

to which its license is issued, except as provided by subsection (b) of this section.

(b) Discrimination prohibition; exceptions

A licensee is not discriminating under this section and is not subject to common carrier regulations under subsection (a) of this section when that licensee—

(1) is subject to effective competition for the transportation of oil from alternative transportation systems; and

(2) sets its rates, fees, charges, and conditions of service on the basis of competition, giving consideration to other relevant business factors such as the market value of services provided, licensee's cost of operation, and the licensee's investment in the deepwater port and a storage facility, and components thereof, serviced directly by that deepwater port.

(c) Enforcement, suspension, or termination proceedings

When the Secretary has reason to believe that a licensee is not in compliance with this section, the Secretary shall commence an appropriate proceeding before the Federal Energy Regulatory Commission or request the Attorney General to take appropriate steps to enforce compliance with this section and, when appropriate, to secure the imposition of appropriate sanctions. In addition, the Secretary may suspend or revoke the license of a licensee not complying with its obligations under this section.

(d) Managed access

Subsections (a) and (b) shall not apply to deepwater ports for natural gas. A licensee of a deepwater port for natural gas, or an affiliate thereof, may exclusively utilize the entire capacity of the deepwater port and storage facilities for the acceptance, transport, storage, regasification, or conveyance of natural gas produced, processed, marketed, or otherwise obtained by agreement by such licensee or its affiliates. The licensee may make unused capacity of the deepwater port and storage facilities available to other persons, pursuant to reasonable terms and conditions imposed by the licensee, if such use does not otherwise interfere in any way with the acceptance, transport, storage, regasification, or conveyance of natural gas produced, processed, marketed, or otherwise obtained by agreement by such licensee or its affiliates.

(e) Jurisdiction

Notwithstanding any provision of the Natural Gas Act (15 U.S.C. 717 et seq.), any regulation or rule issued thereunder, or section 1518 of this title as it pertains to such Act, this chapter shall apply with respect to the licensing, siting, construction, or operation of a deepwater natural gas port or the acceptance, transport, storage, regasification, or conveyance of natural gas at or through a deepwater port, to the exclusion of the Natural Gas Act or any regulation or rule issued thereunder.

(Pub. L. 93-627, § 8, Jan. 3, 1975, 88 Stat. 2136; Pub. L. 98-419, § 3(a), Sept. 25, 1984, 98 Stat. 1608; Pub. L. 104-324, title V, § 507, Oct. 19, 1996, 110 Stat. 3927; Pub. L. 107-295, title I, § 106(d), Nov. 25, 2002, 116 Stat. 2087.)

Editorial Notes

REFERENCES IN TEXT

The Interstate Commerce Act, referred to in subsec. (a), is act Feb. 4, 1887, ch. 104, 24 Stat. 379, as amended. Part I of the Act, which was classified to chapter 1 (§ 1 et seq.) of former Title 49, Transportation, was repealed by Pub. L. 95-473, § 4(b), Oct. 17, 1978, 92 Stat. 1467, the first section of which enacted subtitle IV (§ 10101 et seq.) of Title 49. For distribution of former sections of Title 49 into the revised Title 49, see Table at the beginning of Title 49.

The Natural Gas Act, referred to in subsec. (e), is act June 21, 1938, ch. 556, 52 Stat. 821, which is classified generally to chapter 15B (§ 717 et seq.) of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see section 717w of Title 15 and Tables.

AMENDMENTS

2002—Subsecs. (d), (e). Pub. L. 107-295 added subsecs. (d) and (e).

1996—Subsec. (a). Pub. L. 104-324, § 507(a), inserted “and shall accept, transport, or convey without discrimination all oil delivered to the deepwater port with respect to which its license is issued,” after “subtitle IV of title 49.”

Subsec. (b). Pub. L. 104-324, § 507(b), substituted “A licensee is not discriminating under this section and” for “A licensee under this chapter shall accept, transport, or convey without discrimination all oil delivered to the deepwater port with respect to which its license is issued. However, a licensee”.

1984—Subsec. (a). Pub. L. 98-419 substituted provision that a deepwater port and a storage facility serviced directly by that deepwater port shall operate as a common carrier under applicable provisions of part I of the Interstate Commerce Act and subtitle IV of title 49 except as provided by subsec. (b), for provision that such port and such facilities were subject to regulations as a common carrier in accordance with the Interstate Commerce Act, as amended, for purposes of chapter 39 of title 18 and former sections 1 to 27 of title 49.

Subsec. (b). Pub. L. 98-419 inserted provisions enumerating conditions under which a licensee is not subject to common carrier regulations under subsec. (a). Provisions dealing with enforcement, suspension, or termination proceedings, were redesignated as subsec. (c).

Subsec. (c). Pub. L. 98-419 redesignated a portion of provisions of subsec. (b) as subsec. (c), and in subsec. (c) as so redesignated substituted provisions authorizing the Secretary to commence proceedings before the Federal Energy Regulatory Commission, or to suspend or revoke licenses of noncomplying licensees, in the event of noncompliance with this section, for provisions which had authorized the Secretary to commence proceedings before the Interstate Commerce Commission or to suspend or terminate licenses of noncomplying licensees as provided in section 1511 of this title, in the event of noncompliance by a licensee with its obligations as a common carrier.

