

charge must apply to the Coast Guard for a certificate as follows:

(1) Applicants for a Certificate of Adequacy required by §158.135(a) or (b) must apply to the COTP of the Zone in which the port or terminal is located using Form A or Form B, respectively.

(2) An applicant for a Certificate of Adequacy required by section 158.135(c) must apply on Form C to the COTP of the Zone in which the port or terminal is located.

(b) Applications for Certificates of Adequacy, Forms A, B, or C, may be obtained from the local Coast Guard COTP.

[CGD 88-002, 54 FR 18408, Apr. 28, 1989, as amended by CGD 96-026, 61 FR 33668, June 28, 1996; 61 FR 36629, July 12, 1996]

§ 158.150 Waivers and alternatives.

(a) If the person in charge believes that a requirement in this part is unreasonable or impracticable for the port's or terminal's operations, the person in charge may submit a request for a waiver to the COTP. This application must—

(1) Be in writing; and

(2) Include the—

(i) Reasons why the requirement is unreasonable or impracticable;

(ii) Proposed alternatives that meet MARPOL 73/78; and

(iii) Additional information requested by the COTP.

(b) If the COTP allows the alternative proposed under paragraph (a)(2)(ii) of this section, the waiver—

(1) Is in writing; and

(2) States each alternative that applies and the requirement under this part for which the alternative is substituted.

(c) The person in charge shall ensure that each waiver issued under paragraph (b) of this section is attached to the Certificate of Adequacy issued for the port or terminal.

§ 158.160 Issuance and termination of a Certificate of Adequacy.

(a) After reviewing an application made under §158.140(a)(1), the COTP determines by inspection the following:

(1) When the application is made on Form A, whether or not the reception facility meets Subpart B of this part.

(2) When the application is made on Form B, whether or not the reception facility and the port, or the reception facility and the terminal, meet Subpart C of this part.

NOTE: If in the instruction manual required by §158.330(b) there is a certification by a registered professional engineer licensed by a state or the District of Columbia that the backpressure requirements under §158.330(a) are met, the COTP determines whether or not to accept this finding.

(b) After the inspections under paragraph (a) are conducted, and after consulting with the Administrator of the Environmental Protection Agency (EPA) or his or her designee, the COTP—

(1) Issues a Certificate of Adequacy to the person in charge for the port or terminal; or

(2) Denies the application and informs the person in charge in writing of the reasons for the denial.

(c) After reviewing an application made under §158.140(a)(2), the COTP—

(1) Issues a Certificate of Adequacy to the person in charge for the port or terminal; or

(2) Denies the application and informs the person in charge in writing of the reasons for the denial.

(d) In order to remain valid, the Certificate of Adequacy must have attached to it any waivers that are granted under §158.150 when the Certificate of Adequacy is issued.

(e) Each Certificate of Adequacy remains valid until—

(1) Suspended;

(2) Revoked; or

(3) This part no longer applies to the port or terminal.

[CGD 88-002, 54 FR 18408, Apr. 28, 1989, as amended by CGD 96-026, 61 FR 33668, June 28, 1996]

§ 158.163 Reception facility operations.

(a) Each person in charge and each person who is in charge of a reception facility shall ensure that the reception facility does not operate in a manner that violates any requirement under this part.

(b) A copy of the Certificate of Adequacy issued for the port or terminal must be—

(1) At each port and terminal under this part; and

(2) Available for inspection by the COTP and the master, operator, person

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who is in charge of a ship, or agent for a ship.

(c) Ports and terminals required to have an Operations Manual under this chapter or 46 CFR Chapter 1 must have a copy of the Certificate of Adequacy issued for the port or terminal, including any waivers, attached to that Operations Manual.

[CGD 85-010, 52 FR 7761, Mar. 12, 1987, as amended by CGD 88-002, 54 FR 18409, Apr. 28, 1989]

§ 158.165 Certificate of Adequacy: Change of information.

(a) Except as required in paragraph (b) of this section, the person in charge shall notify the COTP in writing within 10 days after any information required in section 2, 3A, 3G, or 3H, of Form A or section 2, 5A, or 5C of Form B changes.

(b) The person in charge shall notify the COTP in writing within 30 days after any information required in the following is changed:

- (1) Form A, sections 1, 3B, 3C, 3E, 3F, 3I, or 3J.
- (2) Form B, sections 1, 3, 4, 5B, 5D, 5E, 5F or 5G.
- (3) Form C, sections A1, B1, B2, or D4.

(c) The person in charge shall maintain at the port or terminal a copy of the information submitted under paragraphs (a) and (b) of this section, until a corrected Certificate of Adequacy is received from the COTP.

[CGD 85-010, 52 FR 7761, Mar. 12, 1987, as amended by CGD 88-002, 54 FR 18409, Apr. 28, 1989; 55 FR 35988, Sept. 4, 1990]

§ 158.167 Reporting inadequate reception facilities.

Any person may report to the local Coast Guard COTP that reception facilities required by these regulations or MARPOL 73/78 are inadequate. Reports of inadequate reception facilities may be made orally, in writing or by telephone.

[CGD 88-002, 54 FR 18409, Apr. 28, 1989]

SUSPENSION, REVOCATION, AND APPEALS

§ 158.170 Grounds for suspension.

The COTP may suspend a Certificate of Adequacy if—

(a) Deficiencies recur or significantly affect the adequacy of the reception facility;

(b) Continued operations will result in undue delay to ships calling at the port or terminal;

(c) There is a failure to accept NLS residue from a ship after it's cargo tanks are prewashed in accordance with 46 CFR 153.1120; or

(d) There is a substantial threat of discharge of oil or NLS into or upon the navigable waters of the United States or adjoining shorelines.

§ 158.172 Notification of a suspension order.

(a) If the COTP has grounds for an immediate suspension of or is considering suspending a Certificate of Adequacy, the COTP notifies the person in charge of the intended action. Each notification of a suspension order, whether oral or written, includes—

- (1) The grounds for the suspension;
- (2) The date when the suspension becomes effective; and
- (3) Information on how the suspension may be withdrawn, including all corrective actions required.

(b) If the suspension order is made orally, the COTP issues a suspension order in writing within five days after the initial notification.

§ 158.174 Suspension of a Certificate of Adequacy: Procedure.

(a) If no evidence or arguments are submitted in response to a notification of a suspension order, the suspension is effective on the date stated in the order.

(b) If any petition for withdrawing a suspension order is submitted in response to a notification of a suspension order, the COTP considers the evidence or arguments and notifies the person in charge of any action taken including—

- (1) Denial of the petition for withdrawing a suspension order;
- (2) Initiation of civil or criminal penalty action under Subpart 1.07 of Part 1 of this chapter; or
- (3) Withdrawing the suspension order.

§ 158.176 Effect of suspension of a Certificate of Adequacy.

After the COTP notifies the person in charge and places a suspension order in