across Canadian territory; desirability of joint studies to insure environmental protection, reduce regulatory uncertainty, and insure meeting energy requirements; quantity of oil and gas for which Canada would guarantee transit; and acquisition of other energy sources so as to make unnecessary the shipment of oil from the Alaska pipeline by tanker into the Puget Sound area. The President was to report to Congress on actions taken and recommendations for further action. In addition, the Secretary of the Interior was to investigate, and to report to Congress within 2 years of Nov. 16, 1973, as to the feasibility of oil or gas pipelines from the North Slope of Alaska to connect with a pipeline through Canada that would deliver oil or gas to United States markets. Nothing in title III was to limit the authority of the Secretary or any other Federal official to grant a gas or oil pipeline right-of-way or permit, which that official was otherwise authorized by law to grant.

#### EXCLUSION OF PERSONS FROM TRANS-ALASKA PIPELINE ACTIVITIES ON BASIS OF RACE, CREED, COLOR, NATIONAL ORIGIN, OR SEX PROHIBITED

Pub. L. 93-153, title IV, §403, Nov. 16, 1973, 87 Stat. 590, provided that: "The Secretary of the Interior shall take such affirmative action as he deems 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 permit, right-of-way, public land order, or other Federal authorization granted or issued under title II [this chapter]. The Secretary of the Interior shall promulgate such rules as he deems necessary to carry out the purposes of this subsection and may enforce this subsection, and any rules promulgated under this subsection, 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 [section 2000d et seq. of Title 42, The Public Health and Welfare]."

#### EQUITABLE ALLOCATION OF NORTH SLOPE CRUDE OIL

Pub. L. 93-153, title IV, §410, Nov. 16, 1973, 87 Stat. 594, provided that: "The Congress declares that the crude oil on the North Slope of Alaska is an important part of the Nation's oil resources, and that the benefits of such crude oil should be equitably shared, directly or indirectly, by all regions of the country. The President shall use any authority he may have to insure an equitable allocation of available North Slope and other crude oil resources and petroleum products among all regions and all of the several States."

### § 1652. Authorizations for construction

#### (a) Congressional declaration of purpose

The purpose of this chapter is to insure that, because of the extensive governmental studies already made of this project and the national interest in early delivery of North Slope oil to domestic markets, the trans-Alaska oil pipeline be constructed promptly without further administrative or judicial delay or impediment. 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 in limiting judicial review of the actions taken pursuant thereto.

#### (b) Issuance, administration, and enforcement of rights-of-way, permits, leases, and other authorizations

The Congress hereby authorizes and directs the Secretary of the Interior and other appropriate Federal officers and agencies to issue and

take all necessary action to administer and enforce rights-of-way, permits, leases, and other authorizations that are necessary for or related to the construction, operation, and maintenance of the trans-Alaska oil pipeline system, including roads and airstrips, as that system is generally described in the Final Environmental Impact Statement issued by the Department of the Interior on March 20, 1972. The route of the pipeline may be modified by the Secretary to provide during construction greater environmental protection.

**(c) Applicability of statutes governing rights-of-way for pipelines through Federal lands; other statutory terms and conditions; waiver of procedural requirements; supersedure of administrative authorizations for construction**

Rights-of-way, permits, leases, and other authorizations issued pursuant to this chapter by the Secretary shall be subject to the provisions of section 185 of title 30, as amended by Pub. L. 93-153 (except the provisions of subsections (h)(1), (k), (q), (w)(2), and (x)); all authorizations issued by the Secretary and other Federal officers and agencies pursuant to this chapter shall include the terms and conditions required, and may include the terms and conditions permitted, by the provisions of law that would otherwise be applicable if this chapter had not been enacted, and they may waive any procedural requirements of law or regulation which they deem desirable to waive in order to accomplish the purposes of this chapter. The direction contained in subsection (b) of this section shall supersede the provisions of any law or regulation relating to an administrative determination as to whether the authorizations for construction of the trans-Alaska oil pipeline shall be issued.

