§ 148.217 How can a State be designated as an adjacent coastal State?

(a) Adjacent coastal States are named in the notice of application published in the FEDERAL REGISTER. However, a State not named as an adjacent coastal State in the notice may request to be designated as one if the environmental risks to it are equal to or greater than the risks posed to a State directly connected by pipeline to the proposed deepwater port.

(b) The request must:

(1) Be submitted in writing to the Commandant (G–M) 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) List the facts and any available documentation or analyses concerning the risk of damage to the coastal environment of the State; and

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

(c) Upon receipt of a request, the Commandant (G–M) sends a copy of the State's request to the Administrator of the National Oceanic and Atmospheric Administration (NOAA) and asks for the Administrator's recommendations within an amount of time that will allow the Commandant (G–M) 45 days from receipt of the request to determine the matter.

(d) If after receiving NOAA's recommendations, the Commandant (G–M) determines that the State should be considered as an adjacent coastal State, the Commandant (G–M) designates it as an adjacent coastal State. If the Commandant (G–M) denies the request, the Commandant (G–M) notifies the Governor of the requesting State of the denial.

§ 148.221 What must I do to make a claim or object to a claim?

(a) Persons required to furnish information under this part may assert a claim of privilege or immunity as grounds for relief from the requirement. The claim must be submitted in writing to the Commandant (G–M).

(b) If the claim concerns a document protected from disclosure under 33 U.S.C. 1513(b), the document must be placed in a sealed envelope with the name of the person claiming the protection, the applicant's name, the date or anticipated date of the application, and a brief statement of the basis of the claim. If a number of documents are involved, they must be grouped according to the nature of the claim and both the documents and their envelopes must be numbered using a self-explanatory numbering system.

(c) If the claim concerns the attorney-client privilege, the claim must identify the communication by date, type, persons making and receiving it, 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 identified the same way as the communication. The identification must be filed with the Commandant (G–M).

(d) A Federal or State agency, the applicant, an affiliate of the applicant, or other interested person may object to a claim. The objection must be in writing, must include a brief statement of the basis for the objection, and must identify the document to which the claim applies.

(e) Commandant (G–M) determines issues raised by claims filed under this section and may specify procedures to be used to resolve the issues. Any person may submit recommendations to the Commandant (G–M) as to the procedures to be used.

(f) The presiding officer at any formal or informal hearing may allow claims or objections that could be filed under this section to be made and may issue a decision or refer the matter to the Commandant (G–M).

(g) The filing of a claim under this section, other than a claim under paragraph (b) of this section, stays the time for meeting any deadline for submitting information related to an issue raised in a claim or objection. However, the filing of a claim does not stay the periods for processing and reviewing applications, unless the Commandant (G–M) determines that compliance with the requirement is material to the processing of the application

within the required time. If the Commandant (G–M) determines that the information is material, the Commandant (G–M) may suspend the processing of the application. The period of suspension is not counted toward the time limits in 33 U.S.C. 1503(c)(6), 1504(d)(3), (e)(2), and (g), and 1508(b)(1).

PUBLIC MEETINGS

§ 148.222 When must public meetings be held?

(a) Before a license is issued, at least one public meeting under 33 U.S.C. 1504(g) must be held in each adjacent coastal State.

(b) The Commandant (G–M), in coordination with the Administrator of the Maritime Administration, shall publish a notice of public meetings in the FEDERAL REGISTER and mails or delivers a copy of the notice to the applicant, to each adjacent coastal State, and to all who request a copy.

(c) Anyone may attend the public meeting(s) and provide oral or written information. The presiding officer may limit the time for providing oral information.

§ 148.227 How is a public meeting reported?

(a) After completion of a meeting, the presiding officer forwards a report on the hearing to the Commandant (G–M) for docketing.

(b) The report contains at least:

(1) An overview of the factual issues addressed;

(2) A transcript or recording of the meeting; and

(3) A copy of all material submitted to the presiding officer.

(c) During the hearing, the presiding officer announces the information that the report must contain.

FORMAL HEARINGS

§ 148.228 What if a formal evidentiary hearing is necessary?

(a) After all public meetings under 148.222 are concluded, the Commandant (G–MSO), in coordination with the Administrator of the Maritime Administration, considers whether there are one or more specific and material factual issues that may be resolved by a formal evidentiary hearing.

(b) If the Commandant (G–M), in coordination with the Administrator of the Maritime Administration, determines that one or more issues under paragraph (a) of this section exist, the Coast Guard will hold at least one formal evidentiary hearing under 5 U.S.C. 554 in the District of Columbia.

(c) The Commandant (G–MSO) files a request for assignment of an administrative law judge (ALJ) with the ALJ Docketing Center. The Chief Administrative Law Judge designates an ALJ or other person to conduct the hearing.

(d) The recommended findings and the record developed in a hearing under paragraph (b) of this section are considered by the Administrator of the Maritime Administration in deciding whether to approve or deny a license.

§ 148.230 How is notice of a formal hearing given?

(a) The Commandant (G–M) publishes a notice of the hearing in the FEDERAL REGISTER and sends a notice of the hearing to the applicant, to each adjacent coastal State, and to each person who requests such a notice.

(b) The notice of the hearing includes the applicant's name, the name of the ALJ assigned to conduct the hearing, a list of the factual issues to be resolved, the address of the place where documents are to be filed, and the address where a copy of the rules of practice, procedure, and evidence to be used at the hearing is available.

§ 148.232 What are the rules for a formal hearing?

(a) The Commandant (G–M) determines the rules for each formal hearing. Unless otherwise specified in this part, the Commandant (G–M) applies the rules of practice, procedure, and evidence in part 20 of this chapter.

(b) The Commandant (G–M) sends a written copy of the procedure to the applicant, each person intervening in the proceedings, and each person who requests a copy.

§ 148.234 What are the limits of an administrative law judge's jurisdiction?

(a) An ALJ's jurisdiction begins upon assignment to a proceeding.