

(Pub. L. 95-617, title V, § 504, Nov. 9, 1978, 92 Stat. 3158.)

§ 2005. Review schedule

(a) Establishment

The Secretary of the Interior, after consultation with the heads of appropriate Federal agencies, shall establish an expedited schedule for conducting reviews and making recommendations concerning crude oil transportation systems proposed in applications filed under section 2004 of this title and for obtaining information necessary for environmental impact statements required under section 4332 of title 42 with respect to such proposed systems.

(b) Additional information

(1) On his own initiative or at the request of the head of any Federal agency covered by the review schedule established under subsection (a) of this section, the Secretary of the Interior shall require that an applicant provide such additional information as may be necessary to conduct the review of the applicant's proposal. Such information may include—

(A) specific details of the route (and alternative routes) and identification of Federal lands affected by any such route;

(B) information necessary for environmental impact statements; and

(C) information necessary for the President's determination under section 2007(a) of this title.

(2) If, within a reasonable time, an applicant does not—

(A) provide information required under this subsection, or

(B) comply with any requirement of section 1734 of this title,

the Secretary of the Interior may declare the application ineligible for consideration under this chapter. After making such a declaration, the Secretary of the Interior shall notify the applicant and the President of such ineligibility.

(c) Recommendations of heads of Federal agencies

(1) Pursuant to the schedule established under subsection (a) of this section, heads of Federal agencies covered by such schedule shall conduct a review of a proposed crude oil transportation system eligible for consideration under this chapter and shall submit their recommendations concerning such systems (and the basis for such recommendations) to the Secretary of the Interior for submission to the President. After receipt of such recommendations and before their submission to the President, the Secretary of the Interior shall provide an opportunity for comments in accordance with paragraph (2). The Secretary of the Interior shall forward such comments to the President with the recommendations—

(A) in the case of applications filed under section 2004(1) of this title, on or before December 1, 1978, and

(B) in the case of applications filed under section 2004(2) of this title, on or before the 60th day after December 1, 1978.

(2)(A) After receipt of recommendations under paragraph (1) the Secretary of the Interior shall

provide appropriate means by which the Governor and any other official of any State and any official of any political subdivision of a State, may submit written comments concerning proposed crude oil transportation systems eligible for consideration under this chapter.

(B) After receipt of recommendations referred to in subparagraph (A), the Secretary of the Interior shall make such comments and recommendations available to the public and provide an opportunity for submission of written comments.

(d) Review by Federal Trade Commission; effect on the antitrust laws

(1) Promptly after he receives an application for a proposed crude oil transportation system eligible for consideration under this chapter, the Secretary of the Interior shall submit to the Federal Trade Commission a copy of such application and such other information as the Commission may reasonably require. The Commission may prepare and submit to the President a report on the impact of implementation of such application upon competition and restraint of trade and on whether such implementation would be inconsistent with the antitrust laws. Such report shall be made available to the public. Nothing in this subsection shall be construed to prevent the President from making his decision under section 2007(a) of this title in the absence of such report.

(2) Nothing in this chapter shall bar the Attorney General or any other appropriate officer or agent of the United States from challenging any anticompetitive act or practice related to the ownership, construction, or operation of any crude oil transportation system approved under this chapter. The approval of any such system under this chapter shall not be deemed to convey to any person immunity from civil or criminal liability or to create defenses to actions under the antitrust laws and shall not modify or abridge any private right of action under such laws.

(e) Filing and review of permits, rights-of-way applications, etc., not affected

Nothing in this chapter shall be construed to prevent the acceptance and review by any Federal agency of any application for any Federal permit, right-of-way, or other authorizations under other provisions of law for a crude oil transportation system eligible for consideration under this chapter; except that any determination with respect to such an application may be made only in accordance with the provisions of section 2009(a) of this title.

(Pub. L. 95-617, title V, § 505, Nov. 9, 1978, 92 Stat. 3158.)

DEFINITIONS

The definitions of "State" and "antitrust laws" in section 2602 of Title 16, Conservation, apply to this section.

