

Coast Guard, DHS

§ 148.5

- 148.410 What are the conditions for conducting site evaluation and pre-construction testing?
- 148.415 When conducting site evaluation and pre-construction testing, what must be reported?
- 148.420 When may the Commandant (G-M) suspend or prohibit site evaluation or pre-construction testing?

Subpart F—Exemption From or Adjustments to Requirements in This Subchapter

- 148.500 What does this subpart do?
- 148.505 How do I apply for an exemption?
- 148.510 What happens when a petition for exemption involves the interests of an adjacent coastal State?
- 148.515 When is an exemption allowed?
- 148.600 What is the limit of financial liability?
- 148.605 How is the limit of liability determined?

Subpart G—Environmental Review Criteria for Deepwater Ports

- 148.700 How does the Deepwater Port Act interact with other Federal and State laws?
- 148.702 How were the environmental review criteria developed?
- 148.705 What is determined by the environmental evaluation?
- 148.707 What type of criteria will be used in an environmental review and how will they be applied?
- 148.708 Must the applicant's proposal reflect potential regulations?
- 148.709 How are these criteria reviewed and revised?
- 148.710 What environmental conditions must be satisfied?
- 148.715 How is an environmental review conducted?
- 148.720 What are the siting criteria?
- 148.722 Should the construction plan incorporate best available technology and recommended industry practices?
- 148.725 What are the design, construction and operational criteria?
- 148.730 What are the land use and coastal zone management criteria?
- 148.735 What are other critical criteria that must be evaluated?
- 148.737 What environmental statutes must an applicant follow?

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Subpart A—General

§ 148.1 What is the purpose of this subchapter?

This subchapter prescribes regulations for the licensing, construction, design, equipment, and operation of deepwater ports under the Deepwater Port Act of 1974, as amended (33 U.S.C. 1501-1524) (the Act).

§ 148.2 Who is responsible for carrying out this subchapter?

Unless otherwise specified, the owner of a deepwater port must ensure that the requirements of this subchapter are carried out at that port.

§ 148.3 What Federal agencies are responsible for carrying out the Deepwater Port Act?

Under delegations from the Secretary of Homeland Security and the Secretary of Transportation, the Coast Guard and the Maritime Administration (MARAD) coordinate with each other in processing applications for the issuance, transfer, or amendment of a license for the construction and operation of a deepwater port. MARAD is responsible for issuing, revoking, and reinstating deepwater port licenses. MARAD also has authority over the approval of fees charged by adjacent coastal States and certain matters relating to international policy, civil actions, and suspension or termination of licenses. The Secretary of Transportation has delegated authority over pipeline matters to the Research and Special Programs Administration (RSPA).

§ 148.5 How are terms used in this subchapter defined?

As used in this subchapter:

Act means the Deepwater Port Act of 1974, as amended (33 U.S.C. 1501-1524).

Adjacent coastal State means any "coastal State" that

(1) Would be directly connected by pipeline to a "deepwater port";

(2) Would be located within 15 miles of a "deepwater port"; or

(3) Is designated as an "adjacent coastal State" by the Administrator of the Maritime Administration under 33 U.S.C. 1508(a)(2).

Administrator of the Maritime Administration means the Associate Administrator, Port, Intermodal and Environmental Activities, Maritime Administration, or that individual's authorized representative, at 400 Seventh Street SW., Washington, DC 20590, telephone 202-366-4721.

Affiliate means a "person":

(1) That has an ownership interest, direct or indirect, of more than 3 percent in an "applicant";

(2) That offers to finance, manage, construct, or operate the "applicant's" "deepwater port" to any significant degree;

(3) That owns or "controls" an "applicant" or an entity under paragraphs (1) or (2) of this definition; or

(4) That is owned or "controlled" by, or under common ownership with, an "applicant" or an entity under paragraphs (1), (2), or (3) of this definition.

Applicant means a "person" that is the owner of a proposed deepwater port and that is applying for a license under this part for that port.

