

(3) The dates when the activities were performed;

(4) Information on the adverse effects of items reported under paragraph (a) of this section;

(5) Data on the historical or archeological significance of the area where the activities were conducted, including a report by an underwater archeologist; and

(6) Any additional information required by the Commandant (G-P) on a case-by-case basis.

§ 148.420 When may the Commandant (G-P) suspend or prohibit site evaluation or pre-construction testing?

(a) The Commandant (G-P) may order, either in writing or orally, with written confirmation, the prohibition or immediate suspension of any activity related to site evaluation or pre-construction testing when the activity threatens to harm:

- (1) Human life;
- (2) Biota;
- (3) Property;
- (4) Cultural resources;
- (5) Any valuable mineral deposits; or
- (6) The environment.

(b) The Commandant (G-P) will consult with the applicant on measures to remove the cause for suspension.

(c) The Commandant (G-P) may lift a suspension after the applicant assures the Commandant (G-P) that the activity will no longer cause the threat on which the suspension was based.

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

§ 148.500 What does this subpart do?

This subpart provides procedures for requesting an exemption from a requirement in this subchapter. The Commandant (G-P) and MARAD coordinate in evaluating requests for exemption from the requirements in this subchapter.

§ 148.505 How do I apply for an exemption?

(a) Any person required to comply with a requirement in this subchapter may submit a petition for exemption from that requirement.

(b) The petition must be submitted in writing to the Commandant (G-P) and the MARAD Administrator.

(c) The Commandant (G-P) may require the petition to provide an alternative to the requirement.

§ 148.510 What happens when a petition for exemption involves the interests of an adjacent coastal State?

If the petition for exemption concerns an adjacent coastal State, the Commandant (G-P) forwards the petition to the Governor of the State for the Governor's recommendation.

§ 148.515 When is an exemption allowed?

The Commandant (G-P) may recommend that MARAD allow an exemption if he or she determines that:

(a) Compliance with the requirement would be contrary to public interest;

(b) Compliance with the requirement would not enhance safety or the health of the environment;

(c) Compliance with the requirement is not practical because of local conditions or because the materials or personnel needed for compliance are unavailable;

(d) National security or national economy justifies a departure from the rules; or

(e) The alternative, if any, proposed in the petition would:

(1) Ensure comparable or greater safety, protection of the environment, and quality of deepwater port construction, maintenance, and operation; and

(2) Be consistent with recognized principles of international law.

§ 148.600 What is the limit of financial liability?

The financial limit for liability for deepwater ports is set in accordance with 33 U.S.C. 2704.

§ 148.605 How is the limit of liability determined?

(a) The Coast Guard may lower the \$350,000,000 limit of liability for deepwater ports set by 33 U.S.C. 2704(a)(4), pursuant to paragraph (d) of that section, particularly for natural gas deepwater ports that will store or use oil in much smaller amounts than an oil deepwater port.

(b) Requests to adjust the limit of liability for a deepwater port must be submitted to the Commandant (G-P). Adjustments are established by a rule-making with public notice and comment that may take place concurrently with the processing of the deepwater port license application.

Subpart G—Environmental Review Criteria for Deepwater Ports

§ 148.700 How does the Deepwater Port Act interact with other Federal and State laws?

(a) Nothing in this subpart supersedes any Federal, tribal, or State requirements for the protection of the environment.

(b) The applicant must prepare and submit applications to each respective agency that requires a permit or license to operate the port.

(c) A list of Federal and State agencies that require certification includes, but is not limited to:

(1) The Environmental Protection Agency, for Clean Air Act and Clean Water Act permits;

(2) The Pipeline and Hazardous Materials Safety Administration, Office of Pipeline Safety; and

(3) The Mineral Management Service (MMS); or

(4) Both the Office of Pipeline Safety and MMS for pipeline approvals, and the appropriate State environmental agency or permitting agency.

§ 148.702 How were the environmental review criteria developed?

Under 33 U.S.C. 1505, the Commandant (G-P) must establish environmental review criteria for use in evaluating a proposed deepwater port. In developing these criteria, the Coast Guard considers the requirements for compliance with Federal and State mandates for the protection of the environment contained in, but not limited to, such guidance as published by:

(a) The Council on Environmental Quality in 40 CFR parts 1500-1508;

(b) Department of Homeland Security Directive 5100.1, Environmental Planning Program; and

(c) The Coast Guard in Commandant Instruction M16475.1D, National Environmental Policy Act Implementing

Procedures and Policy for Considering Environmental Impacts.

§ 148.705 What is determined by the environmental evaluation?

(a) The environmental criteria to be used in evaluating a license application are established by general consensus of expertise, scientific opinion, public interest, and institutional requirements, such as laws and regulations established for the protection of the environment. Criteria that may be established in future environmental regulations or other requirements to protect the environment will also be used.

(b) The environmental criteria to be used in evaluating a license application are applied to all relevant aspects of:

(1) The fabrication, construction, operation, and decommissioning phases of a deepwater port;

(2) The operations of the vessels that serve the port;

(3) The port's servicing and support activities;

(4) Shore-based construction and fabrication sites;

(5) Shoreside supporting facilities, if appropriate, for the proposed location; and

(6) The No Action alternative and other reasonable alternatives.

(c) The criteria are also applied in a manner that takes into account the cumulative effects of other reasonably foreseeable actions as outlined in § 148.707.

§ 148.707 What type of criteria will be used in an environmental review and how will they be applied?

(a) The license application will be reviewed for the deepwater port's effects on the environment and for the environment's effects on the port and any of its shoreside support facilities.

(b) The environmental evaluation will be applied to the phases of construction, operation, and decommissioning of the proposed location, and at least one alternative site. The evaluation will determine:

(1) The effect on the environment, including but not limited to:

(i) Impacts on endangered species;

(ii) Essential fish habitat;

(iii) Marine sanctuaries;