

mined that such transfer was in the public interest and that the transferee met the requirements of this chapter and the prerequisites to issuance under subsec. (c) of this section.

Subsec. (h). Pub. L. 98-419, §2(d), substituted provision that a license issued under this chapter remain in effect unless suspended or revoked by the Secretary or until surrendered by the licensee for provisions which had limited the terms of licenses to not more than 20 years and which had granted each licensee a preferential right of renewal for not more than 10 years, subject to subsec. (c), upon such conditions and for such term as determined by the Secretary to be reasonable and appropriate.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-380 applicable to incidents occurring after Aug. 18, 1990, see section 1020 of Pub. L. 101-380, set out as an Effective Date note under section 2701 of this title.

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

LNG TANKERS

Pub. L. 114-120, title III, §312, Feb. 8, 2016, 130 Stat. 58, provided that: “Not later than 180 days after the date of the enactment this Act [Feb. 8, 2016], the Secretary of Transportation shall—

“(1) develop guidelines to implement the program authorized under section 304(a) of the Coast Guard and Maritime Transportation Act of 2006 (Public Law 109-241) [formerly set out below], including specific actions to ensure the future availability of able and credentialed United States licensed and unlicensed seafarers including—

“(A) incentives to encourage partnership agreements with operators of foreign-flag vessels that carry liquified natural gas, that provide no less than one training billet per vessel for United States merchant mariners in order to meet minimum mandatory sea service requirements;

“(B) development of appropriate training curricula for use by public and private maritime training institutions to meet all United States merchant mariner license, certification, and document laws and requirements under the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978; and

“(C) steps to promote greater outreach and awareness of additional job opportunities for sea service veterans of the United States Armed Forces; and

“(2) submit such guidelines to the Committee [on] Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.”

Pub. L. 109-241, title III, §304(a), July 11, 2006, 120 Stat. 527, as amended by Pub. L. 113-281, title III, §307(b), Dec. 18, 2014, 128 Stat. 3045, which related to development and implementation of a program to promote transportation of liquefied natural gas to and from the United States on United States flag vessels, was repealed by Pub. L. 116-283, div. G, title LVXXXV [LXXXV], §8502(b)(1), Jan. 1, 2021, 134 Stat. 4747. See section 1504(j)(1) of this title.

§ 1504. Procedure

(a) Regulations; issuance, amendment, or rescission; scope

The Secretary shall, as soon as practicable after January 3, 1975, and after consultation with other Federal agencies, issue regulations to carry out the purposes and provisions of this chapter in accordance with the provisions of section 553 of title 5, without regard to subsection (a) thereof. Such regulations shall pertain to, but need not be limited to, application, issuance, transfer, renewal, suspension, and termination of licenses. Such regulations shall provide for full consultation and cooperation with all other interested Federal agencies and departments and with any potentially affected coastal State, and for consideration of the views of any interested members of the general public. The Secretary is further authorized, consistent with the purposes and provisions of this chapter, to amend or rescind any such regulation.

(b) Additional regulations; criteria for site evaluation and preconstruction testing

The Secretary, in consultation with the Secretary of the Interior and the Administrator of the National Oceanic and Atmospheric Administration, shall, as soon as practicable after January 3, 1975, prescribe regulations relating to those activities involved in site evaluation and preconstruction testing at potential deepwater port locations that may (1) adversely affect the environment; (2) interfere with authorized uses of the Outer Continental Shelf; or (3) pose a threat to human health and welfare. Such activity may thenceforth not be undertaken except in accordance with regulations prescribed pursuant to this subsection. Such regulations shall be consistent with the purposes of this chapter.

(c) Applications

(1) REQUIREMENTS.—

(A) IN GENERAL.—Each person that submits to the Secretary an application shall include in the application a detailed plan that contains all information required under paragraph (2).

(B) ACTION BY SECRETARY.—Not later than 21 days after the date of receipt of an application, the Secretary shall—

(i) determine whether the application contains all information required under paragraph (2); and

(ii)(I) if the Secretary determines that such information is contained in the application, not later than 5 days after making the determination, publish in the Federal Register—

(aa) a notice of the application; and

(bb) a summary of the plans; or

(II) if the Secretary determines that all required information is not contained in the application—

(aa) notify the applicant of the applicable deficiencies; and

(bb) take no further action with respect to the application until those deficiencies have been remedied.

