

(D) any exploration license before July 1, 1981, or any permit which authorizes commercial recovery to commence before January 1, 1988;

(E) any license or permit the exploration plan or recovery plan for which applies to any area of the deep seabed if, within the 3-year period before the date of application for such license or permit, (i) the applicant therefor surrendered or relinquished such area under an exploration plan or recovery plan associated with a previous license or permit issued to such applicant, or (ii) a license or permit previously issued to the applicant had an exploration plan or recovery plan which applied to such area and such license or permit was revoked under section 1416 of this title; or

(F) a license or permit, or approve the transfer of a license or permit, except to a United States citizen.

(2) No permittee may use any vessel for the commercial recovery of hard mineral resources or for the processing at sea of hard mineral resources recovered under the permit issued to the permittee unless the vessel is documented under the laws of the United States.

(3) Each permittee shall use at least one vessel documented under the laws of the United States for the transportation from each mining site of hard mineral resources recovered under the permit issued to the permittee.

(4) For purposes of the shipping laws of the United States, any vessel documented under the laws of the United States and used in the commercial recovery, processing, or transportation from any mining site of hard mineral resources recovered under a permit issued under this subchapter shall be deemed to be used in, and used in an essential service in, the foreign commerce or foreign trade of the United States, as defined in section 109 of title 46, and shall be deemed to be a vessel as defined in section 53701(13) of title 46.

(5) Except as otherwise provided in this paragraph, the processing on land of hard mineral resources recovered pursuant to a permit shall be conducted within the United States: *Provided*, That the President does not determine that such restrictions contravene the overriding national interests of the United States. The Administrator may allow the processing of hard mineral resources at a place other than within the United States if he finds, after opportunity for an agency hearing, that—

(A) the processing of the quantity concerned of such resource at a place other than within the United States is necessary for the economic viability of the commercial recovery activities of a permittee; and

(B) satisfactory assurances have been given by the permittee that such resource, after processing, to the extent of the permittee's ownership therein, will be returned to the United States for domestic use, if the Administrator so requires after determining that the national interest necessitates such return.

(Pub. L. 96-283, title I, §102, June 28, 1980, 94 Stat. 558.)

CODIFICATION

In subsec. (c)(4), "section 109 of title 46" substituted for "section 905(a) of the Merchant Marine Act, 1936"

and "section 53701(13) of title 46" substituted for "section 1101(b) of that Act" on authority of Pub. L. 109-304, §18(c), Oct. 6, 2006, 120 Stat. 1709, which Act enacted sections 109 and 53701 of Title 46, Shipping.

§ 1413. License and permit applications, review, and certification

(a) Applications

(1) Any United States citizen may apply to the Administrator for the issuance or transfer of a license for exploration or a permit for commercial recovery.

(2)(A) Applications for issuance or transfer of licenses for exploration and permits for commercial recovery shall be made in such form and manner as the Administrator shall prescribe in general and uniform regulations and shall contain such relevant financial, technical, and environmental information as the Administrator may by regulations require as being necessary and appropriate for carrying out the provisions of this subchapter. In accordance with such regulations, each applicant for the issuance of a license shall submit an exploration plan as described in subparagraph (B), and each applicant for a permit shall submit a recovery plan as described in subparagraph (C).

(B) The exploration plan for a license shall set forth the activities proposed to be carried out during the period of the license, describe the area to be explored, and include the intended exploration schedule and methods to be used, the development and testing of systems for commercial recovery to take place under the terms of the license, an estimated schedule of expenditures, measures to protect the environment and to monitor the effectiveness of environmental safeguards and monitoring systems for commercial recovery, and such other information as is necessary and appropriate to carry out the provisions of this subchapter. The area set forth in an exploration plan shall be of sufficient size to allow for intensive exploration.

(C) The recovery plan for a permit shall set forth the activities proposed to be carried out during the period of the permit, and shall include the intended schedule of commercial recovery, environmental safeguards and monitoring systems, details of the area or areas proposed for commercial recovery, a resource assessment thereof, the methods and technology to be used for commercial recovery and processing, the methods to be used for disposal of wastes from recovery and processing, and such other information as is necessary and appropriate to carry out the provisions of this subchapter.

(D) The applicant shall select the size and location of the area of the exploration plan or recovery plan, which area shall be approved unless the Administrator finds that—

(i) the area is not a logical mining unit; or

(ii) commercial recovery activities in the proposed location would result in a significant adverse impact on the quality of the environment which cannot be avoided by the imposition of reasonable restrictions.

