

producing, refining, or marketing oil or an affiliate of any such affiliate;

(C) 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) any significant differences between anticipated completion dates for the proposed deepwater ports; and

(C) 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.

(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.)

AMENDMENTS

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”.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1503, 1505, 1508, 1509, 1513 of this title.

§ 1505. Environmental review criteria

(a) Establishment; evaluation of proposed deepwater ports

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) Concurrent development of criteria and regulations

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

(Pub. L. 93-627, § 6, Jan. 3, 1975, 88 Stat. 2135.)

REFERENCES IN TEXT

The National Environmental Policy Act, referred to in subsec. (a), is Pub. L. 91-190, § 2, Jan. 1970, 83 Stat. 852, as amended, 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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1503, 1504 of this title.

§ 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 Federal Trade Commission prior to issuance of license for ownership, construction, and operation of deepwater port.

§ 1507. Common carrier status

(a) Status of deepwater ports and storage facilities

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, and shall accept, transport, or convey without discrimination all oil delivered to the deepwater port with respect 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 Gen-