

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

(c) Other coastal State bordering on the body of water in which the proposed port would be located.

[CGD 75-002,40 FR 52553, Nov. 10, 1975 as amended, at CGD 88-052, 53 FR 25121, July 1, 1988; CGD 96-026, 61 FR 33665, June 28, 1996; CGD 97-023, 62 FR 33363, June 19, 1997]

§ 148.213 Changes to an application.

If information in an application becomes materially inaccurate or incomplete after it is docketed in a proceeding but before the proceeding is terminated, the applicant must promptly file an amendment furnishing the corrected or additional information. Sixty copies of the amendment must be submitted to the application staff when the revisions are filed.

§ 148.215 Withdrawal of application.

An applicant may withdraw his application in a proceeding at any time before the proceeding is terminated by delivering or mailing notice of withdrawal to the clerk for docketing.

§ 148.216 Request by port for determination.

A port which applies for a determination under section 4(d) of the Act must submit a request in writing to the application staff within 30 days of the date that notice of application is published in the FEDERAL REGISTER. The request must:

- (a) Be signed by the highest official of the port submitting the request;
- (b) Contain a copy of existing plans for the construction of a deep draft channel and harbor;
- (c) Certify that the port has an active study by the Secretary of the Army for the construction of a deep draft channel and harbor, or that the port has pending an application for a permit under section 10 of the Act of March 3, 1899 (30 Stat. 1121) for the construction;
- (d) Provide any available documentation on:
 - (1) Initial costs, by phases if staged development, for the proposed onshore project, including dredging, ship terminal and attendant facilities;
 - (2) Estimated annual operating expenses by phases, if staged development, including labor, for thirty years for all elements of the project;

(3) Estimated time of completion of all elements of the proposed project;

(4) An estimate of the volume of ship traffic, the volume and variety of the tonnage, an assessment of the potential traffic congestion conditions in the port and an assessment of the capability of the port for controlling vessel traffic as a result of the proposed dredging project;

(5) An assessment of the economic benefits estimated to be derived from the project, including:

- (i) Economic contribution to the local, and regional area;
- (ii) Induced industrial development;
- (iii) Increased employment;
- (iv) Increases in tax revenues; and
- (v) Any other factors; and

(6) An assessment of the environmental and social impact of the project on elements of the local and regional community; and

(e) Provide a statement of its views on whether it seeks a determination that the State port best serves the national interest or that both developments are warranted.

§ 148.217 Designation of adjacent coastal States.

(a) The Assistant Commandant for Marine Safety and Environmental Protection, in issuing a notice of application pursuant to section 5(c)(1) of the Act, designates as an adjacent coastal State each State which would be directly connected by pipeline to the deepwater port proposed in the application or which is within 15 miles of the proposed deepwater port. A State not designated as an adjacent coastal State in the notice of application may request to be so designated on the basis that the risk of damage to its coastal environment is equal to or greater than the risk posed to a State directly connected by pipeline to the proposed deepwater port.

(b) Each request submitted under paragraph (a) of this section must:

- (1) Be submitted in writing to the application staff within 14 days after the date of publication of the notice of application in the FEDERAL REGISTER;
- (2) Be signed by the Governor of the State;
- (3) Set forth the facts and any available analyses in support of the request