(E) For purposes of subparagraph (D), "logical mining unit" means—

(i) in the case of a license for exploration, an area of the deep seabed which can be explored

under the license in an efficient, economical, and orderly manner with due regard for conservation and protection of the environment, taking into consideration the resource data, other relevant physical and environmental characteristics, and the state of the technology of the applicant as set forth in the exploration plan; or

(ii) in the case of a permit, an area of the deep seabed—

(I) in which hard mineral resources can be recovered in sufficient quantities to satisfy the permittee's estimated production requirements over the initial 20-year term of the permit in an efficient, economical, and orderly manner with due regard for conservation and protection of the environment, taking into consideration the resource data, other relevant physical and environmental characteristics, and the state of the technology of the applicant set out in the recovery plan;

(II) which is not larger than is necessary to satisfy the permittee's estimated production requirements over the initial 20-year term of the permit; and

(III) in relation to which the permittee's estimated production requirements are not found by the Administrator to be unreasonable.

(b) Priority of right for issuance

Subject to section 1411(b) of this title, priority of right for the issuance of licenses to applicants shall be established on the basis of the chronological order in which license applications which are in substantial compliance with the requirements established under subsection (a)(2) of this section are filed with the Administrator. Priority of right shall not be lost in the case of any application filed which is in substantial but not full compliance with such requirements if the applicant thereafter brings the application into conformity with such requirements within such reasonable period of time as the Administrator shall prescribe in regulations.

(c) Eligibility for certification

Before the Administrator may certify any application for issuance or transfer of a license for exploration or permit for commercial recovery, the Administrator must find in writing, after consultation with other departments and agencies pursuant to subsection (e) of this section, that—

(1) the applicant has demonstrated that, upon issuance or transfer of the license or permit, the applicant will be financially responsible to meet all obligations which may be required of a licensee or permittee to engage in the exploration or commercial recovery proposed in the application;

(2) the applicant has demonstrated that, upon issuance or transfer of the license or permit, the applicant will have the technological capability to engage in such exploration or commercial recovery;

(3) the applicant has satisfactorily fulfilled all obligations under any license or permit previously issued or transferred to the applicant under this chapter; and

(4) the proposed exploration plan or recovery plan of the applicant meets the requirements

of this chapter and the regulations issued under this chapter.

(d) Antitrust review

(1) Whenever the Administrator receives any application for issuance or transfer of a license for exploration or permit for commercial recovery, the Administrator shall transmit promptly a complete copy of such application to the Attorney General of the United States and the Federal Trade Commission.

(2) The Attorney General and the Federal Trade Commission shall conduct such antitrust review of the application as they deem appropriate and shall, if they deem appropriate, advise the Administrator of the likely effects of such issuance or transfer on competition.

(3) The Attorney General and the Federal Trade Commission may make any recommendations they deem advisable to avoid any action upon such application by the Administrator which would create or maintain a situation inconsistent with the antitrust laws. Such recommendations may include, without limitation, the denial of issuance or transfer of the license or permit or issuance or transfer upon such terms and conditions as may be appropriate.

(4) Any advice or recommendation submitted by the Attorney General or the Federal Trade Commission pursuant to this subsection shall be submitted within 90 days after receipt by them of the application. The Administrator shall not issue or transfer the license or permit during that 90-day period, except upon written confirmation by the Attorney General and the Federal Trade Commission that neither intends to submit any further advice or recommendation with respect to the application.

(5) If the Administrator decides to issue or transfer the license or permit with respect to which denial of the issuance or transfer of the license or permit has been recommended by the Attorney General or the Federal Trade Commission, or to issue or transfer the license or permit without imposing those terms and conditions recommended by the Attorney General or the Federal Trade Commission as appropriate to prevent any situation inconsistent with the antitrust laws, the Administrator shall, prior to or upon issuance or transfer of the license or permit, notify the Attorney General and the Federal Trade Commission of the reasons for such decision.

(6) The issuance or transfer of a license or permit under this subchapter shall not be admissible in any way as a defense to any civil or criminal action for violation of the antitrust laws of the United States, nor shall it in any way modify or abridge any private right of action under such laws.

(7) As used in this subsection, the term "antitrust laws" means the Act of July 2, 1890 (commonly known as the Sherman Act; 15 U.S.C. 1-7); sections 73 through 76 of the Act of August 27, 1894 (commonly known as the Wilson Tariff Act; 15 U.S.C. 8-11); the Clayton Act (15 U.S.C. 12 et seq.); the Act of June 19, 1936 (commonly known as the Robinson-Patman Price Discrimination Act; 15 U.S.C. 13-13b and 21a); and the Federal Trade Commission Act (15 U.S.C. 41 et seq.).

