ALASKA NATURAL GAS TRANSPORTATION ACT OF 1976
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PUBLIC LAW 94–586, AS AMENDED

AN ACT To expedite a decision on the delivery of Alaska natural gas to United States markets, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the “Alaska Natural Gas Transportation Act of 1976”.


CONGRESSIONAL FINDINGS

SEC. 2. The Congress finds and declares that—

(1) a natural gas supply shortage exists in the contiguous States of the United States;

(2) large reserves of natural gas in the State of Alaska could help significantly to alleviate this supply shortage;

(3) the expeditious construction of a viable natural gas transportation system for delivery of Alaska natural gas to United States markets is in the national interest; and

(4) the determinations whether to authorize a transportation system for delivery of Alaska natural gas to the contiguous States and, if so, which system to select, involve questions of the utmost importance respecting national energy policy, international relations, national security, and economic and environmental impact, and therefore should appropriately be addressed by the Congress and the President in addition to those Federal officers and agencies assigned functions under law pertaining to the selection, construction, and initial operation of such a system.


STATEMENT OF PURPOSE

SEC. 3. The purpose of this Act is to provide the means for making a sound decision as to the selection of a transportation sys-

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*Presidential Decision Designating Transportation System.—On September 22, 1977, the President submitted a decision and report to the Congress designating the Alaska Highway Pipelines route for the Alaska natural gas pipeline system. The President's decision was approved by Public Law 95–158 (Nov. 8, 1977; 91 Stat. 1256), adopted under section 8 of the Alaska Natural Gas Transportation Act of 1976. For the text of the President's decision and report, see the next items in this volume.

Waivers of Law.—The President submitted to the Congress findings and proposed waivers of law on October 15, 1981. The President's proposed waiver was approved by Public Law 97–93 (Dec. 15, 1981; 95 Stat. 1294) pursuant to the procedures of section 8 of the Alaska Natural Gas Transportation Act of 1976. For the text of the President's decision and report, see the next items in this volume.
tem for delivery of Alaska natural gas to the contiguous States for construction and initial operation by providing for the participation of the President and the Congress in the selection process, and, if such a system is approved under this Act, to expedite its construction and initial operation by (1) limiting the jurisdiction of the courts to review the actions of Federal officers or agencies taken pursuant to the direction and authority of this Act, and (2) permitting the limitation of administrative procedures and effecting the limitation of judicial procedures related to such actions. 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 particularly with respect to the limitation of judicial review of actions of Federal officers or agencies taken pursuant thereto.

[15 U.S.C. 719a]

DEFINITIONS

SEC. 4. As used in this Act:

(1) the term "Alaska natural gas" means natural gas derived from the area of the State of Alaska generally known as the North Slope of Alaska, including the Continental Shelf thereof;

(2) the term "Commission" means the Federal Power Commission;

(3) the term "Secretary" means the Secretary of the Interior;

(4) the term "provision of law" means any provision of a Federal statute or rule, regulation, or order issued thereunder; and

(5) the term "approved transportation system" means the system for the transportation of Alaska natural gas designated by the President pursuant to section 7(a) or 8(b) and approved by joint resolution of the Congress pursuant to section 8.

[15 U.S.C. 719b]

FEDERAL POWER COMMISSION REVIEWS AND REPORTS

SEC. 5. (a)(1) Notwithstanding any provision of the Natural Gas Act or any other provision of law, the Commission shall suspend all proceedings pending before the Commission on the date of enactment of this Act relating to a system for the transportation of Alaska natural gas as soon as the Commission determines to be practicable after such date, and the Commission may refuse to act on any application, amendment thereto, or other requests for action under the Natural Gas Act relating to a system for the transportation of Alaska natural gas until such time as (A) a decision of the President designating such a system for approval takes effect pursuant to section 8, (B) no such decision takes effect pursuant to section 8, or (C) the President decides not to designate such a system for approval under section 8 and so advises the Congress pursuant to section 7.

(2) In the event a decision of the President designating such a system takes effect pursuant to this Act, the Commission shall forthwith vacate proceedings suspended under paragraph (1) and,

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pursuant to section 9 and in accordance with the President's decision, issue a certificate of public convenience and necessity respecting such system.

(3) In the event such a decision of the President does not take effect pursuant to this Act or the President decides not to designate such a system and so advises the Congress pursuant to section 7, the suspension provided for in paragraph (1) of this subsection shall be removed.

(b)(1) The Commission shall review all applications for the issuance of a certificate of public convenience and necessity relating to the transportation of Alaska natural gas pending on the date of enactment of this Act, and any amendments thereto which are timely made, and after consideration of any alternative transportation system which the Commission determines to be reasonable, submit to the President not later than May 1, 1977, a recommendation concerning the selection of such a transportation system. Such recommendation may be in the form of a proposed certificate of public convenience and necessity, or in such other form as the Commission determines to be appropriate, or may recommend that no decision respecting the selection of such a transportation system be made at this time or pursuant to this Act. Any recommendation that the President approve a particular transportation system shall include a description of the nature and route of the system, designate a person to construct and operate the system, which person shall be the applicant, if any, which filed for a certificate of public convenience and necessity to construct and operate such system, if such recommendation is for an all-land pipeline transportation system, or a transportation system involving water transportation, include provision for new facilities to the extent necessary to assure direct pipeline delivery of Alaska natural gas contemporaneously to points both east and west of the Rocky Mountains in the lower continental United States.

(2) The Commission may, by rule, provide for the presentation of data, views, and arguments before the Commission or a delegate of the Commission pursuant to such procedures as the Commission determines to be appropriate to carry out its responsibilities under paragraph (1) of this subsection. Such a rule shall, to the extent determined by the Commission, apply, notwithstanding any provision of law that would otherwise have applied to the presentation of data, views, and arguments.