§ 2006. Environmental impact statements

(a) Preparation of environmental impact statements

Any Federal agency required under section 102 of the National Environmental Policy Act of

1969 (42 U.S.C. 4332) to issue an environmental impact statement concerning a proposed crude oil transportation system eligible for consideration under this chapter shall, in preparing such statement, utilize, to the maximum extent practicable and consistent with such Act [42 U.S.C. 4321 et seq.], appropriate data, analyses, conclusions, findings, and decisions regarding environmental impacts developed or made by any other Federal or State agency.

(b) Filing of environmental impact statements

On or before December 1, 1978, all environmental impact statements concerning proposed crude oil transportation systems eligible for consideration under this chapter and required under section 102 of the National Environmental Policy Act of 1969 [42 U.S.C. 4332] shall be completed, made available for public review and comment, revised to the extent appropriate in light of such comment, and submitted to the President and the Council on Environmental Quality; except that in the case of any environmental impact statement concerning any crude oil transportation system which is eligible for consideration and which was filed under section 2004(2) of this title, such actions may be taken not later than 60 days after December 1, 1978.

(c) Report of Council on Environmental Quality

Promptly after receiving an environmental impact statement referred to in subsection (b) of this section for a crude oil transportation system, the Council on Environmental Quality shall submit to the President a report on the Council's opinion concerning such statement and concerning other matters related to the environmental impact of such system.

(Pub. L. 95-617, title V, §506, Nov. 9, 1978, 92 Stat. 3160.)

REFERENCES IN TEXT

Such Act, referred to in subsec. (a), means the National Environmental Policy Act of 1969, 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.

DEFINITIONS

The definition of "State agency" in section 2602 of Title 16, Conservation, applies to this section.

§ 2007. Decision of President

(a) Decision concerning approval or disapproval of proposed systems

(1) After reviewing all the information submitted to him concerning the various proposed crude oil transportation systems eligible for consideration under this chapter (including environmental impact statements, comments, reports, recommendations, and other information submitted to him at any time before he makes his decision) and after consulting the Secretaries of Energy, the Interior, and Transportation, the President shall decide which, if any, of such systems shall be approved for the purposes of section 2008 of this title (relating to procedures for waiver of law), section 2009 of this title (relating to expedited procedures for issuance of permits), section 2010 of this title (relating to

negotiations with the Government of Canada), and section 2011 of this title (relating to judicial review). A decision approving a crude oil transportation system may include such modifications and alterations in such system as the President finds appropriate. The President shall issue his decision within 45 days after receiving recommendations and comments submitted to him under section 2005(c) of this title, except that the President, for such period as he deems necessary, but not to exceed 60 days, may delay his decision and its issuance if he determines that additional time is otherwise necessary to enable him to make a decision. If the President so delays his decision, he shall promptly notify the House of Representatives and the Senate of such delay and shall submit a full explanation of the basis for such delay.

(2) Any decision made under this subsection approving a system proposed under this chapter shall include a determination that construction and operation of such system is in the national interest and shall be based upon the criteria specified in subsection (b) of this section.

(b) Criteria

(1) The criteria for making a decision under this subsection shall include findings of—

(A) environmental impacts of the proposed systems and the capability of such systems to minimize environmental risks resulting from transportation of crude oil;

(B) the amount of crude oil available to northern tier States and inland States and the projected demand in those States under each of such systems;

(C) transportation costs and delivered prices of crude oil by region under each of such systems;

(D) construction schedules for each of such systems and possibilities for delay in such schedules;

(E) feasibility of financing for each of such systems;

(F) capital and operating costs of each of such systems, including an analysis of the reliability of cost estimates and the risk of cost overruns;

(G) net national economic costs and benefits of each such system;

(H) the extent to which each system complies with the provisions of section 410 of the Act approved November 16, 1973 (87 Stat. 594), commonly known as the Trans-Alaska Pipeline Authorization Act;

(I) the effect of each such system on international relations, including the status and time schedule for any necessary Canadian approvals and plans;

(J) impact upon competition by each system;

(K) degree of safety and efficiency of design and operation of each system;

(L) potential for interruption of deliveries of crude oil from the west coast under each such system;

(M) capacity and cost of expanding such system to transport additional volumes of crude oil in excess of initial system capacity;

(N) national security considerations under each such system;