

portation project under section 720a of this title shall be treated as a major Federal action significantly affecting the quality of the human environment within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)).

**(b) Designation of lead agency**

**(1) In general**

The Commission—

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

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

**(2) Consolidation of statements**

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

**(c) Other agencies**

**(1) In general**

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

(A) cooperate with the Commission; and

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

**(2) Satisfaction of NEPA requirements**

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

**(d) Expedited process**

The Commission shall—

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

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

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

REFERENCES IN TEXT

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

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

**§ 720c. Pipeline expansion**

**(a) Authority**

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

**(b) Responsibilities of Commission**

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

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

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

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

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

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

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

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

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

**(c) Requirement for a firm transportation agreement**

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

**(d) Limitation**

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

**(e) Regulations**

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

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

<sup>1</sup> So in original. Probably should be section "102(2)(C)".

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

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

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

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

**(2) Compensation**

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

**(c) Duties**

The Federal Coordinator shall be responsible for—

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

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

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

**(2) Prohibition of certain terms and conditions**

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

**(3) Prohibition of certain actions**

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

**(4) Limitation**

The Federal Coordinator shall not have authority to—

- (A) override—

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

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

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

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

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

**(2) Primary responsibility**

With respect to an Alaska natural gas transportation project—

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

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

**(f) Transfer of Federal Inspector functions and authority**

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

**(g) Temporary authority**

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

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

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

**(B) Authority of Federal Coordinator**

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