

having jurisdiction over the proposed port.

(c) A nonrefundable application fee of \$100,000 must be submitted with each application for issuance of a license. If additional information is necessary to make an application complete, no additional application fee is required.

(d) The costs incurred by the United States in processing an application will be charged to the application fee until it is exhausted. Reimbursement for additional processing costs, above the application fee, must be submitted to the application staff when assessed.

(e) Fees and costs assessed under this section must be made payable to the United States Treasury.

§ 148.109 Contents of application for issuance of license.

Each application must include the following:

(a) *Identity of applicant and affiliates.*

(1) The name, address and principal business activity of the applicant and of each affiliate.

(2) A list of all domestic subsidiaries and a list of all foreign subsidiaries of each applicant and of each affiliate that elects under §148.111(a) to furnish required information on a consolidated basis.

(3) The name, address and principal business activity of each subsidiary or division of an applicant or an affiliate which participated directly and substantially in the planning, evaluating or approving of participation in the construction, financing, or operation of a deepwater port.

(b) *Proof of citizenship and authority.*

(1) If the applicant is an individual, group of individuals, a partnership or an association, an affidavit from each individual stating that he is a citizen of the United States of America.

(2) If the applicant is a corporation, one copy of its charter or instrument by which the corporation is formed and organized under general corporation laws, certified by the Secretary of State or other appropriate authority of the State in which incorporated, and a copy of its by-laws certified by its Secretary or an Assistant Secretary.

(3) If the applicant is a State, or combination of States, or any political subdivision, agency, or instrumentality of

a State, including a wholly owned corporation, a copy of the laws authorizing the operations detailed in the application.

(c) *Address for service of documents.*

The name and address of a person upon whom service may be made if a formal hearing is held on the application and the name and address of a person to whom documents not required to be served under §148.275 may be sent.

(d) *Verification.* A statement at the end of the application subscribed and sworn to before a notary public that the individual who signed the application has read it and that its contents are true to his best knowledge and belief.

(e) *Financial information.* (1) For each applicant and affiliate:

(i) Its most recent annual financial statement, including an income statement and a balance sheet, accompanied by an opinion of a certified public accountant; and

(ii) An interim income statement and balance sheet for each subsequent fiscal quarter-year ended prior to 30 days before submission of the application.

(2) The proposed location and capacity of the deepwater port, including all components thereof, together with a general description of the anticipated use of the deepwater port during the expected life of the project.

(3) An estimate of construction costs, by phases together with estimated dates or periods for completion of each phase, or annually, and a detailed estimate of the cost of removal of all marine components of the deepwater port, other than pipelines lying below the seabed.

(4) Annualized projections or estimates of each of the following, at reasonable intervals throughout the expected useful life of the deepwater port:

(i) Total oil throughput together with subtotals of throughput of oil owned by the applicant and affiliates and of throughput of oil owned by others.

(ii) Annual revenue.

(iii) Annual operating expenses, showing separately any anticipated management fee, payment, allowance,

or credit to any affiliate for management or operation of the port or any component.

(5) A copy of every agreement or proposal relating to the ownership or management of a deepwater port or any of its components or to the financing of the construction or operation of the deep-water port or component, including those relating to throughputs, capital contributions, loans, guarantees, and commitment therefor.

(6) To the extent known to the applicant or any affiliate, every existing or proposed:

(i) Tariff or portion thereof to be filed with the Interstate Commerce Commission;

(ii) Rate or joint rate; and

(iii) Agreement, arrangement or understanding with respect to terms or conditions on which other persons may become an affiliate or with respect to minimum or maximum tenders or other economic restrictions on shipments by nonaffiliated persons.

If any item required by this subparagraph has not been determined, an explanation of the basis on which it will be determined must be included.

(7) To the extent known to the applicant or any affiliate, the anticipated:

(i) Total annual demand for crude oil; and

(ii) Total year-end proved reserves of crude oil for each Production District within the PAD District in which oil from the proposed deepwater port is to be landed, at reasonable intervals throughout the expected useful life of the deepwater port.

(8) To the extent known to the applicant or any affiliate, the anticipated:

(i) Total refinery capacity;

(ii) Total runs to stills; and

(iii) Total demand for gasoline, for jet aviation fuels, for distillate fuel oils, and for other refinery products, for each Refining District within the PAD District in which oil from the deepwater port is to be landed, at reasonable intervals throughout the expected useful life of the deepwater port.