(3) The Commission may request such information and assistance from any Federal agency as the Commission determines to be necessary or appropriate to carry out its responsibilities under this Act. Any Federal agency requested to submit information or provide assistance shall submit such information to the Commission at the earliest practicable time after receipt of a Commission request.

(c) The Commission shall accompany any recommendation under subsection (b)(1) with a report, which shall be available to the public, explaining the basis for such recommendation and including for each transportation system reviewed or considered a discussion of the following:

(1) for each year of the 20-year period which begins with the first year following the date of enactment of this Act, the estimated—

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Obtained and made public by the Natural Resources Defense Council, March/April 2002
(A) volumes of Alaska natural gas which would be available to each region of the United States directly, or indirectly by displacement or otherwise, and

(B) transportation costs and delivered prices of any such volumes of gas by region;

(2) the effects of each of the factors described in subparagraphs (A) and (B) of paragraph (1) on the projected natural gas supply and demand for each region of the United States and on the projected supplies of alternative fuels available by region to offset shortages of natural gas occurring in such region for each such year;

(3) the impact upon competition;

(4) the extent to which the system provides a means for the transportation to United States markets of natural resources or other commodities from sources in addition to the Prudhoe Bay Reserve;

(5) environmental impacts;

(6) safety and efficiency in design and operation and potential for interruption in deliveries of Alaska natural gas;

(7) construction schedules and possibilities for delay in such schedules or for delay occurring as a result of other factors;

(8) feasibility of financing;

(9) extent of reserves, both proven and probable and their deliverability by year for each year of the 20-year period which begins with the first year following the date of enactment of this Act;

(10) the estimate of the total delivered cost to users of the natural gas to be transported by the system by year for each year of the 20-year period which begins with the first year following the date of enactment of this Act;

(11) capability and cost of expanding the system to transport additional the risk of cost overruns; and

(12) an estimate of the capital and operating costs, including an analysis of the reliability of such estimates and the risk of cost overruns; and

(13) such other factors as the Commission determines to be appropriate.

(d) The recommendation by the Commission pursuant to this section shall not be based upon the fact that the Government of Canada or agencies thereof have not, by then rendered a decision as to authorization of a pipeline system to transport Alaska natural gas through Canada.

(e) If the Commission recommends the approval of a particular transportation system, it shall submit to the President with such recommendation (1) an identification of those facilities and operations which are proposed to be encompassed within the term "construction and initial operation" in order to define the scope of directions contained in section 9 of this Act and (2) the terms and conditions permitted under the Natural Gas Act, which the Commission determines to be appropriate for inclusion in a certificate of public convenience and necessity to be issued respecting such system. The commission shall submit to the President contemporaneously with its report an environmental impact statement prepared respecting
the recommended system, if any, and each environmental impact statement which may have been prepared respecting any other system reported on under this section.

[15 U.S.C. 719c]

OTHER REPORTS

SEC. 6. (a) Not later than July 1, 1977, any Federal officer or agency may submit written comments to the President with respect to the recommendation and report of the Commission and alternative methods for transportation of Alaska natural gas for delivery to the contiguous States. Such comments shall be made available to the public by the President when submitted to him, unless expressly exempted from this requirement in whole or in part by the President, under section 552(b)(1) of title 5, United States Code. Any such written comment shall include information within the competence of such Federal officer or agency with respect to—

1. environmental considerations, including air and water quality and noise impacts;
2. the safety of the transportation systems;
3. international relations, including the status and time schedule for any necessary Canadian approvals and plans;
4. national security, particularly security of supply;
5. sources of financing for capital costs;
6. the impact upon competition;
7. impact on the national economy, including regional natural gas requirements; and
8. relationship of the proposed transportation system to other aspects of national energy policy.

(b) Not later than July 1, 1977, the Governor of any State, any municipality, State utility commission, and any other interested person may submit to the President such written comments with respect to the recommendation and report of the Commission and alternative systems for delivering Alaska natural gas to the contiguous States as they determine to be appropriate.

(c) Not later than July 1, 1977, each Federal officer or agency shall report to the President with respect to actions to be taken by such officer or agency under section 9(a) relative to each transportation system reported on by the Commission under section 5(c) and shall include such officer's or agency's recommendations with respect to any provision of law to be waived pursuant to section 8(g) in conjunction with any decision of the President which designates a system for approval.

(d) Following receipt by the President of the Commission's recommendations, the Council on Environmental Quality shall afford interested persons an opportunity to present oral and written data, views, and arguments respecting the environmental impact statements submitted by the Commission under section 5(e). Not later than July 1, 1977, the Council on Environmental Quality shall submit to the President a report, which shall be contemporaneously made available by the Council to the public, summarizing any data, views, and arguments received and setting forth the Council's views concerning the legal and factual sufficiency of each such en-
environmental impact statement and other matters related to environmental impact as the Council considers to be relevant.


PRESIDENTIAL DECISION AND REPORT

SEC. 7. (a)(1) As soon as practicable after July 1, 1977, but not later than September 1, 1977, the President shall issue a decision as to whether a transportation system for delivery of Alaska natural gas should be approved under this Act. If he determines such a system should be so approved, his decision shall designate such a system for approval pursuant to section 8 and shall be consistent with section 5(b)(1)(C) to assure delivery of Alaska natural gas to points both east and west of the Rocky Mountains in the continental United States. The President in making his decision shall take into consideration the Commission’s recommendation pursuant to section 5, the report under section 5(c), and any comments submitted under section 6; and his decision to designate a system for approval shall be based on his determination as to which system, if any, best serves the national interest.