§ 1508. Adjacent coastal States

(a) Designation

In issuing a notice relating to an application for a deepwater port under section 1504(c)(1)(B)(ii)(I) of this title, the Secretary shall designate as an adjacent coastal State, with respect to the deepwater port, any coastal State that would be—

(1) directly connected by pipeline to that deepwater port; or

(2) located within 15 miles of that deepwater port.

(b) Input from adjacent coastal States and other interested states**(1) Submission of applications to governors for approval****(A) In general**

Not later than 10 days after the date on which the Secretary designates adjacent coastal States under subsection (a) with respect to a deepwater port proposed in an application, the Secretary shall transmit a complete copy of the application to the Governor of each adjacent coastal State.

(B) Prohibition

The Secretary shall not issue a license without the approval of the Governor of each adjacent coastal State.

(C) Presumed approval

If the Governor of an adjacent coastal State fails to transmit a required approval or disapproval to the Secretary not later than 45 days after the last public hearing on applications for a particular application area, such approval shall be conclusively presumed.

(D) Inconsistency with certain state programs

If the Governor of an adjacent coastal State notifies the Secretary that an application, which would otherwise be approved pursuant to this paragraph, is inconsistent with State programs relating to environmental protection, land and water use, and coastal zone management, the Secretary shall condition the license granted so as to make it consistent with such State programs.

(2) Other interested states

Any other State with an interest relating to a deepwater port proposed in an application shall have the opportunity to make its views known to, and shall be given full consideration by, the Secretary regarding the location, construction, and operation of the deepwater port.

(c) Reasonable progress toward development of coastal zone management program; planning grants

The Secretary shall not issue a license unless 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 toward developing an approved coastal zone management program pursuant to the Coastal Zone Management Act of 1972 [16 U.S.C. 1451 et seq.] in the area to be directly and primarily impacted by land and water development in the coastal zone resulting from such deepwater port. For the purposes of this chapter, a State shall be considered to be making reasonable progress if it is receiving a planning grant pursuant to section 305 of the Coastal Zone Management Act [16 U.S.C. 1454].

(d) State agreements or compacts

The consent of Congress is given to two or more coastal States to negotiate and enter into agreements or compacts, not in conflict with

any law or treaty of the United States, (1) to apply for a license for the ownership, construction, and operation of a deepwater port or for the transfer of such license, and (2) to establish such agencies, joint or otherwise, as are deemed necessary or appropriate for implementing and carrying out the provisions of any such agreement or compact. Such agreement or compact shall be binding and obligatory upon any State or party thereto without further approval by Congress.

(Pub. L. 93-627, § 9, Jan. 3, 1975, 88 Stat. 2136; Pub. L. 118-31, div. C, title XXXV, § 3514(k)(6), Dec. 22, 2023, 137 Stat. 818.)

Editorial Notes

REFERENCES IN TEXT

The Coastal Zone Management Act of 1972, referred to in subsec. (c), is title III of Pub. L. 89-454 as added by Pub. L. 92-583, Oct. 27, 1972, 86 Stat. 1280, which is classified generally to chapter 33 (§1451 et seq.) of Title 16, Conservation. For complete classification of this Act to the Code, see Short Title note set out under section 1451 of Title 16, and Tables.

AMENDMENTS

2023—Subsec. (a). Pub. L. 118-31, § 3514(k)(6)(A), amended subsec. (a) generally. Prior to amendment, text read as follows:

“(1) The Secretary, in issuing notice of application pursuant to section 1504(c) of this title, shall designate as an “adjacent coastal State” any coastal State which (A) would be directly connected by pipeline to a deepwater port as proposed in an application, or (B) would be located within 15 miles of any such proposed deepwater port.

“(2) The Secretary shall, upon request of a State, and after having received the recommendations of the Administrator of the National Oceanic and Atmospheric Administration, designate such State as an “adjacent coastal State” if he determines that there is a risk of damage to the coastal environment of such State equal to or greater than the risk posed to a State directly connected by pipeline to the proposed deepwater port. This paragraph shall apply only with respect to requests made by a State not later than the 14th day after the date of publication of notice of an application for a proposed deepwater port in the Federal Register in accordance with section 1504(c) of this title. The Secretary shall make the designation required by this paragraph not later than the 45th day after the date he receives such a request from a State.”

Subsec. (b). Pub. L. 118-31, § 3514(k)(6)(B)(i), inserted subsec. heading.

Subsec. (b)(1). Pub. L. 118-31, § 3514(k)(6)(B)(i), (ii), inserted par. (1) heading, designated first sentence par. (1) as subpar. (A), inserted subpar. heading, and substituted “Not later than 10 days after the date on which the Secretary designates adjacent coastal States under subsection (a) with respect to a deepwater port proposed in an application” for “Not later than 10 days after the designation of adjacent coastal States pursuant to this chapter”; designated second sentence as subpar. (B) and inserted subpar. heading; designated third sentence as subpar. (C), inserted subpar. heading, and substituted “If the Governor of an adjacent coastal State fails to transmit a required” for “If the Governor fails to transmit his”; and designated fourth sentence as subpar. (D), inserted subpar. heading, and substituted “If the Governor of an adjacent coastal State” for “If the Governor”.

