

*Solidifying NLS* means a Category A, B, or C NLS that has a melting point—

(1) Greater than 0 °C but less than 15 °C and a temperature, measured under the procedure in 46 CFR 153.908(d), that is less than 5 °C above its melting point at the time it is unloaded; or

(2) 15 °C or greater and has a temperature, measured under the procedure in 46 CFR 153.908(d), that is less than 10 °C above its melting point at the time it is unloaded.

*Tank barge* has the same meaning as contained in 46 CFR 30.10-65.

*Tanker* means a ship constructed or adapted primarily to carry oil in bulk in the cargo spaces.

*Terminal* means an onshore facility or an offshore structure located in the navigable waters of the United States or subject to the jurisdiction of the United States and used, or intended to be used, as a port or facility for the transfer or other handling of a harmful substance.

NOTE: The Coast Guard interprets commercial fishing facilities, recreational boating facilities, and mineral and oil industry shorebases to be terminals for the purposes of Annex V of MARPOL 73/78, since these facilities normally provide wharfage and other services, including garbage handling, for ships. "The Act" means the Act to Prevent Pollution from Ships, as amended, (33 U.S.C. 1901-1911).

*The Act* means the Act to Prevent Pollution from Ships (94 Stat. 2297, 33 U.S.C. 1901 *et seq.*).

[CGD 85-010, 52 FR 7761, Mar. 12, 1987, as amended by CGD 88-002, 54 FR 18407, Apr. 28, 1989; USCG-2000-7641, 66 FR 55574, Nov. 2, 2001]

#### § 158.130 Delegations.

Each COTP is delegated the authority to—

(a) Conduct inspections at ports and terminals required to have reception facilities under this part;

(b) Issue Certificates of Adequacy;

(c) Grant waivers under § 158.150;

(d) Designate ports; and

(e) Deny entry of ships to any port or terminal, except when a ship is entering under force majeure, that does not have—

(1) A Certificate of Adequacy if required under § 158.135; or

(2) Reception facilities for garbage required under Subpart D of this part.

[CGD 88-002, 54 FR 18408, Apr. 28, 1989]

#### § 158.133 Which ports and terminals must provide reception facilities?

(a) A port or terminal which receives oceangoing tankers, or any other oceangoing ship of 400 gross tons or more, carrying oily mixtures, must have a reception facility which meets Subpart B of this part.

(b) A port or terminal which receives oceangoing ships carrying NLSs must have a reception facility which meets Subpart C of this part.

(c) All ports and terminals under the jurisdiction of the United States, including commercial fishing facilities, mineral and oil shorebases, and recreational boating facilities, must have a reception facility which meets Subpart D of this part.

[CGD 88-002, 54 FR 18408, Apr. 28, 1989, as amended by USCG-2000-7641, 66 FR 55574, Nov. 2, 2001]

#### § 158.135 Which ports and terminals must have Certificates of Adequacy?

To continue to receive ships, a port or terminal must hold one or more Certificates of Adequacy to show compliance with—

(a) Subpart B of this part if it receives oceangoing tankers, or any other oceangoing ship of 400 gross tons or more, carrying oily mixtures.

(b) Subpart C of this part if it receives oceangoing ships carrying NLSs.

(c) Subpart D of this part if it receives—

(1) The ships under paragraph (a) or (b) of this section; or

(2) Fishing vessels which offload more than 500,000 pounds of commercial fishery products from all ships during a calendar year.

[CGD 88-002, 54 FR 18408, Apr. 28, 1989, as amended by USCG-2000-7641, 66 FR 55574, Nov. 2, 2001]

#### § 158.140 Applying for a Certificate of Adequacy.

(a) To continue to receive ships at a port or terminal required by § 158.135 to have a Certificate of Adequacy for its reception facilities, the person in

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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