(2) The President, for a period of up to 90 additional calendar days after September 1, 1977, may delay the issuance of his decision and transmittal thereof to the House of Representatives and the Senate, if he determines (A) that there exists no environmental impact statement prepared relative to a system he wishes to consider or that any prepared environmental impact statement relative to a system he wishes to consider is legally or factually insufficient, or (B) that the additional time is otherwise necessary to enable him to make a sound decision on an Alaska natural gas transportation system. The President shall promptly, but in no case any later that September 1, 1977, notify the House of Representatives and the Senate if he so delays his decision and submit a full explanation of the basis of any such delay.

(3) If, on or before May 1, 1977, the President determines to delay issuance and transmittal of his decision to the House of Representatives and the Senate pursuant to paragraph (2) of this subsection, he may authorize a delay of not more than 90 days in the date of taking of any action specified in sections 5 and 6. The President shall promptly notify the House of Representatives and the Senate of any such authorization of delay and submit a full explanation of the basis of any such authorization.

(4) If the President determines to designate for approval a transportation system for delivery of Alaska natural gas to the contiguous States, he shall in such decision—
(A) describe the nature and route of the system designated for approval;
(B) designate a person to construct and operate such a system, which person shall be the applicant, if any, which filed for a certificate of public convenience and necessity to construct and operate such system;
(C) identify those facilities, the construction of which, and those operations, the conduct of which, shall be encompassed within the term “construction and initial operation” for purposes of defining the scope of the directions contained in sec-
tion 9 of this Act, taking into consideration any recommendation of the Commission with respect thereto; and

(D) identify those provisions of law, relating to any determination of a Federal officer or agency as to whether a certificate, permit, right-of-way, lease, or other authorization shall be issued or be granted, which provisions the President finds (i) involve determinations which are subsumed in his decision and (ii) require waiver pursuant to section 8(g) in order to permit the expeditious construction and initial operation of the transportation system.

(6) If the President determines to designate for approval a transportation system for delivery of Alaska natural gas to the contiguous States, he may identify in such decision such terms and conditions permissible under existing law as he determines appropriate for inclusion with respect to any issuance or authorization directed to be made pursuant to section 9.

(b) The decision of the President made pursuant to subsection (a) of this section shall be transmitted to both Houses of Congress and shall be considered received by such Houses for the purposes of this section on the first day on which both are in session occurring after such decision is transmitted. Such decision shall be accompanied by a report explaining in detail the basis for his decision with specific reference to the factors set forth in sections 5(c) and 6(a), and the reasons for any revision, modification of, or substitution for, the Commission recommendation.

(c) The report of the President pursuant to subsection (b) of this section shall contain a financial analysis for the transportation system designated for approval. Unless the President finds and states in his report submitted pursuant to this section that he reasonably anticipates that the system designated by him can be privately financed, constructed, and operated, his report shall also be accompanied by his recommendation concerning the use of existing Federal financing authority or the need for new Federal financing authority.

(d) In making his decision under subsection (a) the President shall inform himself, through appropriate consultation, of the views and objectives of the States, the Government of Canada, and other governments with respect to those aspects of such a decision that may involve intergovernmental and international cooperation among the Government of the United States, the States, the Government of Canada, and any other government.

(e) If the President determines to designate a transportation system for approval, the decision of the President shall take effect as provided in section 8, except that the approval of a decision of the President shall not be construed as amending or otherwise affecting the laws of the United States so as to grant any new financing authority as may have been identified by the President pursuant to subsection (c).

[15 U.S.C. 719e]

1 Paragraph (5) has been repealed.
CONGRESSIONAL REVIEW

SEC. 8. (a) Any decision under section 7(a) or 8(b) designating for approval a transportation system for the delivery of Alaska natural gas shall take effect upon enactment of a joint resolution within the first period of 60 calendar days of continuous session of Congress beginning on the date after the date of receipt by the Senate and House of Representatives of a decision transmitted pursuant to section 7(b) or subsection (b) of this section.

(b) If the Congress does not enact such a joint resolution within such 60-day period, the President, not later than the end of the 30th day following the expiration of the 60-day period, may propose a new decision and shall provide a detailed statement concerning the reasons for such proposal. The new decision shall be submitted in accordance with section 7(a) and transmitted to the House of Representatives and the Senate on the same day while both are in session and shall take effect pursuant to subsection (a) of this section. In the event that a resolution respecting the President's decision was defeated by vote of either House, no new decision may be transmitted pursuant to this subsection unless such decision differs in a material respect from the previous decision.

(c) For purposes of this section—

(1) continuity of session of Congress is broken only by an adjournment sine die; and

(2) the days on which either House is not in session because of and adjournment of more than 3 days to a day certain are excluded in the computation of the 60-day calendar period.

(d)(1) This subsection is enacted by Congress—

(A) as an exercise of the rulemaking power of each House of Congress, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of resolutions described by paragraph (2) of this subsection; and it supersedes other rules only to the extent that it is inconsistent therewith; and

(B) with full recognition of the constitutional right of either House to change the rules (so far as those rules relate to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of such House.

(2) For purposes of this Act, the term “resolution” means (A) a joint resolution, the resolving clause of which is as follows: “That the House of Representatives and Senate approve the Presidential decision on an Alaska natural gas transportation system submitted to the Congress on ________, 19__ , and find that any environmental impact statements prepared relative to such system and submitted with the President's decision are in compliance with the Natural Environmental Policy Act of 1969.”; the blank space therein shall be filled with the date on which the President submits his decision to the House of Representatives and the Senate; or (B) a joint resolution described in subsection (g).