Subsec. (b)(2). Pub. L. 118-31, § 3514(k)(6)(B)(iii), inserted heading and, in text, substituted “Any other State with an interest relating to a deepwater port proposed in an application” for “Any other interested State” and “the deepwater port” for “a deepwater port”.

§ 1509. Marine environmental protection and navigational safety

(a) Regulations and procedures

Subject to recognized principles of international law and the provision of adequate opportunities for public involvement, the Secretary shall prescribe and enforce procedures, either by regulation (for basic standards and conditions) or by the licensee's operations manual, with respect to rules governing vessel movement, loading and unloading procedures, designation and marking of anchorage areas, maintenance, law enforcement, and the equipment, training, and maintenance required (A) to prevent pollution of the marine environment, (B) to clean up any pollutants which may be discharged, and (C) to otherwise prevent or minimize any adverse impact from the construction and operation of such deepwater port.

(b) Safety of property and life; regulations

The Secretary shall issue and enforce regulations with respect to lights and other warning devices, safety equipment, and other matters relating to the promotion of safety of life and property in any deepwater port and the waters adjacent thereto.

(c) Marking of components; payment of cost

The Secretary shall mark, for the protection of navigation, any component of a deepwater port whenever the licensee fails to mark such component in accordance with applicable regulations. The licensee shall pay the cost of such marking.

(d) Safety zones; designation; construction period; permitted activities

(1) Subject to recognized principles of international law and after consultation with the Secretary of the Interior, the Secretary of Commerce, the Secretary of State, and the Secretary of Defense, the Secretary shall designate a zone of appropriate size around and including any deepwater port for the purpose of navigational safety. In such zone, no installations, structures, or uses will be permitted that are incompatible with the operation of the deepwater port. The Secretary shall by regulation define permitted activities within such zone. The Secretary shall, not later than 30 days after publication of notice pursuant to section 1504(c) of this title, designate such safety zone with respect to any proposed deepwater port.

(2) In addition to any other regulations, the Secretary is authorized, in accordance with this subsection, to establish a safety zone to be effective during the period of construction of a deepwater port and to issue rules and regulations relating thereto.

(Pub. L. 93-627, §10, Jan. 3, 1975, 88 Stat. 2137; Pub. L. 104-324, title V, §508, Oct. 19, 1996, 110 Stat. 3927.)

Editorial Notes

AMENDMENTS

1996—Subsec. (a). Pub. L. 104-324, §507(a), inserted “and the provision of adequate opportunities for public involvement” after “international law” and substituted “shall prescribe and enforce procedures, either

by regulation (for basic standards and conditions) or by the licensee's operations manual, with respect to” for “shall prescribe by regulation and enforce procedures with respect to any deepwater port, including, but not limited to,”.

§ 1510. International agreements

The Secretary of State, in consultation with the Secretary, shall seek effective international action and cooperation in support of the policy and purposes of this chapter and may formulate, present, or support specific proposals in the United Nations and other competent international organizations for the development of appropriate international rules and regulations relative to the construction, ownership, and operation of deepwater ports, with particular regard for measures that assure protection of such facilities as well as the promotion of navigational safety in the vicinity thereof.

(Pub. L. 93-627, §11, Jan. 3, 1975, 88 Stat. 2138.)

§ 1511. Suspension or termination of licenses

(a) Proceedings by Attorney General; venue; conditions subsequent

Whenever a licensee fails to comply with any applicable provision of this chapter, or any applicable rule, regulation, restriction, or condition issued or imposed by the Secretary under the authority of this chapter, the Attorney General, at the request of the Secretary, may file an appropriate action in the United States district court nearest to the location of the proposed or actual deepwater port, as the case may be, or in the district in which the licensee resides or may be found, to—

(1) suspend the license; or

(2) if such failure is knowing and continues for a period of thirty days after the Secretary mails notification of such failure by registered letter to the licensee at his record post office address, revoke such license.

No proceeding under this subsection is necessary if the license, by its terms, provides for automatic suspension or termination upon the occurrence of a fixed or agreed upon condition, event, or time.

(b) Public health or safety; danger to environment; completion of proceedings

If the Secretary determines that immediate suspension of the construction or operation of a deepwater port or any component thereof is necessary to protect public health or safety or to eliminate imminent and substantial danger to the environment, he shall order the licensee to cease or alter such construction or operation pending the completion of a judicial proceeding pursuant to subsection (a) of this section.

(Pub. L. 93-627, §12, Jan. 3, 1975, 88 Stat. 2138.)

Editorial Notes

CODIFICATION

In subsec. (a), “chapter” substituted for “title” to conform to other substitutions for “Act” and as reflecting intent of Congress manifest throughout Pub. L. 93-627 in the use of the term “Act”.