(C) APPLICABILITY.—On publication of a notice relating to an application under subpara-

graph (B)(ii)(I), the Secretary shall be subject to subsection (f).

(2) **INCLUSIONS.**—Each application shall include such financial, technical, and other information as the Secretary determines to be necessary or appropriate, including—

(A) the name, address, citizenship, telephone number, and the ownership interest in the applicant, of each person having any ownership interest in the applicant of greater than 3 per centum;

(B) to the extent feasible, the name, address, citizenship, and telephone number of any person with whom the applicant has made, or proposes to make, a significant contract for the construction or operation of the deepwater port and a copy of any such contract;

(C) the name, address, citizenship, and telephone number of each affiliate of the applicant and of any person required to be disclosed pursuant to subparagraphs (A) or (B), together with a description of the manner in which such affiliate is associated with the applicant or any person required to be disclosed under subparagraph (A) or (B);

(D) the proposed location and capacity of the deepwater port, including all components thereof;

(E) the type and design of all components of the deepwater port and any storage facilities associated with the deepwater port;

(F) with respect to construction in phases, a detailed description of each phase, including anticipated dates of completion for each of the specific components thereof;

(G) the location and capacity of existing and proposed storage facilities and pipelines which will store or transport oil transported through the deepwater port, to the extent known by the applicant or any person required to be disclosed pursuant to subparagraphs (A), (B), or (C);

(H) with respect to any existing and proposed refineries which will receive oil transported through the deepwater port, the location and capacity of each such refinery and the anticipated volume of such oil to be refined by each such refinery, to the extent known by the applicant or any person required to be disclosed pursuant to subparagraphs (A), (B), or (C);

(I) the financial and technical capabilities of the applicant to construct or operate the deepwater port;

(J) other qualifications of the applicant to hold a license under this chapter;

(K) the nation of registry for, and the nationality or citizenship of officers and crew serving on board, vessels transporting natural gas that are reasonably anticipated to be servicing the deepwater port;

(L) a description of procedures to be used in constructing, operating, and maintaining the deepwater port, including systems of oil spill prevention, containment, and cleanup; and

(M) such other information as may be required by the Secretary to determine the environmental impact of the proposed deepwater port.

(3) Upon written request of any person subject to this subsection, the Secretary may make a

determination in writing to exempt such person from any of the informational filing provisions enumerated in this subsection or the regulations implementing this section if the Secretary determines that such information is not necessary to facilitate the Secretary's determinations under section 1503 of this title and that such exemption will not limit public review and evaluation of the deepwater port project.

(d) Application area; publication in Federal Register; "application area" defined; submission of other applications; notice of intent and submission of completed applications; denial of pending application prior to consideration of other untimely applications

(1) At the time notice of an application is published pursuant to subsection (c) of this section, the Secretary shall publish a description in the Federal Register of an application area encompassing the deepwater port site proposed by such application and within which construction of the proposed deepwater port would eliminate, at the time such application was submitted, the need for any other deepwater port within that application area.

(2) As used in this section, "application area" means any reasonable geographical area within which a deepwater port may be constructed and operated. Such application area shall not exceed a circular zone, the center of which is the principal point of loading and unloading at the port, and the radius of which is the distance from such point to the high water mark of the nearest adjacent coastal State.

(3) The Secretary shall accompany such publication with a call for submission of any other applications for licenses for the ownership, construction, and operation of a deepwater port within the designated application area. Persons intending to file applications for such license shall submit a notice of intent to file an application with the Secretary not later than 60 days after the publication of notice pursuant to subsection (c) of this section and shall submit the completed application no later than 90 days after publication of such notice. The Secretary shall publish notice of any such application received in accordance with subsection (c) of this section. No application for a license for the ownership, construction, and operation of a deepwater port within the designated application area for which a notice of intent to file was received after such 60-day period, or which is received after such 90-day period has elapsed, shall be considered until the application pending with respect to such application area have been denied pursuant to this chapter.

(4) This subsection shall not apply to deepwater ports for natural gas.