(3) A resolution once introduced with respect to a Presidential decision on an Alaska natural gas transportation system shall be referred to one or more committees (and all resolutions with re-
spect to the same Presidential decision on an Alaska natural gas transportation system shall be referred to the same committee or committees) by the President of the Senate or the Speaker of the House of Representatives, as the case may be.

(4)(A) If any committee to which a resolution with respect to a Presidential decision on an Alaska natural gas transportation system has been referred has not reported it at the end of 30 calendar days after its referral, it shall be in order to move either to discharge such committee from further consideration of such resolution or to discharge such committee from consideration of any other resolution with respect to such Presidential decision on an Alaska natural gas transportation system which has been referred to such committee.

(B) A motion to discharge may be made only by an individual favoring the resolution, shall be highly privileged (except that it may not be made after the committee has reported a resolution with respect to the same Presidential decision on an Alaska natural gas transportation system), and debate thereon shall be limited to not more than 1 hour, to be divided equally between those favoring and those opposing the resolution. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(C) If the motion to discharge is agreed to or disagreed to, the motion may not be made with respect to any other resolution with respect to the same Presidential decision on an Alaska natural gas transportation system.

(5)(A) When any committee has reported, or has been discharged from further consideration of, a resolution, but in no case earlier than 30 days after the date of receipt of the President's decision to the Congress, it shall be at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion shall be highly privileged and shall not be debatable. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(B) Debate on the resolution described in subsection (d)(2)(A) shall be limited to not more than 10 hours and on any resolution described in subsection (g) to one hour. This time shall be divided equally between those favoring and those opposing such resolution. A motion further to limit debate shall not be debatable. An amendment to, or motion to recommit the resolution shall not be in order, and it shall not be in order to move to reconsider the vote by which such resolution was agreed to or disagreed to or, thereafter within such 60-day period, to consider any other resolution respecting the same Presidential decision.

(6)(A) Motions to postpone, made with respect to the discharge from committee, or the consideration of a resolution and motions to proceed to the consideration of other business, shall be decided without debate.

(B) Appeals from the decision of the Chair relating to the application of the rules of the Senate or the House of Representatives,
as the case may be, to the procedures relating to a resolution shall be decided without debate.

(e) The President shall find that any required environmental impact statement relative to the Alaska natural gas transportation system designated for approval by the President has been prepared and that such statement is in compliance with the National Environmental Policy Act of 1969. Such finding shall be set forth in the report of the President submitted under section 7. The President may supplement or modify the environmental impact statements prepared by the Commission or other Federal officers or agencies. Any such environmental impact statement shall be submitted contemporaneously with the transmittal to the Senate and House of Representatives of the President's decision pursuant to section 7(b) or subsection (b) of this section.

(f) Within 20 days of the transmittal of the President's decision to the Congress under section 7(b) or under subsection (b) of this section, (1) the Commission shall submit to the Congress a report commenting on the decision and including any information with regard to that decision which the Commission considers appropriate, and (2) the Council on Environmental Quality shall provide an opportunity to any interested person to present oral and written data, views, and arguments on any environmental impact statement submitted by the President relative to any system designated by him for approval which is different from any system reported on by the Commission under section 5(c), and shall submit to the Congress a report summarizing any such views received. The committees in each House of Congress to which a resolution has been referred under subsection (d)(3) shall conduct hearings on the Council's report and include in any report of the committee respecting such resolution the findings of the committee on the legal and factual sufficiency of any environmental impact statement submitted by the President relative to any system designated by him for approval.

(g)(1) At any time after a decision designating a transportation system is submitted to the Congress pursuant to this section, if the President finds that any provision of law applicable to actions to be taken under subsection (a) or (c) of section 9 require waiver in order to permit expeditious construction and initial operation of the approved transportation system, the President may submit such proposed waiver to both Houses of Congress.

(2) Such provision shall be waived with respect to actions to be taken under subsection (a) or (c) of section 9 upon enactment of a joint resolution pursuant to the procedures specified in subsections (c) and (d) of this section (other than subsection (d)(2) thereof) within the first period of 60 calendar days of continuous session of Congress beginning on the date after the date of receipt by the Senate and House of Representatives of such proposal.

(3) The resolving clause of the joint resolution referred to in this subsection is as follows: "That the House of Representatives and Senate approve the waiver of the provision 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 provision of law and the second blank space therein being filled

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Obtained and made public by the Natural Resources Defense Council, March/April 2002
with the date on which the President submits his decision to the House of Representatives and the Senate.

(4) In the case of action with respect to a joint resolution described in this subsection, the phrase "a waiver of a provision of law" shall be substituted in subsection (d) for the phrase "the Alaska natural gas transportation system."


AUTHORIZEDS

SEC. 9. (a) To the extent that the taking of any action which is necessary or related to the construction and initial operation of the approved transportation system requires a certificate, right-of-way, permit, lease, or other authorization to be issued or granted by a Federal officer or agency, such Federal officer or agency shall—

(1) to the fullest extent permitted by the provisions of law administered by such officer or agency, but

(2) without regard to any provision of law which is waived pursuant to section 8(g) issue or grant such certificates, permits, rights-of-way, leases, and other authorizations at the earliest practicable date.

(b) All actions of a Federal officer or agency with respect to consideration of applications or requests for the issuance or grant of a certificate, right-of-way, permit, lease, or other authorization to which subsection (a) applies shall be expedited and any such application or request shall take precedence over any similar applications or requests of the Federal officer or agency.