Application means an application submitted under this part for a license to own, construct, and operate a deepwater port.

Approval series means the first six digits of a number assigned by the Coast Guard to approved equipment. Where approval is based on a subpart of 46 CFR chapter I, subchapter Q, the approval series corresponds to the number of the subpart. A list of approved equipment, including all of the approval series, is available at <http://cgmix.uscg.mil/Equipment>.

Approved means approved by the "Commandant (G-M)".

Area to be avoided means a routing measure comprising an area within defined limits in which either navigation is particularly hazardous or it is exceptionally important to avoid casualties and which should be avoided by all ships or certain classes of ships. An area to be avoided may be either mandatory, where navigation is prohibited or subject to conditions imposed by competent authority, or recommendatory, in which ships should navigate with caution in light of the specially hazardous conditions presented. In either case, the nature of the area

(whether mandatory or recommendatory) will be identified to mariners.

Barrel means 42 U.S. gallons (159 liters) at atmospheric pressure and 60 °Fahrenheit (15.56 °Celsius).

Captain of the Port or *COTP* means a Coast Guard officer who commands a Captain of the Port zone described in part 3 of this chapter and who is immediately responsible for enforcing port safety and security and marine environmental protection regulations within that area.

Certified Industrial Hygienist means an industrial hygienist who is certified by the American Board of Industrial Hygiene.

Certified Marine Chemist means a marine chemist who is certified by the National Fire Protection Association.

Citizen of the United States means:

(1) Any person who is a United States citizen by law, birth, or naturalization;

(2) Any state, any agency of a State or a group of States; or

(3) Any corporation, partnership, or other association:

(i) That is organized under the laws of any State;

(ii) Whose president, and chairman of the board of directors, and general partners or their equivalents, are persons described in paragraph (1) of this definition; and

(iii) That has no more of its directors who are not persons described in paragraph (1) of this definition than constitute a minority of the number required for a quorum to conduct the business of the board of directors.

Coastal environment means the coastal waters (including the lands in and under those waters), internal waters, and the adjacent shorelines (including waters in and under those shorelines). The term includes, but is not limited to, transitional and intertidal areas, bays, lagoons, salt marshes, estuaries, and beaches; fish, wildlife, and other living resources of those waters and lands; and the recreational and scenic values of those lands, waters, and resources.

Coastal State means a State of the United States in or bordering on the Atlantic, Pacific, or Arctic Oceans or the Gulf of Mexico.

Commandant (G-M) means the Assistant Commandant for Marine Safety,

Security and Environmental Protection, or that individual's authorized representative, at Commandant (G-M), U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001.

Confined space means a space that may contain a dangerous atmosphere, including a space that:

- (1) Has poor natural ventilation, such as a space with limited openings (e.g., cofferdam, double bottom tank); or
- (2) Is not designed for continuous occupancy by personnel.

Construction means the supervising, inspection, actual building and all other activities incidental to the building, repairing, or expanding of a "deepwater port" or any of its components. The term includes, but is not limited to, fabrication, laying of pipe, pile driving and bulk heading and alterations, modifications, or additions to the "deepwater port".

Control means the power, directly or indirectly, to determine the policy, business practices, or decision-making process of another "person", whether by stock or other ownership interest, by representation on a board of directors or similar body, by contract or other agreement with stockholders or others, or by other means.

Crude oil means a mixture of hydrocarbons that exist in the liquid phase in natural underground reservoirs and remains liquid at atmospheric pressure after passing through surface separating facilities and includes:

- (1) Liquids technically defined as crude oil;
- (2) Small amounts of hydrocarbons that exist in the gaseous phase in natural underground reservoirs but are liquid at atmospheric pressure after being recovered from oil well (casing head) gas in lease separators; and
- (3) Small amounts of non-hydrocarbons produced with the oil.

Dangerous atmosphere means an atmosphere that may expose personnel to the risk of death, incapacitation, injury, or acute illness or may impair ability to escape from the atmosphere unaided.