(e) Recommendations to Secretary of Transportation; application for all Federal authorizations; copies of application to Federal agencies and departments with jurisdiction; recommendation of approval or disapproval and of manner of amendment to comply with laws or regulations

(1) Not later than 30 days after January 3, 1975, the Secretary of the Interior, the Administrator of the Environmental Protection Agency, the Chief of Engineers of the United States Army

Corps of Engineers, the Administrator of the National Oceanic and Atmospheric Administration, and the heads of any other Federal departments or agencies having expertise concerning, or jurisdiction over, any aspect of the construction or operation of deepwater ports shall transmit to the Secretary written comments as to their expertise or statutory responsibilities pursuant to this chapter or any other Federal law.

(2) An application filed with the Secretary shall constitute an application for all Federal authorizations required for ownership, construction, and operation of a deepwater port. At the time notice of any application is published pursuant to subsection (c) of this section, the Secretary shall forward a copy of such application to those Federal agencies and departments with jurisdiction over any aspect of such ownership, construction, or operation for comment, review, or recommendation as to conditions and for such other action as may be required by law. Each agency or department involved shall review the application and, based upon legal considerations within its area of responsibility, recommend to the Secretary, the approval or disapproval of the application not later than 45 days after the last public hearing on a proposed license for a designated application area. In any case in which the agency or department recommends disapproval, it shall set forth in detail the manner in which the application does not comply with any law or regulation within its area of responsibility and shall notify the Secretary how the application may be amended so as to bring it into compliance with the law or regulation involved.

(f) NEPA compliance

For all applications, the Secretary, in cooperation with other involved Federal agencies and departments, shall comply with the National Environmental Policy Act of 1969 (42 U.S.C. 4332) [42 U.S.C. 4321 et seq.]. Such compliance shall fulfill the requirement of all Federal agencies in carrying out their responsibilities under the National Environmental Policy Act of 1969 pursuant to this chapter.

(g) Public notice and hearings; evidentiary hearing in District of Columbia; decision of Secretary based on evidentiary record; consolidation of hearings

A license may be issued only after public notice and public hearings in accordance with this subsection. At least one such public hearing shall be held in each adjacent coastal State. Any interested person may present relevant material at any hearing. After hearings in each adjacent coastal State are concluded if the Secretary determines that there exists one or more specific and material factual issues which may be resolved by a formal evidentiary hearing, at least one adjudicatory hearing shall be held in accordance with the provisions of section 554 of title 5 in the District of Columbia. The record developed in any such adjudicatory hearing shall be basis for the Secretary's decision to approve or deny a license. Hearings held pursuant to this subsection shall be consolidated insofar as practicable with hearings held by other agencies. All public hearings on all applications for any designated application area shall be consolidated

and shall be concluded not later than 240 days after notice of the initial application has been published pursuant to subsection (c).

(h) Fees

(1) Requirement

(A) In general

Each person applying for a license pursuant to this chapter shall remit to the Secretary at the time the application is filed a nonrefundable application fee established by regulation by the Secretary.

(B) Reimbursement

In addition to a fee under subparagraph (A), an applicant shall also reimburse the United States and the appropriate adjacent coastal State for any additional costs incurred in processing an application.

(2) Usage fees

(A) Definition of directly related land-based facility

In this paragraph, the term "directly related land-based facility", with respect to a deepwater port facility, means an onshore tank farm and any pipelines connecting the tank farm to the deepwater port facility.

(B) Authorization

Notwithstanding any other provision of this chapter, and unless prohibited by law, an adjacent coastal State may fix reasonable fees for the use of a deepwater port facility, and such State and any other State in which land-based facilities directly related to a deepwater port facility are located may set reasonable fees for the use of such land-based facilities.

(C) Treatment

A fee may be established pursuant to this paragraph as compensation for any economic cost attributable to the construction and operation of the applicable deepwater port and the applicable land-based facilities, which cannot be recovered under other authority of the applicable State or political subdivision thereof, including, but not limited to, ad valorem taxes, and for environmental and administrative costs attributable to the construction and operation of the applicable deepwater port and the applicable land-based facilities.

(D) Amount

The amount of a fee established under this paragraph shall not exceed the applicable economic, environmental, and administrative costs of the applicable State.

(E) Approval

A fee established under this paragraph shall be subject to the approval of the Secretary.

(3) Rental payment

A licensee shall pay annually in advance the fair market rental value (as determined by the Secretary of the Interior) of the subsoil and seabed of the outer Continental Shelf of the United States to be utilized by the deepwater port, including the fair market rental value of

the right-of-way necessary for the pipeline segment of the port located on such subsoil and seabed.