(c) Any certificate, right-of-way, permit, lease, or other authorization issued or granted pursuant to the direction under subsection (a) shall include the terms and conditions required by law unless waived pursuant to a resolution under section 8(g), and may include terms and conditions permitted by law, except that with respect to terms and conditions permitted but not required, the Federal officer or agency, notwithstanding any such other provision of law, shall have no authority to include terms and conditions as would compel a change in the basic nature and general route of the approved transportation system or those the inclusion of which would otherwise prevent or impair in any significant respect the expedient construction and initial operation of such transportation system.

(d) Any Federal officer or agency, with respect to any certificate, permit, right-of-way, lease, or other authorization issued or granted by such officer or agency, may, to the extent permitted under laws administered by such officer or agency add to, amend or abrogate any term or condition included in such certificate, permit, right-of-way, lease, or other authorization except that with respect to any such action which is permitted but not required by law, such Federal officer or agency, notwithstanding any such other provision of law, shall have no authority to take such action if the terms and conditions to be added, or as amended, would compel a change in the basic nature and general route of the approved transportation system or would otherwise prevent or impair in any sig-

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Obtained and made public by the Natural Resources Defense Council, March/April 2002
significant respect the expeditious construction and initial operation of such transportation system.

(e) Any Federal officer or agency to which subsection (a) applies, to the extent permitted under laws administered by such officer or agency, shall include in any certificate, permit, right-of-way, lease, or authorization issued or granted those terms and conditions identified in the President's decision as appropriate for inclusion except that the requirement to include such terms and conditions shall not limit the Federal officer or agency's authority under subsection (d) of this section.

[15 U.S.C. 719g]

JUDICIAL REVIEW

SEC. 10. (a) Notwithstanding any other provision of law, the actions of Federal officers or agencies taken pursuant to section 9 of this Act, shall not be subject to judicial review except as provided in this section.

(b)(1) Claims alleging the invalidity of this Act may be brought not later than the 60th day following the date a decision takes effect pursuant to section 8 of this Act.

(2) Claims alleging that an action will deny rights under the Constitution of the United States, or that an action is in excess of statutory jurisdiction, authority, or limitations, or short of statutory right may be brought not later than the 60th day following the date of such action, except that if a party shows that he did not know of the action complained of, and a reasonable person acting in the circumstances would not have known, he may bring a claim alleging the invalidity of such action on the grounds stated above not later than the 60th day following the date of his acquiring actual or constructive knowledge of such action.

(c)(1) A claim under subsection (b) shall be barred unless a complaint is filed prior to the expiration of such time limits in the United States Court of Appeals for the District of Columbia acting as a Special Court. 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 in any proceeding instituted prior to or on or after the date of enactment of this Act.

(2) Any such proceeding shall be assigned for hearing and completed at the earliest possible date, to the greatest extent practicable, take precedence over all other matters pending on the docket of the court at that time, and shall be expedited in every way by such court and such court shall render its decision relative to any claim within 90 days from the date such claim is brought unless such court determines that a longer period of time is required to satisfy requirements of the United States Constitution.

(3) The enactment of a joint resolution under section 8 approving the decision of the President shall be conclusive as to the legal and factual sufficiency of the environmental impact statements submitted by the President relative to the approved transportation system and no court shall have jurisdiction to consider questions

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respecting the sufficiency of such statements under the National Environmental Policy Act of 1969.

SUPPLEMENTAL ENFORCEMENT AUTHORITY

SEC. 11. (a) In addition to remedies available under other applicable provisions of law, whenever any Federal officer or agency determines that any person is in violation of any applicable provision of law administered or enforceable by such officer or agency or any rule, regulation, or order under such provision, including any term or condition of any certificate, right-of-way, permit, lease or other authorization, issued or granted by such officer or agency, such officer or agency may—

(1) issue a compliance order requiring such person to comply with such provision or any rule, regulation, or order thereunder, or

(2) bring a civil action in accordance with subsection (c).

(b) Any order issued under subsection (a) shall state with reasonable specificity the nature of the violation and a time or compliance not to exceed 30 days, which the officer or agency, as the case may be, determines is reasonable, taking into account the seriousness of the violation and any good faith efforts to comply with applicable requirements.

(c) Upon a request of such officer or agency, as the case may be, the Attorney General may commence a civil action for appropriate relief, including a permanent or temporary injunction or a civil penalty not to exceed $25,000 per day for violations of the compliance order issued under subsection (a). Any action under this subsection may be brought in any district court of the United States for the district in which the defendant is located, resides, or is doing business, and such court shall have jurisdiction to restrain such violation, require compliance, or impose such penalty or give ancillary relief.

EXPORT LIMITATIONS

SEC. 12. Any exports of Alaska natural gas shall be subject to the requirements of the Natural Gas Act and section 103 of the Energy Policy and Conservation Act, except that in addition to the requirements of such Acts, before any Alaska natural gas in excess of 1,000 Mcf per day may be exported to any nation other than Canada or Mexico, the President must make and publish an express finding that such exports will not diminish the total quantity or quality nor increase the total price of energy available to the United States.

EQUAL ACCESS TO FACILITIES

SEC. 13. (a) There shall be included in the terms of any certificate, permit, right-of-way, lease, or other authorization issued or granted pursuant to the directions contained in section 9 of this Act, a provision that no person seeking to transport natural gas in the Alaska natural gas transportation system shall be prevented
from doing so or be discriminated against in the terms and conditions of service on the basis of degree of ownership, or lack thereof, of the Alaska natural gas transportation system.

(b) The State of Alaska is authorized to ship its royalty gas on the approved transportation system for use within Alaska and, to the extent its contracts for the sale of royalty gas so provide, to withdraw such gas from the interstate market for use within Alaska; the Federal Power Commission shall issue all authorizations necessary to effectuate such shipment and withdrawal subject to review by the Commission only of the justness and reasonableness of the rate charged for such transportation.

