(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

together with any available documentation concerning the risk of damage to the coastal environment of the requesting State that could occur as a result of the establishment of a deepwater port; and

(4) State why the requesting State believes the risk of damage to its coastal environment is equal to or greater than the risk posed to a State connected by a pipeline to the proposed deepwater port.

(c) The application staff transmits a copy of each request submitted in accordance with paragraph (b) of this section to the Administrator of the National Oceanic and Atmospheric Administration and requests his recommendations within a period of time that will allow the Secretary to determine the matter within 45 days after the date the request was received.

(d) If, after having received the recommendation of the Administrator of the National Oceanic and Atmospheric Administration, the Secretary determines that there is a risk of damage to the coastal environment of the requesting State equal to or greater than the risk posed to a State directly connected to the proposed deepwater port, he grants the request and designates the requesting State as an adjacent coastal State. If he determines that there is not such a risk, he denies the request and so notifies the Governor of the requesting State.

[CGD 75–002, 40 FR 52553, Nov. 10, 1975, as amended by 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]

§ 148.219 Claims and objections.

(a) Any person required to furnish information may assert, as ground for relief from the requirement, any failure to comply with this part or any other constitutional or legal right or privilege.

(b) In general, claims relating to documents must be made on filing an application or on receiving a determination by the Secretary pursuant to § 148.109(z).

(c) If a person claims attorney-client privilege, he must identify the communication by date, type of communication, persons making and receiving the communication, and general subject matter. If the required information is in a separable part of a communication, such as an attachment to a letter, the separate part must be similarly identified. The identification must be filed with the clerk or as a document pursuant to § 148.269.

(d) Any document claimed to be protected by section 14(b) of the Act must be placed in a sealed envelope, containing the name of the person claiming the protection and of the applicant, and the date or anticipated date of the application. A brief statement of the basis of the claim must be included, either on the envelope or separately. If a number of documents are involved, they must be grouped according to nature of claim, and a self-explanatory numbering system used for envelopes and documents.

(e) Written objection to any claim may be made by any Federal or State department or agency, or any applicant, affiliate, party or other interested person. The objection shall include a brief statement of its basis and identify the documents to which it applies.

(f) Except as provided in paragraph (g) of this section, the General Counsel shall determine, or designate a person to determine, issues raised by any claim filed under this section. A designation by the General Counsel may specify procedures to be used in resolving the issue or may leave some or all of the procedural matters to the discretion of the designated person. The proceedings pursuant to a designation shall be reported to the General Counsel, who shall approve, modify or disapprove the reported findings and conclusions.

(g) Any person making or objecting to a claim, or other interested person, may at any time file with the General Counsel a request or recommendation as to procedures. The General Counsel may act upon it or refer it to a person designated to resolve the issue.

(h) At any formal or informal hearing the presiding officer may permit any person to assert any claim that could be filed under this section and may determine any issue raised by the claim or, in his discretion, refer it to the General Counsel for resolution pursuant to paragraph (f) of this section.