(i) Application approval; period for determination; priorities; criteria for determination of application best serving national interest

(1) The Secretary shall approve or deny any application for a designated application area submitted pursuant to this chapter not later than 90 days after the last public hearing on a proposed license for that area.

(2) In the event more than one application is submitted for an application area, the Secretary, unless one of the proposed deepwater ports clearly best serves the national interest, shall issue a license according to the following order of priorities:

(A) First, to an adjacent coastal State (or combination of States), any political subdivision thereof, or agency or instrumentality, including a wholly owned corporation of any such government.

(B) Second, to a person who is neither (i) engaged in producing, refining, or marketing oil, nor (ii) an affiliate of any person who is engaged in producing, refining, or marketing oil or an affiliate of any such affiliate.

(C) Third, to any other person.

(3) In determining whether any one proposed deepwater port clearly best serves the national interest, the Secretary shall consider the following factors:

(A) The degree to which the proposed deepwater ports affect the environment, as determined under criteria established pursuant to section 1505 of this title.

(B) National security, including an assessment of the implications for the national security of the United States or an allied country (as that term is defined in section 2350f(d)(1) of title 10) of the United States.

(C) Any significant differences between anticipated completion dates for the proposed deepwater ports.

(D) Any differences in costs of construction and operation of the proposed deepwater ports, to the extent that such differential may significantly affect the ultimate cost of oil to the consumer.

(4) APPLICATIONS FOR DEEPWATER PORTS FOR NATURAL GAS.—

(A) **DEADLINE FOR DETERMINATION.**—The Secretary shall approve or deny any application for a deepwater port for natural gas submitted pursuant to this chapter not later than 90 days after the last public hearing on a proposed license.

(B) **EFFECT OF FAILURE TO DETERMINE.**—If the Secretary fails to approve or deny an application for a deepwater port for natural gas by the applicable deadline under subparagraph (A), the reporting requirements under paragraphs (1), (2), and (3) shall not apply to the application.

(j) LNG tankers

(1) Program

The Secretary shall develop and implement a program to promote the transportation of

liquefied natural gas to and from the United States on United States flag vessels.

(2) Information to be provided

When the Coast Guard is operating as a contributing agency in the Federal Energy Regulatory Commission's shoreside licensing process for a liquefied natural gas or liquefied petroleum gas terminal located on shore or within State seaward boundaries, the Coast Guard shall provide to the Commission the information described in subsection (c)(2)(K) with respect to vessels reasonably anticipated to be servicing that port.

(k) Transparency in issuance of licenses and permits

(1) Definition of applicable deadline

In this subsection, the term “applicable deadline”, with respect to an applicant, means the deadline or date applicable to the applicant under any of the following:

(A) Section 1503(c)(6) of this title.

(B) Section 1503(d)(3) of this title.

(C) Subsection (c)(1)(B) (including clause (ii)(I) of that subsection).

(D) Subsection (d)(3).

(E) Paragraph (1) or (2) of subsection (e).

(F) Subsection (g).

(G) Paragraph (1) or (4)(A) of subsection (i).

(2) Suspensions and delays

If the Secretary suspends or delays an applicable deadline, the Secretary shall submit to the applicant, and publish in the Federal Register, a written statement—

(A) describing the reasons for the suspension or delay;

(B) describing and requesting any information necessary to issue the applicable license or permit and the status of applicable license or permit application at the lead agency and any cooperating agencies; and

(C) identifying the applicable deadline with respect to the statement.

(3) Applicant rights to technical assistance

(A) In general

An applicant that receives a statement under paragraph (2) may submit to the Secretary a request for a meeting with appropriate personnel of the Department of Transportation and representatives of each cooperating Federal agency, as appropriate, determined by the Secretary to be relevant with respect to the application, including such officials as are appropriate, who shall provide technical assistance, status, process, and timeline updates and additional information as necessary.

(B) Timing

A meeting requested under clause (i) shall be held not later than 30 days after the date on which the Secretary receives the request under that clause.

(4) Requirements

On receipt of a request under paragraph (3)(A), and not less frequently than once every 30 days thereafter until the date on which the

application process is no longer suspended or delayed, the Secretary shall submit a notice of the delay, including a description of the time elapsed since the applicable deadline and the nature and circumstances of the applicable suspension or delay, to—

(A) the Committee on Commerce, Science, and Transportation of the Senate; and

(B) the Committee on Transportation and Infrastructure of the House of Representatives.

