

TITLE 15 - COMMERCE AND TRADE
CHAPTER 15D - ALASKA NATURAL GAS PIPELINE

§ 720n. Loan guarantees

(a) Authority

(1) The Secretary may enter into agreements with 1 or more holders of a certificate of public convenience and necessity issued under section 720a (b) of this title or section 719g of this title or with an entity the Secretary determines is qualified to construct and operate a liquefied natural gas project to transport liquefied natural gas from Southcentral Alaska to West Coast States, to issue Federal guarantee instruments with respect to loans and other debt obligations for a qualified infrastructure project.

(2) Subject to the requirements of this section, the Secretary may also enter into agreements with 1 or more owners of the Canadian portion of a qualified infrastructure project to issue Federal guarantee instruments with respect to loans and other debt obligations for a qualified infrastructure project as though such owner were a holder described in paragraph (1).

(3) The authority of the Secretary to issue Federal guarantee instruments under this section for a qualified infrastructure project shall expire on the date that is 2 years after the date on which the final certificate of public convenience and necessity (including any Canadian certificates of public convenience and necessity) is issued for the project. A final certificate shall be considered to have been issued when all certificates of public convenience and necessity have been issued that are required for the initial transportation of commercially economic quantities of natural gas from Alaska to the continental United States.

(b) Conditions

(1) The Secretary may issue a Federal guarantee instrument for a qualified infrastructure project only after a certificate of public convenience and necessity under section 720a (b) of this title or an amended certificate under section 719g of this title has been issued for the project, or after the Secretary certifies there exists a qualified entity to construct and operate a liquefied natural gas project to transport liquefied natural gas from Southcentral Alaska to West Coast States. In no case shall loan guarantees be issued for more than one qualified project.

(2) The Secretary may issue a Federal guarantee instrument under this section for a qualified infrastructure project only if the loan or other debt obligation guaranteed by the instrument has been issued by an eligible lender.

(3) The Secretary shall not require as a condition of issuing a Federal guarantee instrument under this section any contractual commitment or other form of credit support of the sponsors (other than equity contribution commitments and completion guarantees), or any throughput or other guarantee from prospective shippers greater than such guarantees as shall be required by the project owners.

(4) Such loan guarantee may be utilized only by the project chosen by the Federal Energy Regulatory Commission as the qualified project.

(c) Limitations on amounts

(1) The amount of loans and other debt obligations guaranteed under this section for a qualified infrastructure project shall not exceed 80 percent of the total capital costs of the project, including interest during construction.

(2) The principal amount of loans and other debt obligations guaranteed under this section shall not exceed, in the aggregate, \$18,000,000,000, which amount shall be indexed for United States dollar inflation from October 13, 2004, as measured by the Consumer Price Index, except that the total amount of principal that may be guaranteed for a qualified liquefied natural gas project may not exceed a principal amount in which the cost of loan guarantees, as defined by section 661a (5) of title 2, exceeds \$2,000,000,000.

(d) Loan terms and fees

(1) The Secretary may issue Federal guarantee instruments under this section that take into account repayment profiles and grace periods justified by project cash flows and project-specific considerations. The term of any loan guaranteed under this section shall not exceed 30 years.

(2) An eligible lender may assess and collect from the borrower such other fees and costs associated with the application and origination of the loan or other debt obligation as are reasonable and customary for a project finance transaction in the oil and gas sector.

(e) Regulations

The Secretary may issue regulations to carry out this section.

(f) Authorization of appropriations

There are authorized to be appropriated such sums as may be necessary to cover the cost of loan guarantees under this section, as defined by section 661a (5) of title 2. Such sums shall remain available until expended.

(g) Definitions

In this section:

(1) Consumer Price Index

The term “Consumer Price Index” means the Consumer Price Index for all-urban consumers, United States city average, as published by the Bureau of Labor Statistics, or if such index shall cease to be published, any successor index or reasonable substitute thereof.

(2) Eligible lender

The term “eligible lender” means any non-Federal qualified institutional buyer (as defined by section 230.144A(a) of title 17, Code of Federal Regulations (or any successor regulation), known as Rule 144A(a) of the Securities and Exchange Commission and issued under the Securities Act of 1933 [15 U.S.C. 77a et seq.]), including—

(A) a qualified retirement plan (as defined in section 4974 (c) of title 26) that is a qualified institutional buyer; and

(B) a governmental plan (as defined in section 414 (d) of title 26) that is a qualified institutional buyer.

(3) Federal guarantee instrument

The term “Federal guarantee instrument” means any guarantee or other pledge by the Secretary to pledge the full faith and credit of the United States to pay all of the principal and interest on any loan or other debt obligation entered into by a holder of a certificate of public convenience and necessity.

(4) Qualified infrastructure project

The term “qualified infrastructure project” means an Alaskan natural gas transportation project or system consisting of the design, engineering, finance, construction, and completion of pipelines and related transportation and production systems (including gas treatment plants¹ liquification plants and liquefied natural gas tankers for transportation of liquefied natural gas from southcentral Alaska to the West Coast), and appurtenances thereto, that are used to transport natural gas from the Alaska North Slope to the continental United States.

Footnotes

¹ So in original. Probably should be followed by a comma.

(Pub. L. 108–324, div. C, § 116, Oct. 13, 2004, 118 Stat. 1265; Pub.L. 108–199, div. H, § 146, Jan. 23, 2004, 118 Stat. 444; Pub. L. 108–447, div. J, title I, § 114, Dec. 8, 2004, 118 Stat. 3346.)

References in Text

The Securities Act of 1933, referred to in subsec. (g)(2), is title I of act May 27, 1933, ch. 38, 48 Stat. 74, as amended, which is classified generally to subchapter I (§ 77a et seq.) of chapter 2A of this title. For complete classification of this Act to the Code, see section 77a of this title and Tables.

Amendments

2004—Subsec. (a)(1). Pub.L. 108–199, § 146(1), as amended by Pub. L. 108–447, § 114(a)(1), (2), which directed the amendment of subsec. (a) by inserting “or with an entity the Secretary determines is qualified to construct and operate a liquefied natural gas project to transport liquefied natural gas from Southcentral Alaska to West Coast States,” before “to issue”, was executed to par. (1) of subsec. (a) to reflect the probable intent of Congress.

Subsec. (b)(1). Pub.L. 108–199, § 146(2), as amended by Pub. L. 108–447, § 114(1)–(3), inserted before period at end “, or after the Secretary certifies there exists a qualified entity to construct and operate a liquefied natural gas project to transport liquefied natural gas from Southcentral Alaska to West Coast States. In no case shall loan guarantees be issued for more than one qualified project”.

Subsec. (b)(4). Pub. L. 108–447, § 114(b), added par. (4).

Subsec. (c)(2). Pub. L. 108–199, § 146(3), as amended by Pub. L. 108–447, § 114(1), (2), (4), which directed the amendment of subsec. (a)(2) by inserting “, except that the total amount of principal that may be guaranteed for a qualified liquefied natural gas project may not exceed a principal amount in which the cost of loan guarantees, as defined by section 661a (5) of title 2, exceeds \$2,000,000,000” before period at end, was executed by making the amendment to subsec. (c)(2), to reflect the probable intent of Congress.

Subsec. (g)(4). Pub.L. 108–199, § 146(4), as amended by Pub. L. 108–447, § 114(1), (2), (5), inserted “or system” after “gas transportation project” and “liquefaction plants and liquefied natural gas tankers for transportation of liquefied natural gas from Southcentral Alaska to the West Coast” after “including gas treatment plants”.