**(d) National Environmental Policy Act of 1969 bypassed; issuance of authorizations for construction and operation not to be subject to judicial review; time limits on charges of invalidity or unconstitutionality; jurisdiction; hearings; review**

The actions taken pursuant to this chapter which relate to the construction and completion of the pipeline system, and to the applications filed in connection therewith necessary to the pipeline's operation at full capacity, as described in the Final Environmental Impact Statement of the Department of the Interior, shall be taken without further action under the National Environmental Policy Act of 1969 [42 U.S.C. 4321 et seq.]; and the actions of the Federal officers concerning the issuance of the necessary rights-of-way, permits, leases, and other authorizations for construction and initial operation at full capacity of said pipeline system shall not be subject to judicial review under any law except that claims alleging the invalidity of this section may be brought within sixty days following November 16, 1973, and claims alleging that an action will deny rights under the Constitution of the United States, or that the action is beyond the scope of authority conferred by this chapter, may be brought within sixty days following the date of such action. A claim shall be barred unless a complaint is filed within

the time specified. Any such complaint shall be filed in a United States district court, and such court shall have exclusive jurisdiction to determine such proceeding in accordance with the procedures hereinafter provided, and no other court of the United States, of any State, territory, or possession of the United States, or of the District of Columbia, shall have jurisdiction of any such claim whether in a proceeding instituted prior to or on or after November 16, 1973. Such court shall not have jurisdiction to grant any injunctive relief against the issuance of any right-of-way, permit, lease, or other authorization pursuant to this section except in conjunction with a final judgment entered in a case involving a claim filed pursuant to this section. An interlocutory or final judgment, decree, or order of such district court may be reviewed only upon petition for a writ of certiorari to the Supreme Court of the United States.

**(e) Amendment or modification of rights-of-way, permits, leases, or other authorizations**

The Secretary of the Interior and the other Federal officers and agencies are authorized at any time when necessary to protect the public interest, pursuant to the authority of this section and in accordance with its provisions, to amend or modify any right-of-way, permit, lease, or other authorization issued under this chapter.

(Pub. L. 93-153, title II, §203, Nov. 16, 1973, 87 Stat. 584; Pub. L. 98-620, title IV, §402(46), Nov. 8, 1984, 98 Stat. 3360; Pub. L. 100-352, §6(c), June 27, 1988, 102 Stat. 663.)

REFERENCES IN TEXT

The National Environmental Policy Act of 1969, referred to in subsec. (d), is Pub. L. 91-190, Jan. 1, 1970, 83 Stat. 852, as amended, which is classified generally to chapter 55 (section 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

1988—Subsec. (d), Pub. L. 100-352 amended last sentence generally. Prior to amendment, last sentence read as follows: "Any review of an interlocutory or final judgment, decree, or order of such district court may be had only upon direct appeal to the Supreme Court of the United States."

1984—Subsec. (d), Pub. L. 98-620 struck out provision that any such proceeding had to be assigned for hearing at the earliest possible date, had to take precedence over all other matters pending on the docket of the district court at that time, and had to be expedited in every way by such court.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-352 effective ninety days after June 27, 1988, except that such amendment not to apply to cases pending in Supreme Court on such effective date or affect right to review or manner of reviewing judgment or decree of court which was entered before such effective date, see section 7 of Pub. L. 100-352, set out as a note under section 1254 of Title 28, Judiciary and Judicial Procedure.

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 a note under section 1657 of Title 28, Judiciary and Judicial Procedure.

**§ 1653. Liability for damages**

**(a) Activities along or in vicinity of pipeline right-of-way; strict liability; limitation on liability; subrogation; emergency subsistence and other aid; exemption for State of Alaska**

(1) Except when the holder of the pipeline right-of-way granted pursuant to this chapter can prove that damages in connection with or resulting from activities along or in the vicinity of the proposed trans-Alaskan pipeline right-of-way were caused solely by an act of war or negligence of the United States, other government entity, or the damaged party, such holder shall be strictly liable to all damaged parties, public or private, without regard to fault for such damages, and without regard to ownership of any affected lands, structures, fish, wildlife, or biotic or other natural resources relied upon by Alaska Natives, Native organizations, or others for subsistence or economic purposes. Claims for such injury or damages may be determined by arbitration or judicial proceedings.

(2) Liability under paragraph (1) of this subsection shall be limited to \$350,000,000 for any one incident, and the holders of the right-of-way or permit shall be liable for any claim allowed in proportion to their ownership interest in the right-of-way or permit. Liability of such holders for damages in excess of \$350,000,000 shall be in accord with ordinary rules of negligence.

(3) In any case where liability without fault is imposed pursuant to this subsection and the damages involved were caused by the negligence of a third party, the rules of subrogation shall apply in accordance with the law of the jurisdiction where the damage occurred.

(4) Upon order of the Secretary, the holder of a right-of-way or permit shall provide emergency subsistence and other aid to an affected Alaska Native, Native organization, or other person pending expeditious filing of, and determination of, a claim under this subsection.

