

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.)

§ 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.

(2) Compensation

(A) In general

Subject to subparagraph (B), personnel appointed by the Federal Coordinator under paragraph (1)(A) shall be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5 (relating to classification and General Schedule pay rates).

(B) Maximum level of compensation

The rate of pay for personnel appointed by the Federal Coordinator under paragraph (1)(A) shall not exceed the maximum level of rate payable for level III of the Executive Schedule (5 U.S.C. 5314).

(C) Allowances

Section 5941 of title 5 shall apply to personnel appointed by the Federal Coordinator under paragraph (1)(A).

(3) Temporary services

(A) In general

The Federal Coordinator may procure temporary and intermittent services in accordance with section 3109(b) of title 5.

(B) Maximum level of compensation

The level of compensation of an individual employed on a temporary or intermittent basis under subparagraph (A) shall not exceed the maximum level of rate payable for level III of the Executive Schedule (5 U.S.C. 5314).

(4) Fees, charges, and commissions

(A) In general

With respect to the duties of the Federal Coordinator, as described in this chapter, the Federal Coordinator shall have similar authority to establish, change, and abolish reasonable filing and service fees, charges, and commissions, require deposits of payments, and provide refunds as provided to the Secretary of the Interior in section 1734 of title 43.

(B) Authority of Secretary of the Interior

Subparagraph (A) shall not affect the authority of the Secretary of the Interior to establish, change, and abolish reasonable filing and service fees, charges, and commissions, require deposits of payments, and provide refunds under section 1734 of title 43.

(C) Use of funds

The Federal Coordinator is authorized to use, without further appropriation, amounts collected under subparagraph (A) to carry out this section.

(Pub. L. 108-324, div. C, §106, Oct. 13, 2004, 118 Stat. 1259; Pub. L. 109-148, div. A, title VIII, §8128, Dec. 30, 2005, 119 Stat. 2731; Pub. L. 110-140, title VIII, §802, Dec. 19, 2007, 121 Stat. 1717.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (c)(2) and (d)(1), 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. This chapter, referred to in subsec. (h)(4)(A), was in the original "this

Act”, also meaning division C of Pub. L. 108-324 as provided in section 2 of Pub. L. 108-324, 118 Stat. 1220. For complete classification of division C to the Code, see Short Title note set out under section 720 of this title and Tables.

Reorganization Plan No. 1 of 1979, referred to in subsec. (f), is set out as a note under section 719e of this title.

Executive Order No. 12142, referred to in subsec. (f), is set out as a note under section 719e of this title.

AMENDMENTS

2007—Subsec. (h). Pub. L. 110-140 added subsec. (h).

2005—Subsec. (g). Pub. L. 109-148 substituted “earlier” for “later”.

EFFECTIVE DATE OF 2007 AMENDMENT

Amendment by Pub. L. 110-140 effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110-140, set out as an Effective Date note under section 1824 of Title 2, The Congress.

§ 720e. Judicial review

(a) Exclusive jurisdiction

Except for review by the Supreme Court on writ of certiorari, the United States Court of Appeals for the District of Columbia Circuit shall have original and exclusive jurisdiction to determine—

(1) the validity of any final order or action (including a failure to act) of any Federal agency or officer under this chapter;

(2) the constitutionality of any provision of this chapter, or any decision made or action taken under this chapter; or

(3) the validity of any determination, permit, approval, authorization, review, or other related action taken under any provision of law relating to a gas transportation project constructed and operated in accordance with section 720a of this title, including—

(A) subchapter II of chapter 5, and chapter 7, of title 5 (commonly known as the “Administrative Procedure Act”);

(B) the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.);

(C) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.);

(D) chapter 2003 of title 54;¹ and

(E) the Alaska National Interest Lands Conservation Act (16 U.S.C. 3101 et seq.).

(b) Deadline for filing claim

A claim arising under this chapter may be brought not later than 60 days after the date of the decision or action giving rise to the claim.

(c) Expedited consideration

The United States Court of Appeals for the District of Columbia Circuit shall set any action brought under subsection (a) for expedited consideration, taking into account the national interest of enhancing national energy security by providing access to the significant gas reserves in Alaska needed to meet the anticipated demand for natural gas.

(Pub. L. 108-324, div. C, §107, Oct. 13, 2004, 118 Stat. 1261; Pub. L. 111-11, title XIII, §13003, Mar. 30, 2009, 123 Stat. 1448; Pub. L. 113-287, §5(c), Dec. 19, 2014, 128 Stat. 3264.)

¹ So in original. Probably should be “division A of subtitle III of title 54”.

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a) and (b), 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 under section 720 of this title and Tables.

The Endangered Species Act of 1973, referred to in subsec. (a)(3)(B), is Pub. L. 93-205, Dec. 28, 1973, 87 Stat. 884, which is classified principally to chapter 35 (§1531 et seq.) of Title 16, Conservation. For complete classification of this Act to the Code, see Short Title note set out under section 1531 of Title 16 and Tables.

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

The Alaska National Interest Lands Conservation Act, referred to in subsec. (a)(3)(E), is Pub. L. 96-487, Dec. 2, 1980, 94 Stat. 2371. For complete classification of this Act to the Code, see Short Title note set out under section 3101 of Title 16, Conservation, and Tables.

CODIFICATION

Section is comprised of section 107 of Pub. L. 108-324. Subsec. (d) of section 107 of Pub. L. 108-324 amended section 719h of this title.

AMENDMENTS

2014—Subsec. (a)(3)(D). Pub. L. 113-287, which directed the substitution of “chapter 2003 of title 54” for “the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.)” in section 1072(a)(3)(D) of the Alaska Natural Gas Pipeline Act, was executed to this section, which is section 107 of the Alaska Natural Gas Pipeline Act, to reflect the probable intent of Congress.

2009—Subsec. (a)(3). Pub. L. 111-11 added par. (3) and struck out former par. (3) which read as follows: “the adequacy of any environmental impact statement prepared under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) with respect to any action under this chapter.”

§ 720f. State jurisdiction over in-State delivery of natural gas

(a) Local distribution

Any facility receiving natural gas from an Alaska natural gas transportation project for delivery to consumers within the State—

(1) shall be deemed to be a local distribution facility within the meaning of section 1(b) of the Natural Gas Act (15 U.S.C. 717(b)); and

(2) shall not be subject to the jurisdiction of the Commission.

(b) Additional pipelines

Except as provided in section 720a(d) of this title, nothing in this chapter shall preclude or otherwise affect a future natural gas pipeline that may be constructed to deliver natural gas to Fairbanks, Anchorage, Matanuska-Susitna Valley, or the Kenai peninsula or Valdez or any other site in the State for consumption within or distribution outside the State.

(c) Rate coordination

(1) In general

In accordance with the Natural Gas Act [15 U.S.C. 717 et seq.], the Commission shall establish rates for the transportation of natural gas on any Alaska natural gas transportation project.