

3925; Pub. L. 107-295, title I, §106(a)(1), Nov. 25, 2002, 116 Stat. 2086.)

AMENDMENTS

2002—Subsec. (a)(5), (6). Pub. L. 107-295 inserted “or natural gas” after “oil” wherever appearing.

1996—Subsec. (a)(5), (6). Pub. L. 104-324 added pars. (5) and (6).

SHORT TITLE OF 1996 AMENDMENT

Pub. L. 104-324, title V, §501, Oct. 19, 1996, 110 Stat. 3925, provided that: “This title [amending this section and sections 1502 to 1504, 1507, and 1509 of this title, repealing section 1506 of this title, and enacting provisions set out as a note under this section] may be cited as the ‘Deepwater Port Modernization Act.’”

SHORT TITLE OF 1984 AMENDMENT

Pub. L. 98-419, §1, Sept. 25, 1984, 98 Stat. 1607, provided: “That this Act [amending sections 1502, 1503, 1504, 1506, 1507, 1517, and 1518 of this title and enacting provisions set out as a note under section 1518 of this title] may be cited as the ‘Deepwater Port Act Amendments of 1984.’”

SHORT TITLE

Pub. L. 93-627, §1, Jan. 3, 1975, 88 Stat. 2126, provided: “That this Act [enacting this chapter and amending section 1333 of Title 43, Public Lands] may be cited as the ‘Deepwater Port Act of 1974.’”

CONGRESSIONAL PURPOSES FOR 1996 AMENDMENTS

Pub. L. 104-324, title V, §502(a), Oct. 19, 1996, 110 Stat. 3925, provided that: “The purposes of this title [see Short Title of 1996 Amendment note above] are to—

“(1) update and improve the Deepwater Port Act of 1974 [33 U.S.C. 1501 et seq.];

“(2) assure that the regulation of deepwater ports is not more burdensome or stringent than necessary in comparison to the regulation of other modes of importing or transporting oil;

“(3) recognize that deepwater ports are generally subject to effective competition from alternative transportation modes and eliminate, for as long as a port remains subject to effective competition, unnecessary Federal regulatory oversight or involvement in the ports’ business and economic decisions; and

“(4) promote innovation, flexibility, and efficiency in the management and operation of deepwater ports by removing or reducing any duplicative, unnecessary, or overly burdensome Federal regulations or license provisions.”

DEPOSIT OF CERTAIN PENALTIES INTO OIL SPILL LIABILITY TRUST FUND

Penalties paid pursuant to this chapter and sections 1319(c) and 1321 of this title to be deposited in the Oil Spill Liability Trust Fund created under section 9509 of Title 26, Internal Revenue Code, see section 4304 of Pub. L. 101-380, set out as a note under section 9509 of Title 26.

ENVIRONMENTAL EFFECTS ABROAD OF MAJOR FEDERAL ACTIONS

For provisions relating to environmental effects abroad of major Federal actions, see Ex. Ord. No. 12114, Jan. 4, 1979, 44 F.R. 1957, set out as a note under section 4321 of Title 42, The Public Health and Welfare.

§ 1502. Definitions

As used in this chapter, unless the context otherwise requires, the term—

(1) “adjacent coastal State” means any coastal State which (A) would be directly connected by pipeline to a deepwater port, as proposed in an application; (B) would be located

within 15 miles of any such proposed deepwater port; or (C) is designated by the Secretary in accordance with section 1508(a)(2) of this title;

(2) “affiliate” means any entity owned or controlled by, any person who owns or controls, or any entity which is under common ownership or control with an applicant, licensee, or any person required to be disclosed pursuant to section 1504(c)(2)(A) or (B) of this title;

(3) “application” means an application submitted under this Act for a license for the ownership, construction, and operation of a deepwater port;

