

DEPARTMENT OF TRANSPORTATION**Coast Guard****33 CFR Parts 148, 149, and 150**

[USCG-1998-3884]

RIN 2115-AF63

Deepwater Ports**AGENCY:** Coast Guard, DOT.**ACTION:** Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to revise the regulations governing deepwater ports. These regulations are over 25 years old and were written at a time when no deepwater ports existed on which to base regulations. This rulemaking is necessary to update the regulations with current technology and industry standards. It will also align them with certain regulations for other fixed offshore facilities.

DATES: Comments and related material must reach the Docket Management Facility on or before July 29, 2002. Comments sent to the Office of Management and Budget (OMB) on collection of information must reach OMB on or before July 29, 2002.

ADDRESSES: To make sure your comments and related material are not entered more than once in the docket, please submit them by only one of the following means:

(1) By mail to the Docket Management Facility (USCG 1998-3884), U.S. Department of Transportation, room PL-401, 400 Seventh Street SW., Washington, DC 20590-0001.

(2) By delivery to room PL-401 on the Plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202-366-9329.

(3) By fax to the Docket Management Facility at 202-493-2251.

(4) Electronically through the Web Site for the Docket Management System at <http://dms.dot.gov>.

You must also mail comments on collection of information to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street NW., Washington, DC 20503, ATTN: Desk Officer, U.S. Coast Guard.

The Docket Management Facility maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents mentioned in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at room PL-401 on the Plaza level of the

Nassif Building, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find this docket on the Internet at <http://dms.dot.gov>.

You may inspect the material proposed for incorporation by reference at room 1210, U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593-0001 between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays. The telephone number is 202-267-1181. Copies of the material are available as indicated in the "Incorporation by Reference" section of this preamble.

FOR FURTHER INFORMATION CONTACT: If you have questions on this proposed rule, call Commander Mark Prescott, Project Manager, Vessel and Facility Operating Standards Division (G-MSO-2), Coast Guard, telephone 202-267-0225. If you have questions on viewing or submitting material to the docket, call Dorothy Beard, Chief, Dockets, Department of Transportation, telephone 202-366-5149.

SUPPLEMENTARY INFORMATION:**Request for Comments**

We encourage you to participate in this rulemaking by submitting comments and related material. If you do so, please include your name and address, identify the docket number for this rulemaking (USCG-1998-3884), indicate the specific section of this document to which each comment applies, and give the reason for each comment. You may submit your comments and material by mail, hand delivery, fax, or electronic means to the Docket Management Facility at the address under **ADDRESSES**; but please submit your comments and material by only one means. If you submit them by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for one to the Docket Management Facility at the address under **ADDRESSES** explaining why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

Related Rulemaking

This notice of proposed rulemaking (NPRM) refers to sections in another Coast Guard NPRM. References in §§ 149.305, 149.405, 149.640, 149.690, 150.250, 150.505, 150.510, and 150.600 of the deepwater ports NPRM to sections in parts 142 and 143 refer to those sections as they appear in the NPRM entitled "Outer Continental Shelf Activities" published in the **Federal Register** on December 7, 1999, not as they appear in the current Code of Federal Regulations (CFR). A note is placed at the end of each paragraph that references a section in the Outer Continental Shelf (OCS) Activities NPRM. For example, paragraph (a) of § 149.305 in this document refers to §§ 143.810 through 143.885. The note following that paragraph indicates that the sections referred to are proposed in the December 7, 1999, issue of the **Federal Register**, volume 64, at pages 68476 through 68480. A copy of the OCS Activities NPRM (docket number USCG-1998-3868) is available in the **Federal Register** at volume 64, page 68416, December 7, 1999, or at <http://dms.dot.gov>.

The OCS Activities NPRM proposes to revise 33 CFR chapter I, subchapter N, which contains the requirements for units, other than deepwater ports, on the OCS. Because of similarities between deepwater ports and fixed OCS facilities, representatives within the deepwater port industry requested that the deepwater regulations be aligned, to the extent practicable, with the OCS regulations. Also, this alignment furthers a major goal of the 1996 Deepwater Ports Modernization Act (Public Law 104-324) concerning improving the competitiveness of deepwater ports by eliminating unduly burdensome, unnecessary, and duplicative regulations. See House of Representatives Report 104-692.

