

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) 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).

(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;

(O) relationship of each such system to national energy policy; and

(P) such other factors as the President deems appropriate.

(2) The period of time for which such findings shall be made shall be the useful life of the crude oil transportation system involved.

(c) Publication of findings and decision

The President shall make available to the public at the time of issuance of a decision under this section a written statement setting forth findings with respect to each of the criteria specified in subsection (b) and describing the nature and route of crude oil transportation systems, if any, which are approved in the decision. If the President's decision is to approve a system, each statement shall set forth his reasons for approving such system over other proposed systems (if any) eligible for consideration under this chapter. Such statement along with notification of such decision shall be published in the Federal Register.

(Pub. L. 95-617, title V, §507, Nov. 9, 1978, 92 Stat. 3160.)

REFERENCES IN TEXT

Section 410 of the Act approved November 16, 1973 (87 Stat. 594), commonly known as the Trans-Alaska Pipeline Authorization Act, referred to in subsec. (b)(1)(H), is section 410 of Pub. L. 93-153, Nov. 16, 1973, 87 Stat. 594, which is set out as a note under section 1651 of this title.

§ 2008. Procedures for waiver of Federal law

(a) Waiver of provisions of Federal law

The President may identify those provisions of Federal law (including any law or laws regarding the location of a crude oil transportation system but not including any provision of the antitrust laws) which, in the national interest, as determined by the President, should be waived in whole or in part to facilitate construction or operation of any such system approved under section 2007 of this title or of the Long Beach-Midland project, and he shall submit any such proposed waiver to both Houses of the Congress. The provisions so identified shall be waived with respect to actions to be taken to construct or operate such system or project only upon enactment of a joint resolution within the first period of 60 calendar days of continuous session of Congress beginning on the date of receipt by the House of Representatives and the Senate of such proposal.

(b) Joint resolution

The resolving clause of the joint resolution referred to in subsection (a) is as follows: "That the House of Representatives and Senate approve the waiver of the provisions 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 provisions of law proposed to be waived by the President and the second blank space therein being filled with the date on which the President submits his decision to wave¹ such provisions of law to the House of Representatives and the Senate. Rules and procedures for consideration of any such joint resolution shall be governed by section 719f(c) and (d) of title 15, other than paragraph (2) of section 719f(d) of title 15, except that for the purposes of this subsection, the phrase "a waiver of provisions of law" shall be substituted in section 719f(d) of title 15 each place where the phrase "an Alaska natural gas transportation system" appears.

(Pub. L. 95-617, title V, §508, Nov. 9, 1978, 92 Stat. 3162.)

DEFINITIONS

The definition of "antitrust laws" in section 2602 of Title 16, Conservation, applies to this section.

§ 2009. Expedited procedures for issuance of permits: enforcement of rights-of-way

(a) Expedited procedures for approved systems

After issuance of a decision by the President approving any crude oil transportation system, all Federal officers and agencies shall expedite, to the maximum extent practicable, consistent with applicable provisions of law, all actions necessary to determine whether to issue, administer, or enforce rights-of-way across Federal lands and to issue Federal permits in connection with, or otherwise to authorize, construction and operation of such system. Any such action shall be consistent with applicable provisions of law. After taking any such action, such officer or agency shall publish notification of the taking of such action in the Federal Register.

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