(4) “citizen of the United States” means any person who is a United States citizen by law, birth, or naturalization, any State, any agency of a State or a group of States, or any corporation, partnership, or association organized under the laws of any State which has as its president or other executive officer and as its chairman of the board of directors, or holder of a similar office, a person who is a United States citizen by law, birth or naturalization and which has no more of its directors who are not United States citizens by law, birth or naturalization than constitute a minority of the number required for a quorum necessary to conduct the business of the board;

(5) “coastal environment” means the navigable waters (including the lands therein and thereunder) and the adjacent shorelines including¹ waters therein and thereunder). The term includes transitional and intertidal areas, bays, lagoons, salt marshes, estuaries, and beaches; the fish, wildlife and other living resources thereof; and the recreational and scenic values of such lands, waters and resources;

(6) “coastal State” means any State of the United States in or bordering on the Atlantic, Pacific, or Arctic Oceans, or the Gulf of Mexico;

(7) “construction” means the supervising, inspection, actual building, and all other activities incidental to the building, repairing, or expanding of a deepwater port or any of its components, including, but not limited to, pile driving and bulkheading, and alterations, modifications, or additions to the deepwater port;

(8) “control” means the power, directly or indirectly, to determine the policy, business practices, or decisionmaking process of another person, whether by stock or other ownership interest, by representation on a board of directors or similar body, by contract or other agreement with stockholders or others, or otherwise;

(9) “deepwater port”—

(A) means any fixed or floating manmade structure other than a vessel, or any group of such structures, that are located beyond State seaward boundaries and that are used or intended for use as a port or terminal for the transportation, storage, or further handling of oil or natural gas for transportation

¹ So in original. Probably should be preceded by an opening parenthesis.

to or from any State, except as otherwise provided in section 1522 of this title, and for other uses not inconsistent with the purposes of this chapter, including transportation of oil or natural gas from the United States outer continental shelf;

(B) includes all components and equipment, including pipelines, pumping stations, service platforms, buoys, mooring lines, and similar facilities to the extent they are located seaward of the high water mark;

(C) in the case of a structure used or intended for such use with respect to natural gas, includes all components and equipment, including pipelines, pumping or compressor stations, service platforms, buoys, mooring lines, and similar facilities that are proposed or approved for construction and operation as part of a deepwater port, to the extent that they are located seaward of the high water mark and do not include interconnecting facilities; and

(D) shall be considered a “new source” for purposes of the Clean Air Act (42 U.S.C. 7401 et seq.), and the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.);

(10) “Governor” means the Governor of a State or the person designated by State law to exercise the powers granted to the Governor pursuant to this chapter;

(11) “licensee” means a citizen of the United States holding a valid license for the ownership, construction, and operation of a deepwater port that was issued, transferred, or renewed pursuant to this chapter;

(12) “marine environment” includes the coastal environment, waters of the contiguous zone, and waters of the high seas; the fish, wildlife, and other living resources of such waters; and the recreational and scenic values of such waters and resources;

(13) “natural gas” means either natural gas unmixed, or any mixture of natural or artificial gas, including compressed or liquefied natural gas, natural gas liquids, liquefied petroleum gas, and condensate recovered from natural gas;

(14) “oil” means petroleum, crude oil, and any substance refined from petroleum or crude oil;

(15) “person” includes an individual, a public or private corporation, a partnership or other association, or a government entity;

(16) “safety zone” means the safety zone established around a deepwater port as determined by the Secretary in accordance with section 1509(d) of this title;

(17) “Secretary” means the Secretary of Transportation;

(18) “State” includes each of the States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States; and

(19) “vessel” means every description of watercraft or other artificial contrivance used as a means of transportation on or through the water.

(Pub. L. 93-627, §3, Jan. 3, 1975, 88 Stat. 2127; Pub. L. 98-419, §2(a), Sept. 25, 1984, 98 Stat. 1607; Pub.