[15 U.S.C. 719k]

ANTITRUST LAWS

SEC. 14. Nothing in this Act, and no action taken hereunder, shall imply or effect an amendment to, or exemption from, any provision of the antitrust laws.


AUTHORIZATION

SEC. 15. There is hereby authorized to be appropriated beginning in fiscal year 1978 and each fiscal year thereafter, such sums as may be necessary to carry out the functions of the Federal inspector appointed by the President with the advice and consent of the Senate under section 7.

[15 U.S.C. 719m]

SEPARABILITY

SEC. 16. If any provision of this Act, or the application thereof, is held invalid, the remainder of this Act shall not be affected thereby.


CIVIL RIGHTS

SEC. 17. All Federal officers and agencies shall take such affirmative action as is 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 certificates, permit, right-of-way, lease, or other authorization granted or issued pursuant to this Act. The appropriate Federal officers and agencies shall promulgate such rules as are necessary to carry out the purposes of this section and may enforce this section, and any rules promulgated under this section 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.

[15 U.S.C. 719e]

REPORT ON THE EQUITABLE ALLOCATION OF NORTH SLOPE CRUDE OIL

SEC. 18. Within 6 months of the date of enactment of this Act, the President shall determine what special expediting procedures are necessary to insure the equitable allocation of north slope crude

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oil to the Northern Tier States of Washington, Oregon, Idaho, Montana, North Dakota, Minnesota, Michigan, Wisconsin, Illinois, Indiana, and Ohio (hereinafter referred to as the "Northern Tier States") to carry out the provisions of section 410 of Public Law 93-153 and shall report his findings to the Congress. In his report, the President shall identify the specific provisions of law, which relate to any determination of a Federal officer or agency as to whether to issue or grant a certificate, permit, right-of-way, lease, or other authorization in connection with the construction of an oil delivery system serving the Northern Tier States and which the President finds would inhibit the expeditious construction of such a system in the contiguous States of the United States. In addition the President will include in his report a statement which demonstrates the impact that the delivery system will have on reducing the dependency of New England and the Middle Atlantic States on foreign oil imports. Furthermore, all Federal officers and agencies shall, prior to the submission of such report and further congressional action relating thereto, expedite to the fullest practicable extent all applications and requests for action made with respect to such an oil delivery system.

[43 U.S.C. 1651 note]

ANTITRUST STUDY

SEC. 19. The Attorney General of the United States is authorized and directed to conduct a thorough study of the antitrust issues and problems relating to the production and transportation of Alaska natural gas and, not later than six months following the date of enactment of this Act, complete such study and submit to the Congress a report containing his findings and recommendations with respect thereto.


EXPIRATION

SEC. 20. This Act shall terminate in the event that no decision of the President takes effect under section 8 of this Act, such termination to occur at the end of the last day on which a decision could be, but is not, approved under such section.

ALASKA NATURAL GAS TRANSPORTATION SYSTEM:
PRESIDENTIAL DECISION

Presidential Decision Designating Transportation System.—On September 22, 1977, the President submitted a decision and report to the Congress designating the Alaska Highway Pipeline route for the Alaska natural gas pipeline system. The President's decision was approved by Public Law 95–158 (Nov. 8, 1977; 91 Stat. 1268), adopted under section 8 of the Alaska Natural Gas Transportation Act of 1976.
To the Congress of the United States:

Natural gas has become the Nation's scarcest and most desired fuel. It is in our interest to bring the reserves in Alaska to market at the lowest possible price. Consequently, I am today sending the Congress my decision and report on an Alaska Natural Gas Transportation System.

The selection of the Alcan project was made after an exhaustive review required by the Alaska Natural Gas Transportation Act of 1976 determined that the Alcan Pipeline System will deliver more natural gas at less cost to a greater number of Americans than any other proposed transportation system.

The Alcan proposal, taken together with the recently signed Agreement on Principles with Canada, demonstrates that our two countries working together can transport more energy more efficiently than either of us could transport alone.

Unnecessary delay would greatly increase the total cost of the pipeline system. I urge the Congress to act expeditiously to approve this important project.


JIMMY CARTER.
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OVERVIEW

In the winter of 1967-68 a wildcat rig drilling Prudhoe Bay State Well No. 1 struck a formation that, when later delineated, proved to be the largest petroleum reserve on the North American continent. The Prudhoe Bay field contains over 20 trillion cubic feet of saleable natural gas and more than 9 billion barrels of recoverable oil. This gas represents approximately 10 percent of the known gas reserves in the United States.

In 1969, the State of Alaska held a lease sale and received almost $1 billion in lease bonuses. Shortly thereafter, the three major leaseholders in the Prudhoe Bay Oil Pool announced their intention to build an oil pipeline through Alaska from Prudhoe Bay to a site on the Gulf of Alaska. After an initial flurry of activity, the Trans-Alaskan Pipe Line System (TAPS) became entangled in legal disputes until November of 1973, when the Congress and President approved the plan and provided for expedited procedures. Construction was started immediately thereafter and the first flow of oil through the pipeline commenced on June 20, 1977.

Another set of studies began in 1969 which eventually resulted in applications to the Federal Power Commission (FPC) in the U.S. and the National Energy Board (NEB) in Canada for a certificate to construct a pipeline to move Alaskan and Mackenzie Delta gas to United States and Canadian markets, respectively, by Arctic Gas (Alaskan Arctic Gas Pipeline Company and Canadian Arctic Gas Pipeline Limited) in March 1974.

In September 1974, El Paso Alaska Company filed an application to transport Prudhoe Bay gas by a pipeline adjacent to TAPS to the Gulf of Alaska, liquefy it, and ship it to California by LNG tanker. There the LNG would be regasified and provided to its purchasers either directly or by displacement through existing pipeline facilities.