(5) Briefing

If the Secretary suspends or delays an applicable deadline, not later than 120 days after that applicable deadline, and not less frequently than once every 120 days thereafter until the date on which the application process is no longer suspended or delayed, the Secretary (or a designee of the Secretary) shall provide a briefing regarding the time elapsed since the applicable deadline and the nature and circumstances of the applicable suspension or delay to—

(A) the Committee on Commerce, Science, and Transportation of the Senate; and

(B) the Committee on Transportation and Infrastructure of the House of Representatives.

(Pub. L. 93–627, § 5, Jan. 3, 1975, 88 Stat. 2131; Pub. L. 98–419, § 2(f), Sept. 25, 1984, 98 Stat. 1607; Pub. L. 104–324, title V, § 505, Oct. 19, 1996, 110 Stat. 3927; Pub. L. 107–295, title I, § 106(c), (f), (g), Nov. 25, 2002, 116 Stat. 2086–2088; Pub. L. 109–241, title III, § 304(c)(1), July 11, 2006, 120 Stat. 527; Pub. L. 111–281, title IX, § 903(d), Oct. 15, 2010, 124 Stat. 3011; Pub. L. 116–283, div. G, title LVXXXV [LXXXV], § 8502(b)(2), Jan. 1, 2021, 134 Stat. 4747; Pub. L. 118–31, div. C, title XXXV, § 3514(k)(4), Dec. 22, 2023, 137 Stat. 814.)

Editorial Notes

REFERENCES IN TEXT

The National Environmental Policy Act of 1969, referred to in subsec. (f), 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.

AMENDMENTS

2023—Subsec. (c). Pub. L. 118–31, § 3514(k)(4)(A)(i), inserted heading.

Subsec. (c)(1). Pub. L. 118–31, § 3514(k)(4)(A)(i), amended par. (1) generally. Prior to amendment, par. (1) read as follows: “Any person making an application under this chapter shall submit detailed plans to the Secretary. Within 21 days after the receipt of an application, the Secretary shall determine whether the application appears to contain all of the information required by paragraph (2) hereof. If the Secretary determines that such information appears to be contained in the application, the Secretary shall, no later than 5 days after making such a determination, publish notice of the application and a summary of the plans in the Federal Register. If the Secretary determines that all of the required information does not appear to be contained in the application, the Secretary shall notify the applicant and take no further action with respect to the application until such deficiencies have been remedied.”

Subsec. (c)(2). Pub. L. 118–31, § 3514(k)(4)(A)(ii), inserted heading, substituted “Each application shall in-

clude such financial, technical, and other information as the Secretary determines to be necessary or appropriate, including—” for “Each application shall include such financial, technical, and other information as the Secretary deems necessary or appropriate. Such information shall include, but need not be limited to—” in introductory provisions, struck out “of this paragraph” after “subparagraph (A) or (B)” in two places in subpar. (C), and after “subparagraphs (A), (B), or (C)” in subpars. (G) and (H), and realigned margins of subpars. (A) to (M).

Subsec. (g). Pub. L. 118–31, § 3514(k)(4)(B), substituted “subsection (c)” for “subsection (c) of this section”.

Subsec. (h). Pub. L. 118–31, § 3514(k)(4)(C)(i), inserted heading.

Subsec. (h)(1). Pub. L. 118–31, § 3514(k)(4)(C)(i), (ii), inserted par. (1) heading, designated first sentence of par. (1) as subpar. (A) and inserted subpar. heading, designated second sentence as subpar. (B), inserted subpar. heading, and substituted “In addition to a fee under subparagraph (A)” for “In addition”.

Subsec. (h)(2). Pub. L. 118–31, § 3514(k)(4)(C)(iii)(I), (II), inserted par. heading and struck out “As used in this paragraph, the term ‘land-based facilities directly related to a deepwater port facility’ means the onshore tank farm and pipelines connecting such tank farm to the deepwater port facility.” at end.

Subsec. (h)(2)(A). Pub. L. 118–31, § 3514(k)(4)(C)(iii)(II), added subpar. (A).