Deepwater port means any fixed or floating manmade structures other than a vessel, or any group of structures, located beyond State seaward boundaries and that are used or in-

tended for use as a port or terminal for the transportation, storage, or further handling of oil or natural gas for transportation to any State, except as otherwise provided in the Deepwater Port Act of 1974, as amended, and for other uses not inconsistent with the purposes of that Act, including transportation of oil or natural gas from the United States outer continental shelf. The term includes all components and equipment, including pipelines, pumping stations, service platforms, buoys, mooring lines, and similar facilities to the extent they are located seaward of the high water mark. In the case of natural gas, the term includes all components and equipment, including pipelines, pumping or compressor stations, service platforms, buoys, mooring lines, and similar facilities which are proposed and/or approved for construction and operation as part of the deepwater port, to the extent that they are located seaward of the high water mark and do not include interconnecting facilities. A deepwater port shall be considered a "new source" for purposes of the Clean Air Act, as amended (42 U.S.C. 7401 *et seq.*), and the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251 *et seq.*).

District Commander means an officer who commands a Coast Guard District described in part 3 of this chapter or that individual's authorized representative.

Emergency medical technician (EMT) means a person trained and certified to appraise and initiate the administration of emergency care for victims of trauma or acute illness before or during transportation of the victims to a health care facility via ambulance, aircraft or vessel.

Engineering hydrographic survey means a detailed geological analysis of seabed soil samples performed to determine the physical composition (e.g., mineral content, etc.) and structural integrity for the installation of offshore components and structures.

Governor means the Governor of a "State" or the "person" designated by State law to exercise the powers granted to the Governor under the Act.

Gross under-keel clearance means the distance between the keel of a tanker and the ocean bottom when the tanker

is moored or anchored in calm water free of wind, current, or tide conditions that would cause the tanker to move.

Hose string means the part of a “single point mooring oil or natural gas transfer connection” made out of flexible hose of the floating or float/sink type that connects the tanker’s manifold to the “single point mooring”.

Hot work means work that produces heat or fire, such as riveting, welding, burning, or other fire or spark producing operations.

Lease block means an area 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 section 3 of the Submerged Lands Act (43 U.S.C. 1311).

License means a license issued under this part to own, construct, and operate a deepwater port.

Licensee means a citizen of the United States holding a valid license for the ownership, construction, and operation of a deepwater port that was issued, transferred, or renewed under this subchapter.

Marine environment includes the “coastal environment,” waters of the contiguous zone, the exclusive economic zone, and the high seas; fish, wildlife, and other living resources of those waters; and the recreational and scenic values of those waters and resources.

Marine site means the area in which the deepwater port is located, and includes the safety zone, attendant ships’ routes, anchorages and all areas seaward of the high water mark in which associated components and equipment of the deepwater port are located.

Maritime Administration (or *MARAD*) means the Administrator of the Maritime Administration or that person’s designees.

Metering platform means a manned or unmanned platform consisting of either a fixed or floating structure that serves as an interchange site for controlling the rate of transfer of natural gas from vessel to pipeline.

Natural gas means either natural gas unmixed, or any mixture of natural or artificial gas, including compressed or liquefied natural gas.

Net under-keel clearance means the distance between the keel of a tanker

and the ocean bottom when the tanker is underway, anchored, or moored and subject to actual wind, waves, current, and tide motion.

No anchoring area means a routing measure comprising an area within defined limits where anchoring is unsafe, unstable, or particularly hazardous or could result in unacceptable damage to the marine environment. Anchoring should be avoided by all ships or certain classes of ships in a no anchoring area.

Officer in Charge, Marine Inspection, or *OCMI* means an individual who commands a Marine Inspection Zone described in part 3 of this chapter and who is immediately responsible for the performance of duties with respect to inspections, enforcement, and administration of regulations governing a deepwater port.

