

§ 148.207

§ 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 (CG-5) at the address under “Commandant (CG-5)” 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 (CG-5), 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 (CG-5) 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.

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§ 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 (CG-5) 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 (CG-5) 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;

(vi) Estimated economic benefits of the project, including:

(A) Economic contribution to the local and regional area;

(B) Induced industrial development;

(C) Increased employment; and

(D) Increases in tax revenues;

(vii) Environmental and social impacts of the project on the local and regional community; and

(viii) An estimate of the economic impact that the deepwater port license will have on the proposed project.

(d) A statement whether the port seeks a determination that the port best serves the national interest.

§ 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 (CG-5) 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) Explain 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 (CG-5) will send a copy of the State's request to the Adminis-

trator of the National Oceanic and Atmospheric Administration (NOAA) and ask for the Administrator's recommendations within an amount of time that will allow the Commandant (CG-5) and the MARAD Administrator 45 days from receipt of the request to determine the matter.

(d) If after receiving NOAA's recommendations the Commandant (CG-5), in concurrence with MARAD Administrator, determines that the State should be considered an adjacent coastal State, the Commandant (CG-5), in concurrence with the MARAD Administrator, will so designate it. If the Commandant (CG-5), in concurrence with the MARAD Administrator, denies the request, he or she will notify the requesting State's Governor of the denial.

§ 148.221 How do I claim, or object to a claim, that required information is privileged?

(a) Any person may claim that specific information required pursuant to this part should be withheld because it is privileged, and any person can object to that claim.

(b) Requests or objections must be submitted to the Commandant (CG-5) in writing, with sufficient specificity to identify the information at issue, and to show why it should or should not be considered privileged.

(c) The Commandant (CG-5) determines whether to grant or deny a claim of privilege.

(d) Submission of a claim stays any deadline for providing the information at issue, unless the claim is made pursuant to the protection for confidential information that is provided by 33 U.S.C. 1513(b), in which case deadlines are not stayed. The Commandant (CG-5) may also determine that the information at issue is so material that processing of the application must be suspended pending the determination of the claim.

PUBLIC HEARINGS OR MEETINGS

§ 148.222 When must public hearings or meetings be held?

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