Subsec. (h)(2)(B) to (E). Pub. L. 118–31, § 3514(k)(4)(C)(iii)(II), (III), designated first sentence of par. (2) as subpar. (B) and inserted subpar. heading; designated second sentence as subpar. (C), inserted subpar. heading, and substituted “the applicable” for “such” wherever appearing and “A fee may be established pursuant to this paragraph” for “Fees may be fixed under authority of this paragraph”; designated third sentence as subpar. (D), inserted subpar. heading, and substituted “the applicable” for “such” in two places and “The amount of a fee established under this paragraph” for “Fees under this paragraph”; and designated fourth sentence as subpar. (E), inserted subpar. heading, and substituted “A fee established under this paragraph” for “Such fees”.

Subsec. (h)(3). Pub. L. 118–31, § 3514(k)(4)(C)(iv), inserted heading and substituted “outer” for “Outer” before “Continental”.

Subsec. (i)(2)(A). Pub. L. 118–31, § 3514(k)(4)(D)(i)(I), inserted “First,” after subpar. designation and substituted period for semicolon at end.

Subsec. (i)(2)(B). Pub. L. 118–31, § 3514(k)(4)(D)(i)(II), inserted “Second,” after subpar. designation and substituted period for semicolon at end.

Subsec. (i)(2)(C). Pub. L. 118–31, § 3514(k)(4)(D)(i)(III), inserted “Third,” after subpar. designation.

Subsec. (i)(3)(A). Pub. L. 118–31, § 3514(k)(4)(D)(ii)(III), substituted “(A) The degree” for “(A) the degree” and period for semicolon at end.

Subsec. (i)(3)(B) to (D). Pub. L. 118–31, § 3514(k)(4)(D)(ii)(I), (II), (IV), added subpar. (B), redesignated former subpar. (B) as (C) and substituted “Any” for “any” and a period for “; and”, and redesignated former subpar. (C) as (D) and substituted “Any” for “any”.

Subsec. (i)(4). Pub. L. 118–31, § 3514(k)(4)(D)(iii), inserted par. heading, designated existing provisions as subpar. (A) and inserted subpar. heading, struck out “Paragraphs (1), (2), and (3) of this subsection shall not apply to an application for a deepwater port for natural gas.” at end, and added subpar. (B).

Subsec. (j)(1). Pub. L. 118–31, § 3514(k)(4)(E), struck out “of Transportation” after “Secretary”.

Subsec. (k). Pub. L. 118–31, § 3514(k)(4)(F), added subsec. (k).

2021—Subsec. (j). Pub. L. 116–283 added subsec. (j).

2010—Subsec. (c)(2)(K). Pub. L. 111–281 realigned margin.

2006—Subsec. (c)(2)(K) to (M). Pub. L. 109–241 added subpar. (K) and redesignated former subpars. (K) and (L) as (L) and (M), respectively.

2002—Subsec. (d)(4). Pub. L. 107-295, §106(c)(1), added par. (4).

Subsec. (f). Pub. L. 107-295, §106(f), substituted “NEPA compliance” for “Environmental impact statement for single application area; criteria” in heading and amended text generally. Prior to amendment, text read as follows: “For all timely applications covering a single application area, the Secretary, in cooperation with other involved Federal agencies and departments, shall, pursuant to section 4332(2)(C) of title 42, prepare a single, detailed environmental impact statement, which shall fulfill the requirement of all Federal agencies in carrying out their responsibilities pursuant to this chapter to prepare an environmental impact statement. In preparing such statement the Secretary shall consider the criteria established under section 1505 of this title.”

Subsec. (h)(2). Pub. L. 107-295, §106(g), inserted “and unless prohibited by law,” after “Notwithstanding any other provision of this chapter.”

Subsec. (i)(4). Pub. L. 107-295, §106(c)(2), added par. (4).

1996—Subsec. (c)(3). Pub. L. 104-324 added par. (3).

1984—Subsec. (g). Pub. L. 98-419 substituted “issued” for “issued, transferred, or renewed”.