Offshore competent person means an individual trained and designated by his or her employer in matters relating to confined-space pre-entry testing and certification at a deepwater port, prior to entry. An offshore competent person should demonstrate proficiency in the following criteria—

- (1) Hazard description and recognition;
- (2) Hazard evaluation and measurement;
- (3) Hazard prevention;
- (4) Control and elimination; and
- (5) Practical application simulation.

Oil means petroleum, crude oil, and any substance refined from petroleum or crude oil.

Operator means the person who is licensed under 33 U.S.C. 1503 to own, construct, and operate a deepwater port, or that person’s designee.

Person means an individual, a public or private corporation, a partnership or other association, or a government entity.

Personnel means individuals who are employed by licensees, operators, contractors, or subcontractors and who are on a deepwater port by reason of their employment.

Pipeline end manifold means the pipeline end manifold at a “single point mooring.”

Platform means a fixed structure that rests on or is embedded in the seabed and that has floors or decks where an

activity or specific function may be carried out.

Pumping platform complex means a “platform” or a series of interconnected “platforms”, exclusive of a deepwater port, consisting of one or more single point moorings (SPM) or submerged turret loading buoys (STL) that can pump oil or natural gas and that has one or more of the following features or capabilities:

(1) Can handle the mooring and loading of small “vessels”;

(2) Has berthing and messing facilities; and

(3) Has a landing area for helicopters.

Reconnaissance hydrographic survey means a scientific study of fresh and salt-water bodies, currents and water content, cultural resources and seabed soils. A visual representation of the survey findings is normally depicted on a chart of the examined area.

Routing measures means any system of one or more vessel routes or routing schemes aimed at reducing the risk of casualties. It includes traffic separation schemes, two-way routes, recommended tracks, areas to be avoided, inshore traffic zones, roundabouts, and deepwater routes.

Safety zone means the safety zone established around a deepwater port under part 150, subpart J, of this chapter.

Single point mooring (SPM) means an offshore berth that links an undersea pipeline to a tanker moored to the mooring and allows for the transfer of oil or natural gas between the tanker and the pipeline.

Single point mooring-oil transfer system (SPM-OTS) or single point mooring-natural gas transfer system (SPM-NGTS) means the part of the oil or natural gas transfer system from the “pipeline end manifold” to the end of the “hose string” that connects to the tanker’s manifold.

State includes each of the States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States.

Support vessel means a vessel working for a licensee at a deepwater port or cleared by a licensee to service a tanker calling at a deepwater port, and includes a:

- (1) Tug;
- (2) Line-handling boat;
- (3) Crew boat;
- (4) Supply vessel;
- (5) Bunkering vessel;
- (6) Barge; or
- (7) Other similar vessel.

Survival craft means a craft capable of sustaining the lives of persons in distress after abandoning a deepwater port. The term includes lifeboats, life rafts, buoyant apparatus, and survival capsules. The term does not include rescue boats, unless the rescue boats are also “approved” as lifeboats.

Tanker means a vessel that calls at a “deepwater port” to unload oil or natural gas.

Vessel means every description of watercraft or other artificial contrivance used, or capable of being used, as a means of transportation on or through the water.

Subpart B—Application for a License

§ 148.100 What is the purpose of this subpart?

This subpart describes how to apply for a license to own, construct, and operate a deepwater port.

§ 148.105 What must I include in my application?

Your application must include the information required by paragraphs (a) through (cc) of this section.

(a) For each applicant, affiliate, and consultant:

(1) The name, address, telephone number, citizenship, and principal business activity of the applicant and its affiliates;

(2) The name, address, and principal business activity of each subsidiary or division of the applicant or its affiliates that participated in the decision to apply for a license to build a deepwater port;

(3) A description of how each affiliate is associated with the applicant and of the ownership interest each affiliate has in the applicant;

(4) A list of corporate officers and directors of the applicant and each affiliate that participated in the decision to apply for a license to build a deepwater port;