(9) If the PAD District in which oil from deepwater port is to be landed has a surplus:

(i) Of crude oil production and imports over refinery capacity, the infor-

mation required in paragraph (e)(7) of this section must also be set forth for each Production District within the PAD Districts to which surplus crude oil from the District in which oil from deepwater port is landed is expected to be transported; and

(ii) Of refinery capacity over demand for refinery products, the information required in paragraph (e)(8) of this section must also be set forth for each Refining District within the PAD Districts to which surplus refinery products from the PAD District in which oil from the deepwater port is landed is expected to be transported. If this includes the East Coast Refining District, the information for that district must be separately stated for the following three components:

(a) New England: The States of Massachusetts, Rhode Island, and Connecticut.

(b) South-Atlantic: The States of Virginia, North Carolina, South Carolina, Georgia, and Florida.

(c) Mid-Atlantic: The remaining area of the East Coast Refining District (Maine, Vermont, New Hampshire, New Jersey, Maryland, Delaware, District of Columbia, and the eastern parts of New York and Pennsylvania).

(10) From each applicant or affiliate which is engaged in producing, refining, or marketing oil, its estimate of its components of the totals required to be included under the provisions of paragraphs (e)(7), (8) and (9) of this section.

(11) From each applicant or affiliate engaged in producing, refining, or marketing oil, for each item it is required to supply under paragraph (e)(10) of this section, its actual data for each of the three calendar years immediately prior to the date of application.

(12) From each applicant or affiliate which has a significant interest in any refinery within any refinery district on which information is required to be disclosed under paragraphs (e)(8) or (9)(ii) of this section, for each refinery, its:

(i) Location;

(ii) Runs to still for each of the three calendar years prior to date of application; and

(iii) Production for each of the three calendar years prior to date of application of gasoline, jet aviation fuel, distillate fuel oils, and other products.

(13) From each applicant or affiliate engaged in producing, refining or marketing oil, for each of the three calendar years immediately prior to the date of application, its total domestic and total worldwide: yearend proved reserves; annual production imports into the United States; and annual refinery runs to still and production of gasoline, jet aviation fuel, distillate fuel oils and other refinery products.

(f) *General technical information.* (1) A description of the experience of the applicant, each affiliate of the applicant that the applicant may want to provide, and each consultant of the applicant in offshore operations, with particular emphasis on involvement in offshore transfer and storage of liquid cargo and vessel loading and unloading operations.

(2) A listing and abstract of each study relied upon by the applicant and a listing and abstract of each ongoing or completed study pertaining to deepwater ports conducted by or for the applicant, later supplemented by data of particular environmental or operational concern from specific studies identified by the Coast Guard.

(3) The name, address, citizenship and telephone number of each affiliate of the applicant together with a description of the manner in which the affiliate is associated with the applicant.

(4) The name, address, citizenship, telephone number and qualifications of each engineering firm, if known, that will design the deepwater port, or any portion of the port.

(5) The ownership interest in the applicant of each affiliate having any ownership interest in the applicant of greater than 3 percent.

(6) For each affiliate with whom the applicant has made, or proposes to make a significant contract for the construction of any part of the deepwater port, a description of that affiliate's experience in construction of marine terminal facilities, offshore structures, underwater pipelines, seabed foundations or any other experience that would bear on his qualification to

participate in the construction of a deepwater port.

(7) A copy of each contract made by the applicant for the construction of any component of the deepwater port or for the operation of the port.

(g) *Water.* Evidence that the requirements of section 401(a)(1) of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1341(a)(1), will be satisfied, except that, in those cases where certification under section 401(a)(1) must be obtained from the Administrator of the United States Environmental Protection Agency, the request for such certification must accompany each application for a license under the Act.

(g-1) *Coastal zone management.* The certification, or certifications, required by section 307 of the Coastal Zone Management Act of 1972, as amended.

(h) *Lease block identification.* (1) Identification of each lease block established either by the Secretary of the Interior under section 5 of the Outer Continental Shelf Lands Act (43 U.S.C. 1334), or by a State under the authority of section 3 of the Submerged Lands Act (43 U.S.C. 1311), within which any part of the proposed deepwater port or its approaches are located. This identification should be made using Official Outer Continental Shelf Leasing Maps or Protraction diagrams where they are available. For each identified lease block, the following must be provided:

(i) A description of each pipeline, or other right-of-way crossing, in enough detail to allow plotting of rights-of-way and facilities to the nearest one-tenth of a second in latitude and longitude.

(ii) The identity of the lessee of each pipeline or other right-of-way.

(2) Detailed information concerning any interest that the applicant and others have in each block and concerning the present and planned use of each block.

(i) *Overall site plan.* Single-line drawings showing the location and type of each component of the proposed deepwater port and its necessary facilities, including floating structures, fixed structures, aids to navigation, manifold systems and onshore storage areas, pipelines, and refineries.