Should you have comments on provisions in the OCS Activities NPRM that are referenced in this Deepwater Ports NPRM and would like those comments considered under the deepwater ports rulemaking, please submit them to the Deepwater Ports docket (USCG-1998-3884) under **ADDRESSES**.

What Is the Regulatory History of This Rulemaking?

On August 29, 1997, the Coast Guard published in the **Federal Register** an Advance Notice of Proposed Rulemaking (ANPRM) (62 FR 45775) for deepwater ports. The ANPRM sought answers to several questions, each of

which is discussed, along with responses, later in this preamble.

What Is the Background for This Rulemaking?

A deepwater port is a structure located beyond the territorial sea and off the coast of the United States that is used to receive, store, and distribute oil to refineries in the U.S. At present, the Louisiana Offshore Oil Port (LOOP) is the only licensed deepwater port.

The regulations for deepwater ports in 33 CFR chapter I, subchapter NN, (parts 148, 149, and 150) were written in 1975. At that time, there were no deepwater ports in the United States and, therefore, we had little experience in formulating regulations for them. From the experience gained in applying these regulations to LOOP and from the comments received in response to the advance notice of proposed rulemaking, we found that some of the regulations are overly burdensome or more extensive than those for fixed facilities on the OCS. The application process for a deepwater port license requires information no longer necessary in today's economy. Technology and industry standards have changed over the years, causing some regulations to become obsolete.

In 1996, Congress passed the Deepwater Port Modernization Act (Public Law 104-324, title V, sec. 501-508, October 19, 1996). This Act amended the Deepwater Port Act of 1974 (33 U.S.C. 1501-1524) for the following reasons:

- (1) To update and improve the Deepwater Port Act of 1974.
- (2) To assure that the regulations for deepwater ports are not more burdensome or stringent than necessary in comparison to the regulations of other modes for importing or transporting oil.
- (3) To recognize that deepwater ports are generally subject to effective competition from alternate transportation modes and to eliminate unnecessary Federal regulatory oversight or involvement in the port's business and economic decisions.
- (4) To promote innovation, flexibility, and efficiency in the management and operation of deepwater ports by removing or reducing any duplicative, unnecessary, or overly burdensome Federal regulations or licensing provisions.
- (5) To encourage the construction of additional deepwater ports and to improve the competitiveness of the existing deepwater port (LOOP).

What Are Our Objectives for This Rulemaking?

(1) *Update the regulations.* We propose updates to various sections of the regulations, such as the requirements for license applications, fire extinguishing systems, fire detection systems, and construction and design. Also, we use modern, plain-language techniques in drafting the proposal to better benefit the reader.

(2) *Exclude unnecessary regulations.* We have tried to limit the regulations in this proposal to only those that should be in regulations, that is, those that apply to all deepwater ports, and to exclude from the regulations all requirements applicable only to a specific port. Provisions peculiar to a specific port would be included in that port's license or operations manual. This is consistent with 33 U.S.C. 1503(e)(1) and House of Representatives Report 104-692, page 4, section 4(c).

(3) *Ensure that the regulations are consistent with those for similar structures.* We have tried to align, to the extent practicable, these proposed regulations with those proposed for fixed facilities on the OCS. (See the discussion in the "Related Rulemaking" section of this preamble.) Also, we have tried to align these regulations with those for facilities transferring oil or hazardous materials in bulk (33 CFR part 154). Certain aspects of operating a deepwater port are similar to those for facilities transferring oil or hazardous materials in bulk (OHMB facilities). For example, similarities exist in areas of cargo transfer operations, communications, and operations manuals.

(4) *Improve the competitiveness of the current deepwater port and encourage the construction of additional deepwater ports.* The Deepwater Port Modernization Act makes certain changes to the Deepwater Port Act to improve competitiveness, such as by clarifying the definition of "deepwater port" to include a broader range of activities. Working within the limits of these changes to the Act, we have tried to simplify the use of the regulations by clarifying and streamlining them. In developing these proposals, we also kept in mind the objective of promoting the use of deepwater ports by improving the regulatory framework and the procedure for applying for a license. We propose to eliminate unduly burdensome regulations. For example, we delete the need for Secretarial review of relatively routine, non-controversial matters.