Statutory Notes and Related Subsidiaries

REGULATIONS

Pub. L. 107-295, title I, §106(e), Nov. 25, 2002, 116 Stat. 2087, provided that:

“(1) AGENCY AND DEPARTMENT EXPERTISE AND RESPONSIBILITIES.—Not later than 30 days after the date of the enactment of this Act [Nov. 25, 2002], the heads of Federal departments or agencies having expertise concerning, or jurisdiction over, any aspect of the construction or operation of deepwater ports for natural gas shall transmit to the Secretary of Transportation written comments as to such expertise or statutory responsibilities pursuant to the Deepwater Port Act of 1974 (33 U.S.C. 1501 et seq.) or any other Federal law.

“(2) INTERIM FINAL RULE.—The Secretary may issue an interim final rule as a temporary regulation implementing this section [amending this section and sections 1501 to 1503, 1507, and 1520 of this title] (including the amendments made by this section) as soon as practicable after the date of enactment of this section, without regard to the provisions of chapter 5 of title 5, United States Code.

“(3) FINAL RULES.—As soon as practicable after the date of the enactment of this Act, the Secretary of Transportation shall issue additional final rules that, in the discretion of the Secretary, are determined to be necessary under the Deepwater Port Act of 1974 (33 U.S.C. 1501 et seq.) for the application and issuance of licenses for a deepwater port for natural gas.”

INFORMATION TO BE PROVIDED

Pub. L. 109-241, title III, §304(c)(2), July 11, 2006, 120 Stat. 527, which required the Coast Guard, when operating as a contributing agency in the Federal Energy Regulatory Commission’s shoreside licensing process for certain liquefied natural gas or liquefied petroleum gas terminals, to provide the information described in subsec. (c)(2)(K) of this section, was repealed by Pub. L. 116-283, div. G, title LVXXXV [LXXXV], §8502(b)(1), Jan. 1, 2021, 134 Stat. 4747. See subsec. (j)(2) of this section.

§ 1505. Environmental review criteria

(a) Establishment

The Secretary, in accordance with the recommendations of the Administrator of the Environmental Protection Agency and the Administrator of the National Oceanic and Atmospheric Administration and after consultation with any other Federal departments and agencies having jurisdiction over any aspect of the construction

or operation of a deepwater port, shall establish, as soon as practicable after January 3, 1975, environmental review criteria consistent with the National Environmental Policy Act [42 U.S.C. 4321 et seq.]. Such criteria shall be used to evaluate a deepwater port as proposed in an application, including—

- (1) the effect on the marine environment;
- (2) the effect on oceanographic currents and wave patterns;
- (3) the effect on alternate uses of the oceans and navigable waters, such as scientific study, fishing, and exploitation of other living and nonliving resources;
- (4) the potential dangers to a deepwater port from waves, winds, weather, and geological conditions, and the steps which can be taken to protect against or minimize such dangers;
- (5) effects of land-based developments related to deepwater port development;
- (6) the effect on human health and welfare; and
- (7) such other considerations as the Secretary deems necessary or appropriate.

(b) Review and revision

The Secretary shall periodically review and, whenever necessary, revise in the same manner as originally developed, criteria established pursuant to subsection (a) of this section.

(c) Requirement

The criteria established pursuant to this section shall be developed concurrently with the regulations promulgated pursuant to section 1504(a) of this title and in accordance with that section and in accordance with the provisions of that subsection.

(Pub. L. 93-627, §6, Jan. 3, 1975, 88 Stat. 2135; Pub. L. 118-31, div. C, title XXXV, §3514(k)(5), Dec. 22, 2023, 137 Stat. 818.)

Editorial Notes

REFERENCES IN TEXT

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

AMENDMENTS

2023—Subsec. (a). Pub. L. 118-31, §3514(k)(5)(A), inserted heading.

Subsec. (b). Pub. L. 118-31, §3514(k)(5)(B), inserted heading.

Subsec. (c). Pub. L. 118-31, §3514(k)(5)(C), inserted heading and, in text, substituted “The criteria” for “Criteria” and “concurrently with the regulations promulgated pursuant to section 1504(a) of this title and in accordance with that section” for “concurrently with the regulations in subsection (a) of section 1504 of this title and in accordance with the provisions of that subsection”.

§ 1506. Repealed. Pub. L. 104-324, title V, § 506, Oct. 19, 1996, 110 Stat. 3927

Section, Pub. L. 93-627, §7, Jan. 3, 1975, 88 Stat. 2135; Pub. L. 98-419, §2(g), (h), Sept. 25, 1984, 98 Stat. 1607, provided for antitrust review by Attorney General and