(e) Other Federal agencies

The Administrator shall provide by regulation for full consultation and cooperation, prior to certification of an application for the issuance or transfer of any license for exploration or permit for commercial recovery and prior to the issuance or transfer of such a license or permit, with other Federal agencies or departments which have programs or activities within their statutory responsibilities which would be affected by the activities proposed in the application for the issuance or transfer of a license or permit. Not later than 30 days after June 28, 1980, the heads of any Federal departments or agencies having expertise concerning, or jurisdiction over, any aspect of the recovery or processing of hard mineral resources shall transmit to the Administrator written comments as to their expertise or statutory responsibilities pursuant to this chapter or any other Federal law. To the extent possible, such agencies shall cooperate to reduce the number of separate actions required to satisfy the statutory responsibilities of these agencies. The Administrator shall transmit to each such agency or department a complete copy of each application and each such agency or department, based on its legal responsibilities and authorities, may, not later than 60 days after receipt of the application, recommend certification of the application, issuance or transfer of the license or permit, or denial of such certification, issuance, or transfer. In any case in which an agency or department recommends such a denial, 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 indicate how the application may be amended, or how terms, conditions, or restrictions might be added to the license or permit, to assure compliance with such law or regulation.

(f) Review period

All time periods for the review of an application for issuance or transfer of a license or permit established pursuant to this section shall, to the maximum extent practicable, run concurrently from the date on which the application is received by the Administrator.

(g) Application certification

Upon making the applicable determinations and findings required in sections 1411, 1412 of this title, and this section with respect to any applicant for the issuance or transfer of a license or a permit and the exploration or commercial recovery proposed by such applicant, after completion of procedures for receiving the application required by this chapter, and upon payment by the applicant of the fee required under section 1414 of this title, the Administrator shall certify the application for the issuance or transfer of the license or permit. The Administrator, to the maximum extent possible, shall endeavor to complete certification action on the application within 100 days after its submission. If final certification or denial of certification has not occurred within 100 days after submission of the application, the Administrator shall inform the applicant in writing of the then pending unresolved issues, the Admin-

istrator's efforts to resolve them, and an estimate of the time required to do so.

(Pub. L. 96-283, title I, §103, June 28, 1980, 94 Stat. 560; Pub. L. 107-273, div. C, title IV, §14102(c)(2)(E), Nov. 2, 2002, 116 Stat. 1921.)

REFERENCES IN TEXT

Act of July 2, 1890 (commonly known as the Sherman Act; 15 U.S.C. 1-7), referred to in subsec. (d)(7), is act July 2, 1890, ch. 647, 26 Stat. 209, as amended, which is classified to sections 1 to 7 of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 1 of Title 15 and Tables.

Sections 73 through 76 of the Act of August 27, 1894 (commonly known as the Wilson Tariff Act; 15 U.S.C. 8-11), referred to in subsec. (d)(7), are sections 73 to 76 of act Aug. 27, 1894, ch. 349, 28 Stat. 570, as amended, which enacted sections 8 to 11 of Title 15. For complete classification of this Act to the Code, see Short Title note set out under section 8 of Title 15 and Tables.

The Clayton Act (15 U.S.C. 12 et seq.), referred to in subsec. (d)(7), is act Oct. 15, 1914, ch. 323, 38 Stat. 730, as amended, which is classified generally to sections 12, 13, 14 to 19, 21, and 22 to 27 of Title 15, and sections 52 and 53 of Title 29, Labor. For further details and complete classification of this Act to the Code, see References in Text note set out under section 12 of Title 15 and Tables.

Act of June 19, 1936 (commonly known as the Robinson-Patman Price Discrimination Act; 15 U.S.C. 13-13b and 21a), referred to in subsec. (d)(7), is act June 19, 1936, ch. 592, 49 Stat. 1526, also known as the Robinson-Patman Antidiscrimination Act, which enacted sections 13a, 13b, and 21a of Title 15, and amended section 13 of Title 15. For complete classification of this Act to the Code, see Short Title note set out under section 13 of Title 15 and Tables.

The Federal Trade Commission Act (15 U.S.C. 41 et seq.), referred to in subsec. (d)(7), is act Sept. 26, 1914, ch. 311, 38 Stat. 717, as amended, which is classified generally to subchapter I (§41 et seq.) of chapter 2 of Title 15. For complete classification of this Act to the Code, see section 58 of Title 15 and Tables.

AMENDMENTS

2002—Subsec. (d)(7). Pub. L. 107-273 substituted “76” for “77”.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107-273 effective Nov. 2, 2002, and applicable only with respect to cases commenced on or after Nov. 2, 2002, see section 14103 of Pub. L. 107-273, set out as a note under section 3 of Title 15, Commerce and Trade.

§ 1414. License and permit fees

No application for the issuance or transfer of a license for exploration or permit for commercial recovery shall be certified unless the applicant pays to the Administrator a reasonable administrative fee which shall be deposited into miscellaneous receipts of the Treasury. The amount of the administrative fee imposed by the Administrator on any applicant shall reflect the reasonable administrative costs incurred in reviewing and processing the application.

(Pub. L. 96-283, title I, §104, June 28, 1980, 94 Stat. 563.)