We are particularly interested in your comments on how well we have achieved each of these objectives.

What Comments Were Received in Response to the 1997 Advance Notice of Proposed Rulemaking?

We received four letters in response to the questions raised in our 1997 Advance Notice of Proposed Rulemaking (ANPRM). You can view the letters on the Internet at <http://dms.dot.gov> under this rulemaking's docket number (USCG-1998-3884). The following is a list of the questions asked in the ANPRM and the responses to them. The citations used (e.g., § 150.123) refer to the regulations presently in effect in title 33 of the Code of Federal Regulations (CFR), not to those in this proposed rule.

(1) What provisions of the regulations should be moved from the regulations and placed in the license conditions?

One comment states that nothing should be moved from the regulations to the license.

One of our objectives in this rulemaking is to limit the regulations to requirements applicable to all deepwater ports. What you see in this proposal are only those requirements that we believe should be in regulations.

(2) What provisions of the regulations can be moved from the regulations and placed in the operations manual?

(a) One comment suggests that the requirements for weather monitoring (§ 150.123), oil transfers (§ 150.413), and stopping transfer operations (§ 150.419) be moved to the operations manual.

We agree and propose that these requirements be moved to the operations manual. This proposal is aligned with the requirements in 33 CFR part 154 for onshore facilities transferring oil or hazardous materials in bulk (OHMB facilities), where oil transfers and stopping oil transfers are dealt with in the operations manual.

(b) Several comments suggest that certain provisions in part 150, subparts B through F, be transferred to the operations manual. One comment suggests that §§ 150.123, 150.201 through 150.217, 150.305 through 150.311, 150.313(a), (b), and (c), 150.341, 150.342, 150.413, 150.415, 150.419, 150.423, 150.503, 150.519, 150.521, 150.523, 150.751, and 150.755 be moved to the manual. Another comment suggests moving the personnel requirements, the description of fire extinguishing equipment and their locations, and the vessel navigation requirements in part 150, subpart C, to the manual. Unfortunately, these comments do not adequately explain why these moves should be made.

We tried to include in the regulations only provisions that should apply to all deepwater ports. We do propose to transfer some of the sections suggested to the operations manual. In particular, we propose to move §§ 150.123, 150.305, 150.311, 150.313, 150.419, 150.519, 150.521, 150.523, and 150.755 to the operations manual. However, we believe that the remaining sections apply to all deepwater ports and, therefore, should stay in the regulations.

(3) What regulations are obsolete, unnecessary, redundant, or restrictive?

(a) One letter states that the regulations for deepwater ports, particularly those on the application for a license, are far more onerous and costly than those for other offshore facilities. The comments remark that the Coast Guard should delete information that was a concern in the 1970's but is no longer a concern today. The comments suggest that information on Petroleum Administration for Defense (PAD) Districts (See definition in proposed § 148.5.) in § 148.109(e) should be deleted. The comments also suggest that financial and technical information required in §§ 148.109(f), (k), and (p), 148.111, and 148.503 is unnecessary.

In the 1970's, the Government thought that deepwater ports would dominate the market. Therefore, the regulations required much information on affiliates, contractors, and PAD Districts. We propose to remove §§ 148.109(e)(6)(i) and (ii), (e)(7) through (e)(13), and (f) and 148.323(b)(6), as the comment suggests.

(b) One comment says that the requirements in §§ 149.313 and 149.315 for an oil transfer alarm were duplicative of the general alarm and public address requirements and that these issues should be addressed in the operations manual.

A separate oil transfer alarm is needed to immediately distinguish between an oil transfer emergency and a general emergency because of the environmental consequences involved. We have retained these provisions in the proposed regulations because they would be applicable to all deepwater ports.

(c) One comment states that § 149.403, concerning wastes being gathered in reservoirs, is inconsistent with industry practices where wastes are treated and expelled into the Gulf of Mexico.

We do not agree. The Minerals Management Service requires offshore facilities, in 30 CFR 250.300, to have a sump system that collects all oil drainages and contaminants not authorized for discharge into the ocean. This system is comparable to the

requirement for a reservoir for a deepwater port. This requirement remains in the regulations.