(j) *Site plan for marine components.* A site plan consisting of:

- (1) The proposed size and location of:
 - (i) All fixed and floating structures;
 - (ii) SPM swing circles;
 - (iii) Maneuvering areas;
 - (iv) Recommended ships' routing measures and proposed vessel traffic patterns in the port area;
 - (v) Recommended anchorage areas;
 - (vi) Recommended mooring area for support vessels;
 - (vii) Required and recommended aids to navigation; and
 - (viii) Pipelines and cables within the marine site;

(2) The charted water depth throughout the proposed marine site as verified by the reconnaissance hydrographic survey required by this subpart:

(3) A reconnaissance hydrographic survey of the proposed marine site.

NOTE: A requirement to submit an engineering hydrographic survey of the final marine site will be imposed as a license condition.

(k) *Soil data.* An analysis of the general character and condition of the ocean bottom and sub-bottom throughout the marine site and along the path of the pipeline to the shore, including an opinion by a registered professional engineer specializing in soil mechanics concerning:

(1) The suitability of the soil to accommodate the anticipated design load of each marine component that will be fixed to or supported on the ocean floor; and

(2) The stability of the seabed when exposed to the environmental forces resulting from severe storms, or to lesser forces that continue for an extended period, including any history of accretion or erosion of the coast line in proximity to the marine site.

(l) *Operational information.* (1) The maximum lengths, maximum drafts, and maximum deadweight tonnages of the tankers to be accommodated at each SPM.

(2) Calculations with supporting data and other documentation to show that the charted water depth at each proposed SPM location is sufficient to provide at least a 5 foot net under keel clearance for each tanker that the applicant expects to be accommodated at the SPM.

(3) A detailed description of the manner of forecasting the wind, wave, and current conditions described in the draft Operations Manual during which the following would occur:

(i) Shutdown of oil transfer operations.

(ii) Departure of the tanker from the mooring.

(iii) Prohibition on mooring to an SPM.

(iv) Shutdown of all operations and evacuation of the port.

(4) The speed limits proposed for tankers in the safety zone.

(m) *Floating components data.* (1) A description and preliminary design drawing of each floating component, including the hoses and the anchoring or securing structure and navigation lights if the component is a mooring buoy.

(2) The design criteria, developed pursuant to Part 149 of this chapter, to which each floating component is to be designed and built.

(3) The design standards and codes to be used.

(4) The title of each recommended engineering practice to be followed.

(5) A description and the results of any design and evaluation studies performed by or for the applicant on a floating component.

(6) A description of safety, fire fighting, and pollution prevention equipment to be used on each floating component.

(7) A description of lighting to be used on floating hoses for night detection.

(n) *Fixed marine components data.* (1) A description and preliminary design drawing of each fixed marine component.

(2) The design criteria, developed pursuant to Part 149 of this chapter, to which each fixed marine component is to be designed and built.

(3) The design standards and codes to be used.

(4) The title of each recommended engineering practice to be followed.

(5) A description and the results of any design and evaluation studies performed by or for the applicant for any fixed marine component and utilized in the development of the application.

(6) A description of navigational lighting, safety, lifesaving, fire fighting, pollution prevention and removal, and waste treatment equipment to be installed.

(7) A description and preliminary design drawing of the oil pumping equipment, piping system, control and instrumentation system, and any associated equipment, including the oil throughput measuring equipment, leak detection equipment, alarm system, and emergency shutdown equipment.

(8) The personnel capacity of each PPC.

(o) *Offshore pipeline data.* (1) A description and preliminary design drawing of the marine pipeline, including size, throughput capacity, length, depth and protective devices.

(2) The design criteria to which the marine pipeline is to be designed and built.

(3) The design standards and codes to be used.

(4) The title of each recommended engineering practice to be followed.

(5) A description of the metering system to be used to measure flow rate.

(6) Information concerning all submerged or buried pipelines that will be crossed by the offshore pipeline and the manner in which the crossing will be made.

(p) *Onshore components data.* (1) A description of the location, capacity, and ownership of, and a preliminary design drawing for construction of new or expansion of existing onshore pipelines, storage facilities, refineries, petrochemical facilities, and transshipment facilities to be served by the deepwater port.

(2) Location, capacity, and ownership of existing onshore pipelines, storage facilities, refineries, petrochemical facilities, and transshipment facilities to be served by the deepwater port.

(3) A chart showing the location of all planned and existing onshore pipelines, storage facilities, refineries, and petrochemical facilities and transshipment facilities to be served by the deepwater port.

(4) From each applicant or affiliate which is engaged in producing, refining or marketing oil, throughput of crude oil, of gasoline, of jet aviation fuel, of distillate fuel oils and of other refinery

products, for the calendar year preceding the date of application, and a copy of each existing or proposed throughput agreement.

