

§ 148.125

(b) Two printed copies and two electronic versions to the MARAD Administrator, 400 7th Street SW., Washington, DC 20590.

(c) One copy to the U.S. Army Corps of Engineers District Office having jurisdiction over the proposed port. For the address, see *http://www.usace.army.mil/*.

(d) Additional printed and electronic copies for distribution to Federal, tribal, and State regulatory agencies involved in reviewing the application in accordance with the needs of each agency.

§ 148.125 What are the application fees?

(a) The applicant must submit a non-refundable application fee of \$350,000 with each application for a license. If additional information is necessary to make an application complete, no additional application fee is required.

(b) The costs incurred by the Federal Government in processing an application will be charged to the application fee until it is exhausted. If the fee is exhausted and the Federal Government incurs further processing costs, the applicant will be charged for the additional costs. The Commandant (G-P) will periodically advise the applicant of the status of expenses incurred during the application process.

(c) Additional costs attributable to processing a deepwater port license application and post-license activities, for example the engineering plan review or development of the final operations manual, are due when they are assessed, and must be paid by the applicant prior to commencing operation of the deepwater port.

(d) Application fees and additional costs assessed under this section must be made payable to the United States Treasury, and submitted to the Commandant (G-P).

33 CFR Ch. I (7-1-08 Edition)

Subpart C—Processing Applications

GENERAL

§ 148.200 What is the purpose of this subpart?

This subpart prescribes the requirements for processing an application for a deepwater port license.

It includes the procedures for:

- (a) Maintaining the docket;
- (b) Designating adjacent coastal states;
- (c) Holding informal and formal public hearings; and
- (d) Approving or denying an application.

§ 148.205 How are documents related to the application maintained?

(a) The Commandant (G-P) maintains the docket for each application.

(1) The docket contains a copy of all documents filed or issued as part of the application process.

(2) Recommendations submitted by Federal departments and agencies under 33 U.S.C. 1504(e)(2) are docketed when they are received.

(3) Copies of applicable National Environmental Policy Act documents prepared under 33 U.S.C. 1504(f) are docketed when they are sent to the Environmental Protection Agency.

(b) For a document designated as protected from disclosure under 33 U.S.C. 1513(b), the Commandant (G-P):

(1) Prevents the information in the document from being disclosed, unless the Commandant (G-P) states that the disclosure is not inconsistent with 33 U.S.C. 1513(b); and

(2) Keeps a record of all individuals who have a copy of the document.

§ 148.207 How and where may I view docketed documents?

(a) All material in a docket under § 148.205 is available to the public for inspection and copying at Commandant (G-P) at the address under “Commandant (G-P)” in § 148.5, except for:

- (1) Contracts under 33 U.S.C. 1504(c)(2)(B) for the construction or operation of a deepwater port; and

(2) Material designated under paragraph (b) of this section as a trade secret, or commercial or financial information that is claimed to be privileged or confidential.

(b) A person submitting material that contains either a trade secret or commercial or financial information under paragraph (a)(2) of this section must designate those portions of the material that are privileged or confidential. Section 148.221 contains procedures for objecting to these claims.

(c) Docketed material for each deepwater port project is also available to the public electronically at the Department of Transportation Docket Management System Web site at <http://www.dot.dms.gov>. The projects are also listed by name and the assigned docket number at the G-PSO-5 Web site: <http://www.uscg.mil/hq/g-m/mso/mso5.htm>.

§ 148.209 How is the application processed?

The Commandant (G-P), in cooperation with the Maritime Administrator, processes each application and the Maritime Administration publishes the notice of application under 33 U.S.C. 1504(c) in the FEDERAL REGISTER. Upon publication of a notice of application, the Commandant (G-P) ensures delivery of copies of the application to:

(a) Each Federal agency with jurisdiction over any aspect of ownership, construction, or operation of deepwater ports. A complete listing of the Federal agencies involved with deepwater port licensing is outlined in the Deepwater Port Interagency MOU available at the following hyperlink: http://www.uscg.mil/hq/G-M/mso/docs/dwp_white_house_task_force_energy_streamlining.pdf.

(b) Each adjacent coastal State, including relevant State and tribal agencies in those States.

§ 148.211 What must I do if I need to change my application?

(a) If at any time before the Secretary approves or denies an application, the information in it changes or becomes incomplete, the applicant must promptly submit the changes or additional information in the manner set forth in § 148.115 of this part.

(b) The Coast Guard may determine that the change or required information is of such magnitude that it warrants submission of a complete revised application.

§ 148.213 How do I withdraw my application?

The applicant may withdraw an application at any time before the proceeding is terminated by delivering or mailing notice of withdrawal to the Commandant (G-P) for docketing.

§ 148.215 What if a port has plans for a deep draft channel and harbor?

(a) If a State port will be directly connected by pipeline to a proposed deepwater port, and has existing plans for a deep draft channel and harbor, a representative of the port may request a determination under 33 U.S.C. 1503(d).

(b) The request must be sent, in writing, to the Commandant (G-P) within 30 days after the date that the notice of application for the deepwater port is published in the FEDERAL REGISTER.

(c) The request must contain:

(1) A signature of the highest official of the port submitting the request;

(2) A copy of the existing plans for the construction of a deep draft channel and harbor;

(3) Certification that the port has an active study by the Secretary of the Army for the construction of a deep draft channel and harbor, or that the port has an application pending for a permit under 33 U.S.C. 403 for the construction;

(4) Any available documentation on:

(i) Initial costs, by phases if development is staged, for the proposed onshore project, including dredging, ship terminal, and attendant facilities;

(ii) Estimated annual operating expenses, by phases if development is staged, including labor, for 30 years for all elements of the project;

(iii) Estimated completion time for all elements of the project;

(iv) Estimated vessel traffic volume, and the volume and variety of the tonnage;

(v) Potential traffic congestion conditions in the port, and the port's ability to control vessel traffic as a result of the proposed dredging project;