

available during normal business hours to the Secretary or the General Counsel of the Department of Transportation or the designate of either of them, for inspection and copying, at the locations designated in the application unless the General Counsel requires consolidation of documents from two or more locations. If any claim of privilege or immunity is asserted with respect to any document or record designated for inspection or copying, the person making the claim shall furnish to the Secretary or the General Counsel or his designate as the case may be, in accordance with § 148.219(c), an identification of the document and statement of the claim.

(3) The Secretary may require an applicant or affiliate to make available for examination under oath or for interview persons having, or believed to have, designated information. Interviews and examinations are conducted by or at the direction of the General Counsel.

(4) The Secretary may require an applicant or affiliate to file as a supplement to the application any analysis, explanation or detailing of information in the application or any other information determined by the Secretary to be required to review or process the application.

(5) Any Federal or State department or agency or other interested person may file with the clerk a request or recommendation for further information. Requests and recommendations received within 30 days after notice of the initial application has been published will be fully considered before any final determination is made under this paragraph (z). Requests and recommendations must include a brief statement of the purpose of any proposed requirement, including, if it relates to conduct, the nature of the conduct and the probable consequences, or if the proposed requirement relates to physical characteristics, the nature of any safety, health, environmental or economic concerns.

(6) In exercising the authority to require supplemental information under paragraph (z)(2), (3) or (4) of this section, the Secretary, the General Counsel, or the designate, as the case may be, may fix a time by which an appli-

cant or affiliate must meet the requirement. If an application states that required information is not yet available but will be furnished at a later date, the Commandant may specify a time by which the information must be provided. If any requirement is not met by a time fixed in accordance with this subparagraph, the Secretary shall determine whether compliance with the requirement is material to processing of the application within the time prescribed in the Act. If the Secretary determines that it is material, he may disapprove the application, or may suspend the application pending a determination that processing can be resumed. The period of any suspension shall not be counted in determining the date prescribed by the time limit set forth in sections 4(c)(6), 5(d)(3), 5(e)(2), 5(g), 7(b)(1) or 9(b)(1) of the Act.

[CGD 75-002, 40 FR 52553, Nov. 11, 1975; 40 FR 58144, Dec. 15, 1975, as amended by CGD 76-096, 45 FR 85647, Dec. 29, 1980]

§ 148.111 Optional procedures.

(a) *Consolidated statements.* Applicants and affiliates may elect to supply required information consolidated in accordance with generally accepted accounting principles, if and to the extent that consolidated statements or reports are filed with the Interstate Commerce Commission, the Securities and Exchange Commission, or the Federal Energy Administration, but if those filings are also made or required to be made by line of business or other classifications, the application shall be prepared on the same basis. An election under this paragraph is subject to the authority of the Secretary to require supplemental information, pursuant to § 148.109(z).

(b) *Direct submissions by affiliates.* If any affiliate has reason to believe that it or its business or property would be prejudiced by furnishing information required from it to the applicant, the affiliate may file the required information directly with the clerk. The information must be enclosed in a sealed envelope bearing on the outside the names of the applicant and affiliate and the date or anticipated date of the application. If any claim of privilege or confidentiality is asserted with respect

to the contents, the procedure specified in § 148.219(c) or (d) must be followed.

Subpart C—Application Proceeding

GENERAL

§ 148.201 Purpose.

This subpart prescribes rules of procedure and practice for application proceedings.

§ 148.203 Applicability.

(a) Except as provided in paragraph (b) of this section, the rules in this subpart apply to each application proceeding.

(b) The rules for formal hearings in §§ 148.251–148.291 apply only to application proceedings in which the Commandant issues a notice of formal hearing under § 148.251. The rules for informal hearings in §§ 148.231–148.235 apply only to proceedings to consider applications for issuance, transfer, and renewal of a license.

§ 148.205 Clerk: docket; record.

(a) The mailing address for the clerk in each proceeding is: Commandant (G-M), U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001.

(b) The clerk maintains a docket and the record for each proceeding. The docket lists each document in the record. The record contains all documents filed or issued in the proceeding that the clerk has received and any other documents in the proceeding that are docketed in accordance with this subpart.

[CGD 75-002, 40 FR 52553, Nov. 10, 1975; 40 FR 58143, Dec. 15, 1975, as amended by CGD 92-069, 58 FR 11193, Feb. 24, 1993]

§ 148.207 Availability of documents in the record.

(a) The procedure for inspecting and copying documents in the record of a proceeding is contained in 49 CFR part 7 and section 14 of the Act. Copies of documents in the record of a proceeding are mailed to each adjacent coastal State unless their release is prohibited by 49 CFR part 7 and section 14 of the Act.

(b) Comments submitted by Federal agencies and departments for each pro-

ceeding in accordance with sections 5(e)(2) and 7(b) of the Act are docketed when they are received. Copies of the draft and final environmental impact statements prepared in accordance with section 5(f) of the Act are docketed when they are transmitted to the Council on Environmental Quality.

(c) The applicant must designate any portions of the material submitted in an application that contain either trade secrets or commercial or financial information that is claimed to be privileged or confidential. Section 148.219 prescribes procedures for objecting to claims and resolving of disputed issues.

(d) A copy of the application, except trade secrets and confidential information, is available for inspection and copying at: Commandant (G-M), U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001.

(e) The application staff will designate a custodian of all documents filed in a proceeding for which protection is claimed under section 14(b) of the Act. The custodian shall not make public for inspection documents for which protection is claimed nor otherwise disclose such information, unless the General Counsel is of the opinion that the disclosure is not inconsistent with the requirements of section 14(b) of the Act. The custodian shall keep a record of all officers and employees of the Department having custody of any copy or copies of undisclosed documents.

[CGD 75-002, 40 FR 52553, Nov. 10, 1975, as amended by CGD 92-069, 58 FR 11193, Feb. 24, 1993]

§ 148.211 Processing an application.

The Assistant Commandant for Marine Safety and Environmental Protection takes the action described in section 5(c)(1) of the Act for processing each application received in a proceeding and for issuing in the FEDERAL REGISTER the notices described in section 5(c)(1). If he issues notice of application pursuant to section 5(c)(1) of the Act, the application staff thereafter delivers the application described in the notice to the clerk for docketing and mails a copy of the notice to each:

- (a) Party;
- (b) Adjacent coastal State; and