(5) A facility is served by the deepwater port if it is within a PAD District for which information is required under paragraph (e)(7), (8) or (9) of this section and is either served by connection with a common carrier pipeline or a component of or appurtenant to a common carrier pipeline.

(6) Crude oil gathering lines and lines wholly within a facility must be included only if specifically required under paragraph (z) of this section. Entry points and major connections between lines and with bulk purchasers must be included.

(q) *Miscellaneous components data.* (1) A description of the communications systems to be used in operation of the deepwater port.

(2) A description of the radar navigation system to be used in operation of the deepwater port to include the type and characteristics of the radar and the antenna location.

(3) A description of plans and method of bunkering vessels using the deepwater port.

(4) Type, size and number of vessels to be used in bunkering, mooring, and servicing the vessels using the deepwater port.

(5) A description and exact location of any shore based support facilities to be provided for vessels described in paragraph (q)(4) of this section.

(r) *Construction procedures.* A description of the method and procedures to be used in constructing each component of the deepwater port and a description of each phase, including anticipated dates of completion for each of the specific components.

(s) *Draft Operations Manual.* A draft Operations Manual for the proposed port prepared in accordance with the "Guidelines for Preparation of a Deepwater Port Operations Manual". If required information is not available, an applicant should so state, show why, and state when the information can be expected to be provided.

(t) *Environmental analysis.* An environmental analysis prepared in accordance with "Guide to Preparation of Environmental Analyses for Deepwater Ports."

(u) *Aids to Navigation.* (1) For each proposed aid to navigation, the proposed position of the aid described by latitude and longitude coordinates to the nearest second or tenth of a second as determined from the largest scale chart of the area in which the aid is to be located. (Latitude and longitude should be specified to a level obtained by visual interpolation between the finest graduation of the latitude and longitude scales on the chart.)

(2) For each proposed obstruction light and the proposed rotating lighted beacon, the color, characteristic, effective intensity, height above water, and general description of illumination apparatus.

(3) For each proposed fog signal on a structure, a general description of the apparatus.

(4) For each proposed buoy, the shape, color, number or letter, and depth of water in which located, and a general description of any light or fog signal apparatus installed.

(5) For the proposed radar beacon (RACON), height above water and a general description of the apparatus.

(v) *Telecommunications equipment.* A description of the radio stations or other communications facilities and the proposed concept of operation to serve the deepwater port during construction or operation.

NOTE: Federal Communications Commission application for these facilities may be submitted directly to the Federal Communications Commission when sufficient technical information is available to meet the rules of that agency. The holding of appropriate Federal Communications Commission licenses will be made a condition on a deepwater port license.

(w) *National Pollutant Discharge Elimination System Information.* To the extent available, the information prescribed by, and submitted on, the "National Pollutant Discharge Elimination System" (NPDES). Application for Permit to Discharge, Short Form "D" for applying for issuance of a discharge permit to the Administrator of the Environmental Protection Agency (EPA). If complete information is not avail-

able by the time the Secretary must either approve or deny the application for a designated application area, under section 5(i)(1) of the Act, the license is conditioned upon the applicant receiving the required discharge permit from the EPA prior to the commencement of any discharge requiring the same.

(x) *Discharge of dredged or fill material.* The information prescribed by, and submitted on, Form EP 1145-2-1 contained as Appendix B of "Application for Department of Army Permits for Activities in Waterways, EP 1145-2-1 of 1 October 1974" for each permit issued by the Secretary of the Army in compliance with:

(1) Section 10 of the Rivers and Harbors Act of 1899 (30 Stat. 1151; 33 U.S.C. 403);

(2) Section 404(b) of the Federal Water Pollution Control Act Amendments of 1972 (86 Stat. 816; 33 U.S.C. 1251); or

(3) Section 103 of the Marine Protection, Research, and Sanctuaries Act of 1972 (86 Stat. 1052; 33 U.S.C. 1401).

(y) *Additional Federal authorizations required.* All other applications for Federal authorizations required for ownership, construction, and operation of a deepwater port not listed elsewhere in this subpart.

(z) *Supplemental information.* (1) A designation of locations where the applicant and each affiliate has segregated and filed documents in its possession relating to deepwater ports which were prepared within four years of the date of application and which fall under one or more of the following categories:

(i) Prepared by or for, or submitted to, a Board of Directors or an executive, management or planning committee.

(ii) Concern the financing of construction or operation of a deepwater port, including throughput nominations and membership in and financing of any existing or proposed joint venture.

(iii) Concern existing or proposed or anticipated rates or joint rates.

(iv) Determined by the Secretary to be required to review and process the application.

(2) Documents referred to in paragraph (z)(1) of this section must be

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