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(1) The applicant is financially responsible and will carry insurance or give evidence of other financial responsibility in the amount of \$50,000,000 to cover the clean-up costs and damages that could result from a discharge of oil from the deepwater port concerned or from a vessel moored at the deepwater port;

(2) The applicant can and will comply with applicable laws, regulations, and license conditions;

(3) The construction and operation of the deepwater port will be in the national interest and consistent with national security and other national policy goals and objectives, including energy sufficiency and environmental quality;

(4) The deepwater port will not unreasonably interfere with international navigation or other reasonable uses of the high seas, as defined by treaty, convention, or customary international law;

(5) In accordance with the environmental review criteria set forth in Appendix A to this part, that the applicant has demonstrated that the deepwater port will be constructed and operated using the best available technology, so as to prevent or minimize adverse impact on the marine environment; and

(6) The adjacent coastal State to which the deepwater port concerned is to be connected by pipeline, has developed, or is making, at the time the application was submitted, reasonable progress toward developing an approved coastal zone management program pursuant to the Coastal Zone Management Act of 1972 in the area to be directly and primarily impacted by land and water development in the coastal zone resulting from the deepwater port or is receiving a planning grant under section 305 of the Coastal Zone Management Act.

(b) In deciding whether to approve or deny an application and in making the related preliminary determinations specified in paragraph (a) of this section, the Secretary considers:

(1) The information set forth in the application concerned and any other applications for licenses for the same application area submitted in accordance with section 5(d)(3) of the Act;

(2) The information developed during hearings held pursuant to §§148.231 through 148.291;

(3) The final environmental impact statement for the application area concerned;

(4) The views of the Secretary of the Army, the Secretary of State, and the Secretary of Defense on the adequacy of the application and its effects on programs within their respective jurisdictions;

(5) The views and recommendations of the heads of any other Federal departments or agencies having expertise concerning, or jurisdiction over, any aspect of the ownership, construction or operation of deepwater ports; and

(6) The opinions of the Federal Trade Commission and the Attorney General as to whether issuance of the license would adversely affect competition, restrain trade, promote monopolization or otherwise create a situation in contravention of the antitrust laws.

(c) The Secretary does not approve an application if, within the 45-day period immediately following the completion of the final public hearing:

(1) The Administrator of the Environmental Protection Agency determines that the proposed deepwater port will not conform with all applicable provisions of the Clean Air Act, as amended, the Federal Water Pollution Control Act, as amended, or the Marine Protection, Research and Sanctuaries Act, as amended; or

(2) The Governor of an adjacent coastal State disapproves the issuance of the license.

§ 148.325 Multiple applications.

(a) Except as provided in paragraph (b) of this section, in the case of more than one application for a deepwater port license in a designated application area, only one application may be approved according to the following order of priorities:

(1) An applicant that is an adjacent coastal State (or combination of States), any political subdivision thereof or agency or instrumentality, including a wholly owned corporation thereof.

(2) An applicant who is not:

(i) Engaged in producing, refining, or marketing oil;

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(ii) An affiliate of any person who is engaged in producing, refining or marketing oil; or

(iii) An affiliate of such an affiliate.

(3) Any other applicant.

(b) Notwithstanding the order of priorities listed in paragraph (a) of this section, if the Secretary determines that one of the proposed deepwater ports will clearly best serve the national interest, he may approve the application for that port. In making this determination, the Secretary considers:

(1) The degree to which the proposed deepwater ports affect the environment as determined under the review criteria set forth in Appendix A to this part;

(2) Any significant differences between anticipated completion dates for the proposed deepwater ports; and

(3) 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.

§ 148.327 Termination of proceeding before approval or denial of an application.

The Commandant terminates a proceeding if:

(a) All applications are withdrawn before the decision approving or denying them is issued; or

(b) In a proceeding with one application that does not have all of the information required by Subpart B of this part, the applicant after inquiry by the application staff does not provide adequate assurance that further information to make the application is forthcoming.

Subpart D—Issuance of a License

§ 148.400 Applicability.

This subpart prescribes rules that apply to the issuance of a license under the Act.

§ 148.403 Issuance of a license.

If an application under the Act is approved, a license is issued containing the following:

(a) The name and number or identification of the port.

(b) The name of the owner and operator of the port.

(c) Conditions to the ownership, construction, and operation of the deepwater port issued under section 4(e) of the Act.

§ 148.405 Term of license.

Each license is issued for a term of 20 years, unless a shorter period is requested in the application.

§ 148.407 Consultation with adjacent coastal States.

(a) The Governor of an adjacent coastal State may consult with the application staff concerning license conditions that the application staff may have under consideration.

(b) If the Governor of an adjacent coastal State notifies the Secretary that an application, which would otherwise be approved in a proceeding, is inconsistent with State programs relating to environmental protection, land and water use, or coastal zone management, the notification should include a description of:

(1) The State's environmental protection, land or water use, or coastal zone management program with which the application is inconsistent and how the application is inconsistent; and

(2) Conditions that if imposed on the license would make it consistent with the State program.

Subpart E—Site Evaluation

SOURCE: CGD 75-194, 41 FR 16800, Apr. 22, 1976, unless otherwise noted.

§ 148.501 Purpose.

(a) This subpart prescribes requirements for site evaluation and preconstruction testing at potential deepwater port locations.

(b) For the purpose of this subpart, "site evaluation and preconstruction testing" means all field studies performed at potential deepwater port locations, including:

(1) Preliminary studies to determine site feasibility;

(2) Detailed studies of the topographic and geologic structure of the ocean bottom to determine its ability to support offshore structures and appurtenances; and