(5) Where the State of Alaska is the holder of a right-of-way or permit under this chapter, the State shall not be subject to the provisions of this subsection, but the holder of the permit or right-of-way for the trans-Alaska pipeline shall be subject to this subsection with respect to facilities constructed or activities conducted under rights-of-way or permits issued to the State to the extent that such holder engages in the construction, operation, maintenance, and termination of facilities, or in other activities under rights-of-way or permits issued to the State.

**(b) Control and removal of pollutants at expense of right-of-way holder**

If any area in the State of Alaska within or without the right-of-way or permit area granted under this chapter is polluted by any activities related to the Trans-Alaska Pipeline System, including operation of the terminal, conducted by or on behalf of the holder to whom such right-of-way or permit was granted, and such pollution damages or threatens to damage aquatic life, wildlife, or public or private property, the control and total removal of the pollutant shall be at the expense of such holder, including any administrative and other costs incurred by the

Secretary or any other Federal or State officer or agency. Upon failure of such holder to adequately control and remove such pollutant, the Secretary, in cooperation with other Federal, State, or local agencies, or in cooperation with such holder, or both, shall have the right to accomplish the control and removal at the expense of such holder.

(Pub. L. 93-153, title II, §204, Nov. 16, 1973, 87 Stat. 586; Pub. L. 101-380, title VIII, §§8101, 8102(a)(1), (4), (b)-(e), Aug. 18, 1990, 104 Stat. 565-567.)

AMENDMENTS

1990—Subsec. (a)(1). Pub. L. 101-380, §8101(a), substituted “caused solely by” for “caused by”.

Subsec. (a)(2). Pub. L. 101-380, §8101(b), substituted “\$350,000,000” for “\$50,000,000” in two places.

Subsec. (b). Pub. L. 101-380, §8101(c), inserted “in the State of Alaska” after “any area”, “related to the Trans-Alaska Pipeline System, including operation of the terminal,” after “any activities”, and “or State” after “any other Federal”.

Subsec. (c). Pub. L. 101-380, §8102(a)(1), struck out subsec. (c) which related to liability for discharges of oil loaded at terminal facilities and to establishment of Trans-Alaska Pipeline Liability Fund.

Subsec. (c)(2). Pub. L. 101-380, §8102(b), substituted “caused solely by” for “caused by”.

Subsec. (c)(3). Pub. L. 101-380, §8102(d), inserted at end “The Fund shall expeditiously pay claims under this subsection, including such \$14,000,000, if the owner or operator of a vessel has not paid any such claim within 90 days after such claim has been submitted to such owner or operator. Upon payment of any such claim, the Fund shall be subrogated under applicable State and Federal laws to all rights of any person entitled to recover under this subsection. In any action brought by the Fund against an owner or operator or an affiliate thereof to recover amounts under this paragraph, the Fund shall be entitled to recover prejudgment interest, costs, reasonable attorney’s fees, and, in the discretion of the court, penalties.”

Subsec. (c)(4). Pub. L. 101-380, §8102(e), designated existing provisions as par. (A) and added pars. (B) and (C).

Subsec. (c)(5). Pub. L. 101-380, §8102(a)(4), inserted before period at end of second sentence “, except that after August 18, 1990, the amount to be accumulated shall be \$100,000,000 or the amount determined by the trustees and certified to the Congress by the Comptroller General as necessary to pay claims arising from incidents occurring prior to August 18, 1990, and administrative costs, whichever is less”.

Subsec. (c)(13), (14). Pub. L. 101-380, §8102(c), added pars. (13) and (14).

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-380 applicable to incidents occurring after Aug. 18, 1990, see section 1020 of Pub. L. 101-380, set out as an Effective Date note under section 2701 of Title 33, Navigation and Navigable Waters.

Pub. L. 101-380, title VIII, §8102(a)(5)(A), Aug. 18, 1990, 104 Stat. 566, provided that: “The repeal by paragraph (1) [repealing subsec. (c) of this section] shall be effective 60 days after the date on which the Comptroller General of the United States certifies to the Congress [certified July 5, 2000] that—

“(i) all claims arising under section 204(c) of the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1653(c)) have been resolved,

“(ii) all actions for the recovery of amounts subject to section 204(c) of the Trans-Alaska Pipeline Authorization Act have been resolved, and

“(iii) all administrative expenses reasonably necessary for and incidental to the implementation of section 204(c) of the Trans-Alaska Pipeline Authorization Act have been paid.”