Under the Trans-Alaska Pipeline Act, Congress had authorized and requested the President to determine the willingness of the Government of Canada to authorize a natural gas pipeline for Alaskan gas across Canada and whether intergovernmental agreements would be needed to achieve that end. After discussions, the Government of Canada indicated they were prepared to consider an agreement of general applicability as opposed to an agreement on a specific pipeline. Negotiations on a Transit Pipeline Treaty were undertaken, and a treaty was finally signed on January 28, 1977, and entered into force on September 19, 1977. It will govern all existing and future transit pipelines in the two countries for thirty-five years.

On April 7, 1975, a proceeding before FPC Administrative Law Judge Nahum Litt was initiated and over 45,000 pages of testimony and more than 1,000 supporting exhibits were compiled be-
fore it was concluded. Similar hearings were held by the NEB in Canada.

On July 9, 1976, Alcan Pipeline Company and Northwest Pipeline Company (Alcan) filed the third application with the FPC for a certificate to transport Alaskan gas. The Alcan plan, as modified in March 1977, calls for a pipeline following existing utility corridors from Prudhoe Bay through Canada to the U.S. markets.

Recognizing the shortages of natural gas, the large reserves of natural gas in Alaska, the benefits resulting from the expeditious construction of a transportation system for that gas, and the potentials for delay inherent in the normal regulatory approach to a project of this magnitude, on October 22, 1976, Congress passed the Alaska Natural Gas Transportation Act of 1976 (ANGTA). Designed to draw upon all relevant governmental, public and private expertise in reaching a Presidential and Congressional decision on construction of the best possible Alaska natural gas transportation system, if any, the statute established a unique process for reaching an expedited decision.

This Decision and Report on an Alaska Natural Gas Transportation System meets the statutory decision-making requirements of the Alaska Natural Gas Transportation Act and represents the culmination of the Executive Branch function in the process established by the Bill.

The Act's Statement of Purpose clearly sets out the Congressional objectives:

"SEC. 3. The purpose of this Act is to provide the means for making a sound decision as to the selection of a transportation system for delivery of Alaska natural gas to the contiguous States for construction and initial operation by providing for the participation of the President and the Congress in the selection process, and, if such a system is approved under this Act, to expedite its construction and initial operation by (1) limiting the jurisdiction of the courts to review the actions of Federal officers or agencies taken pursuant to the direction and authority of this Act, and (2) permitting the limitation of administrative procedures and effecting the limitation of judicial procedures related to such actions. 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 particularly with respect to the limitation of judicial review of actions of Federal officers or agencies taken pursuant thereto."

Shortly after the passage of ANGTA, Judge Litt concluded the FPC hearing and on February 1, 1977 issued the Initial Decision favoring the Arctic proposal. According to the provisions in the Act, on May 2, 1977, the FPC made its Recommendation to the President in which it recommended an overland route through Canada but divided 2–2 on the choice between Alcan and Arctic Gas.

As required in the Act, comments on the Recommendation of the FPC were made to the President on July 1, 1977, by ten interagency task forces and a wide spectrum of non-Federal government officials and other interested persons. While generally supportive of the FPC Recommendation, they raised important questions regarding virtually every major element of the Recommendation.
On July 4, 1977, Canada’s NEB made its decision regarding an overland pipeline system through Canada. It found the Arctic Gas proposal “environmentally unacceptable” and stated it was prepared to certify Alcan conditioned upon several modifications of the Alcan system recommended by the FPC. Within a few weeks, an interagency group of U.S. negotiators began meeting with Canadian officials to explore the boundaries of the Canadian option to enable the President to make an informed decision under the Act.

On September 1, the President announced a deferral in transmitting the decision to the Congress to complete negotiations with the Canadians. After intensive negotiations, President Carter and Prime Minister Trudeau announced in Washington on September 8, that both countries had reached an agreement in principle on a joint project for the transportation of Alaskan and Canadian gas. The President and Prime Minister noted the superiority of a joint project to any unilateral undertaking by either government. In addition to announcing an intention to sign a formal Agreement on Principles concerning the project, both governments pledged to seek approval from their respective legislatures of expedited provisions for project construction and operation.

With the signing of the Agreement on Principles applicable to a Northern Natural Gas Pipeline in Ottawa on September 20, 1977, the President transmitted the Decision favoring the Alcan project to the Congress for its approval. The Congress has sixty legislative days within which to act upon a joint resolution of approval.

The Agreement on Principles, as incorporated in the Decision of the President, provides the framework for a clearly specified, economically efficient, and environmentally superior means of transporting both U.S. and Canadian gas to markets through a joint pipeline system. Approval of the Decision, which incorporates the Agreement on Principles, will provide the same type of commitment by the United States to this undertaking as will result from passage of the implementing legislation which Prime Minister Trudeau has announced will be submitted to Parliament in October.

This Decision is supported by a strong record and recommendation from the FPC, substantial comments from all parties of interest and a clear and cogent agreement with the Canadian government that provides significant benefits for both countries.