L. 104-324, title V, §503, Oct. 19, 1996, 110 Stat. 3926; Pub. L. 107-295, title I, §106(b), Nov. 25, 2002, 116 Stat. 2086; Pub. L. 109-58, title III, §321(b), Aug. 8, 2005, 119 Stat. 694; Pub. L. 112-213, title III, §312, Dec. 20, 2012, 126 Stat. 1569.)

REFERENCES IN TEXT

The Clean Air Act, referred to in par. (9)(D), is act July 14, 1955, ch. 360, 69 Stat. 322, as amended, which is classified generally to chapter 85 (§7401 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 7401 of Title 42 and Tables.

The Federal Water Pollution Control Act, as amended, referred to in par. (9)(D), is act June 30, 1948, ch. 758, as amended generally by Pub. L. 92-500, §2, Oct. 18, 1972, 86 Stat. 816, which is classified generally to chapter 26 (§1251 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1251 of this title and Tables.

AMENDMENTS

2012—Par. (9)(A). Pub. L. 112-213 inserted “or from” before “any State”.

2005—Par. (13). Pub. L. 109-58 inserted “, natural gas liquids, liquefied petroleum gas, and condensate recovered from natural gas” before semicolon at end.

2002—Par. (9). Pub. L. 107-295, §106(b)(2), amended par. (9) generally. Prior to amendment, par. (9) read as follows: “‘deepwater port’ means any fixed or floating manmade structures other than a vessel, or any group of structures, located beyond the territorial sea and off the coast of the United States and which are used or intended for use as a port or terminal for the transportation, storage, and further handling of oil for transportation to any State, except as otherwise provided in section 1522 of this title, and for other uses not inconsistent with the purposes of this chapter, including transportation of oil from the United States outer continental shelf. The term includes all associated components and equipment, including pipelines, pumping stations, service platforms, mooring buoys, and similar appurtenances to the extent they are located seaward of the high water mark. A deepwater port shall be considered a ‘new source’ for purposes of the Clean Air Act, as amended, and the Federal Water Pollution Control Act, as amended;”.

Pars. (13) to (19). Pub. L. 107-295, §106(b)(1), (3), added par. (13) and redesignated former pars. (13) to (18) as (14) to (19), respectively.

1996—Pars. (3) to (8). Pub. L. 104-324, §503(a), redesignated pars. (4) to (9) as (3) to (8), respectively, and struck out former par. (3) which read as follows: “‘anti-trust laws’ includes the Act of July 2, 1890, as amended, the Act of October 15, 1914, as amended, the Federal Trade Commission Act (15 U.S.C. 41 et seq.), and sections 73 and 74 of the Act of August 27, 1894, as amended;”.

Par. (9). Pub. L. 104-324, §503(a)(2), (b), redesignated par. (10) as (9) and substituted “structures, located beyond the territorial sea and off the coast of the United States and which are used or intended for use as a port or terminal for the transportation, storage, and further handling of oil for transportation to any State, except as otherwise provided in section 1522 of this title, and for other uses not inconsistent with the purposes of this chapter, including transportation of oil from the United States outer continental shelf.” for “such structures, located beyond the territorial sea and off the coast of the United States and which are used or intended for use as a port or terminal for the loading or unloading and further handling of oil for transportation to any State, except as otherwise provided in section 1522 of this title.” Former par. (9) redesignated (8).

Pars. (10) to (19). Pub. L. 104-324, §503(a)(2), redesignated pars. (11) to (19) as (10) to (18), respectively. Former par. (10) redesignated (9).

1984—Par. (4). Pub. L. 98-419 substituted “means an application” for “means any application”, struck out

designation “(A)” before “for a license”, and struck out cls. (B) and (C) which provided that “application” meant any application submitted under this chapter for transfer of any license referred to in this paragraph, or for any substantial change in any of the conditions and provisions of any such license.

TERRITORIAL SEA AND CONTIGUOUS ZONE OF UNITED STATES

For extension of territorial sea and contiguous zone of United States, see Proc. No. 5928 and Proc. No. 7219, respectively, set out as notes under section 1331 of Title 43, Public Lands.