The proposed Alcan system will deliver Alaska gas at the lowest cost-of-service to U.S. consumers—probably below the cost of imported oil and substantially below the costs of other fuel alternatives. The average price of distillate from imported oil over the life of the project is expected to be in excess of $3 per million BTUs (mmbtu) in constant 1975 dollars. The average delivered price of Alaska gas for the same period will be substantially less even with a significant allowance for cost overruns. The Alcan system will deliver Alaskan gas at the lowest cost to U.S. consumers, but will do so directly to both the Midwest and West Coast markets. Furthermore, the Alcan system will increase the ability of Canada to develop its own frontier gas reserves, particularly in the Mackenzie Delta, through connection of the proposed Dempster Highway lateral pipeline with the Alcan mainline from Alaska. If Mackenzie
Delta gas is brought to Canadian markets, U.S. consumers might also benefit from the enhanced availability of Canadian supplies. Under almost all criteria, the Alcan system is clearly superior to the proposal by the El Paso Alaska Company to liquefy Alaska gas and ship it to the West Coast. Over a 20-year period, the Alcan system would deliver Alaska gas to U.S. consumers at a significantly lower average cost-of-service than El Paso. In 1975 constant dollars the 20-year average cost of service for Alcan is estimated to be $1.04 per mmbtu, and $1.21 per mmbtu for El Paso. This difference represents ultimate savings of $6 billion for American consumers over the life of the Alcan project. Alcan also can move the same volume of gas with a higher fuel efficiency, and will have much lower annual operating costs than the El Paso LNG system.

Alcan also has a markedly greater Net National Economic Benefit (NNEB) than El Paso. The calculation of the NNEB compares the present value of real resource expenditures for a project with the present value of future benefits. Alcan has an estimated NNEB of $5.77 billion, more than $1.1 billion higher than the estimated NNEB of El Paso.

In addition to these economic advantages, Alcan has significant technical and resource advantages over El Paso. These include:

- The superiority of pipeline transportation over LNG transportation for the safest and most reliable delivery of gas, and for expansibility of capacity to deliver increased volumes from reserves other than the Prudhoe Bay Pool;
- The substantial advantage of pipeline facilities over LNG facilities in having a useful life of over 40 years;
- The need to anticipate future shipment of natural gas from the Gulf of Alaska which may require LNG deliveries to the West Coast, thus preserving LNG delivery potential on the West Coast.

Furthermore, virtually all Federal agencies and private parties that compared the two projects determined that the Alcan system is environmentally superior to El Paso.

The Agreement with Canada on the Alcan system assures the cost-of-service advantages of the Alcan proposal. The Agreement provides that the Alcan pipeline will follow the original Alcan Highway route, without the route diversion required by the NEB. This provision alone saves the U.S. consumer up to $600 million in initial construction costs, plus interest, or the 6 cents in cost of service that would have been added by the route diversion. In return, the U.S. agreed to pay a portion of the cost for an extension of the Dempster Lateral from Dawson to Whitehorse in the Yukon—if and when the lateral is built. This limited extension, or "spur," would connect the Dempster line with the main Alcan system. A higher capacity, more efficient system will be installed south of Whitehorse, with costs shared on a volumetric basis, to carry U.S. and Canadian volumes.

Significantly, under the Agreement, the U.S. share of costs for the "spur" from Dawson to Whitehorse is tied to the percent of actual cost overruns on the construction of the Alcan main line in Canada. This element of the Agreement creates a formidable incentive for Canada to minimize cost overruns on the construction of
the Alcan line in Canada. In addition, the Agreement protects the Alcan pipeline from unfair or discriminatory taxes that might threaten the cost of service advantages of Alcan for U.S. consumers. The provisions in the Agreement provide a ceiling on the imposition of Yukon taxes, and supersede the previous NEB recommendation for a $200 million impact assistance payment from U.S. consumers to the Yukon. Any advance payment of tax by the pipeline will be treated as a loan to the government, to be paid back with interest from future tax revenues, but in no event will the loan affect the cost of service to U.S. consumers. The fixed level of overall tax is only a modest increase above the level of tax included in the original estimates for Alcan’s cost of service, and has been fixed with reference to the tax regime applicable in Alaska.

In this Agreement, the United States and Canada both improved their positions from the original NEB decision, and achieved a reduction in the cost of service price of both Alaskan gas and Canadian gas from the MacKenzie Delta. The modified Alcan system will also:

- Assist Canada to continue supplying gas exports under existing contracts by providing it with access to substantial MacKenzie Delta reserves;
- Provide the opportunity to obtain additional gas at an earlier date by early construction of portions of the southern Canadian and lower 48 sections of Alcan, with delivery of gas from Alberta (where there is temporary excess supply) in advance of the delivery of Alaska gas;
- Encourage exploration for new reserves and stimulate expansion of the gas industry in Canada, which might ultimately benefit U.S. consumers through the enhanced potential of Canadian supplies.

Furthermore, this joint U.S.-Canadian undertaking could result in significant cooperation with Canada on a variety of other energy issues, such as oil exchanges, pipelines and strategic reserves.

The Alcan project will be one of the largest—if not the largest—privately financed international business ventures of all time. The minimal risk of non-completion will be borne by the private financial markets. There will be no Federal debt guarantees, and consumers will not be required to bear any portion of the risks of non-completion.

The Federal Government, however, will have an expanded and significant role in monitoring and overseeing the construction of the project. By enforcement of the terms and conditions proposed herein and to be later specified, the Federal Inspector for the construction of the project will coordinate Federal involvement with the project, minimizing cost overruns, preventing management abuses, and facilitating the timely completion of construction. The U.S.-Canadian Agreement provides additional incentives to minimize cost overruns on construction in Canada. The Decision, including the Agreement, seeks to ensure that U.S. consumers will have the enormous benefit of new Alaskan gas supplies at a price significantly below that of alternative energy sources.

A superior project has now been selected as a result of a thorough decision making process involving all the resources of the Federal Government and a spirited competition between private al-
ternatives. The nation sorely needs new sources of economically competitive natural gas. Now is clearly the time to approve the decision to undertake the final planning and construction of this cost-efficient system for bringing critical supplies of Alaska natural gas to U.S. markets.