§ 1503. License for ownership, construction, and operation of deepwater port

(a) Requirement

No person may engage in the ownership, construction, or operation of a deepwater port except in accordance with a license issued pursuant to this chapter. No person may transport or otherwise transfer any oil or natural gas between a deepwater port and the United States unless such port has been so licensed and the license is in force.

(b) Issuance, transfer, amendment, or reinstatement

The Secretary may—

(1) on application, issue a license for the ownership, construction, and operation of a deepwater port; and

(2) on petition of the licensee, amend, transfer, or reinstate a license issued under this chapter.

(c) Conditions for issuance

The Secretary may issue a license in accordance with the provisions of this chapter if—

(1) he determines that the applicant is financially responsible and will meet the requirements of section 2716 of this title¹

(2) he determines that the applicant can and will comply with applicable laws, regulations, and license conditions;

(3) he determines that the construction and operation of the deepwater port will be in the national interest and consistent with national security and other national policy goals and objectives, including energy sufficiency and environmental quality;

(4) he determines that the deepwater port will not unreasonably interfere with international navigation or other reasonable uses of the high seas, as defined by treaty, convention, or customary international law;

(5) he determines, in accordance with the environmental review criteria established pursuant to section 1505 of this title, that the applicant has demonstrated that the deepwater port will be constructed and operated using best available technology, so as to prevent or minimize adverse impact on the marine environment;

(6) he has not been informed, within 45 days of the last public hearing on a proposed license for a designated application area, by the Administrator of the Environmental Protection Agency that the deepwater port will not conform with all applicable provisions of the

Clean Air Act, as amended [42 U.S.C. 7401 et seq.], the Federal Water Pollution Control Act, as amended [33 U.S.C. 1251 et seq.], or the Marine Protection, Research and Sanctuaries Act, as amended [16 U.S.C. 1431 et seq., 1447 et seq.; 33 U.S.C. 1401 et seq., 2801 et seq.];

(7) he has consulted with the Secretary of the Army, the Secretary of State, and the Secretary of Defense, to determine their views on the adequacy of the application, and its effect on programs within their respective jurisdictions;

(8) the Governor of the adjacent coastal State of States, pursuant to section 1508 of this title, approves, or is presumed to approve, issuance of the license; and

(9) the adjacent coastal State to which the deepwater port is to be directly connected by pipeline has developed, or is making, at the time the application is submitted, reasonable progress, as determined in accordance with section 1508(c) of this title, toward developing, an approved coastal zone management program pursuant to the Coastal Zone Management Act of 1972 [16 U.S.C. 1451 et seq.].

(d) Application for license subject to examination and comparison of economic, social, and environmental effects of deepwater port facility and deep draft channel and harbor; finality of determination

If an application is made under this chapter for a license to construct a deepwater port facility off the coast of a State, and a port of the State which will be directly connected by pipeline with such deepwater port, on the date of such application—

(1) has existing plans for construction of a deep draft channel and harbor; and

(2) has either (A) an active study by the Secretary of the Army relating to the construction of a deep draft channel and harbor, or (B) a pending application for a permit under section 403 of this title for such construction; and

(3) applies to the Secretary for a determination under this section within 30 days of the date of the license application;

the Secretary shall not issue a license under this chapter until he has examined and compared the economic, social, and environmental effects of the construction and operation of the deepwater port with the economic, social and environmental effects of the construction, expansion, deepening, and operation of such State port, and has determined which project best serves the national interest or that both developments are warranted. The Secretary's determination shall be discretionary and nonreviewable.

(e) Additional conditions; removal requirements, waiver; Outer Continental Shelf Lands Act applicable to utilization of components upon waiver of removal requirements

(1) In issuing a license for the ownership, construction, and operation of a deepwater port, the Secretary shall prescribe those conditions which the Secretary deems necessary to carry out the provisions and requirements of this chapter² or

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

² See References in Text note below.