(d) One comment suggests that §§ 150.203 through 150.217 be deleted and a single section entitled "Person in Charge" be added.

Unfortunately, we were not given a reason for this suggestion and cannot gather from the context why it was suggested.

(e) One comment recommends deleting § 150.713 on sabotage as unnecessary because of industry standards and other Federal and State laws.

Though sabotage is covered under other Federal laws, § 150.713 requires that sabotage be reported to the Coast Guard. Since these incidents must be reported to the Coast Guard, we retain the provision in this proposed rule, except for the requirement for written confirmation of sabotage. We propose to remove the requirement for written confirmation to lessen the reporting burden.

(f) One comment suggests that the notification of new construction at a deepwater port be given to the Coast Guard Captain of the Port (COTP), rather than to the District Commander, as required in § 150.117. Also, a comment suggested that the notification of issuance of the American Bureau of Shipping (ABS) Classification Certificate for a single point mooring (SPM) be given to the COTP, rather than to the Commandant, as required in § 150.119.

We agree with these comments. However, as the COTP is usually advised of construction occurring in his or her area of operation, we propose no change to § 150.117. In § 150.119, the COTP, rather than the Commandant, should be given written confirmation of the licensee's receipt of ABS certificates on SPM's, so we have proposed this change.

(g) Two comments state that § 149.206, concerning construction, should be changed to require steel walls and decks only for manned spaces and that the existing regulations are inappropriately based on those for vessels.

We agree and propose to incorporate the standards for fixed facilities in the OCS Activities NPRM.

(h) One comment remarks that the emergency equipment requirements in § 149.211 are duplicative of other, more detailed sections.

We agree and propose to remove this section.

(i) One comment suggests that the requirement in § 149.215 prohibiting the installation of navigation,

communication, or radar equipment so as to interfere with helicopter operations is unnecessary because it is addressed in the National Fire Protection Association, National Fire Code No. 407, which is already incorporated by reference and required by § 149.213 (proposed § 149.655).

NFPA 407 has been revised and no longer addresses physical interferences with helicopter operations. Instead, we propose to incorporate the American Petroleum Institute standard API RP 2L, Recommended Practice for Planning, Designing and Constructing Heliports for Fixed Offshore Platforms, in proposed § 149.625(f). This standard would apply to fixed deepwater ports and does address physical interferences with helicopter operations. Therefore, we propose to remove existing § 149.215.

(j) One comment states that discharge containment and removal requirements in §§ 149.319, 150.407, and 150.409 are already covered in the facility's response plan required by the Oil Pollution Act of 1990 (OPA 90).

We agree with this comment and have removed the pollution response equipment requirements found in §§ 149.319, 150.407, and 150.409.

(k) Two comments state that §§ 149.451 through 149.479, 150.504, 150.505, and 150.507 are unnecessary because a fixed fire-main system for water is not required on Outer Continental Shelf (OCS) and Oil or Hazardous Material in Bulk (OHMB) facilities and because the regulations should allow for use of dry chemicals.

In limited circumstances, MMS does allow the use of dry chemical systems without a fire main system. However, on facilities that are permanently manned, as are deepwater ports, MMS requires the installation of a fire main system. Dry chemical extinguishers may be used in addition to the fire main system. Therefore, we do not propose to delete these requirements.

(l) One comment on § 149.481 states that halogenated agents are no longer considered safe and should be removed from the regulations.

We agree and propose to remove the references to halogenated fixed fire fighting system agents.

(m) One comment addressing § 149.483 states that the Coast Guard should allow the use of dry chemicals in the fire fighting system for helicopter landing pads.

The provision in the OCS Activities NPRM, which we propose to use for deepwater ports, includes, as an option, the use of dry chemicals in the fire protection system.

(n) One comment addresses § 149.491, concerning fire detection systems. The comment recommends that fire detection systems be required only for enclosed, non-sleeping spaces.

We propose to adopt the regulations for fire detection systems in the OCS Activities NPRM, except that the existing deepwater port (LOOP) would be allowed to use its currently installed system until replaced. The proposed change calls for the system to be installed in all accommodation and service spaces, which would resolve the issue addressed by the first comment.

(o) One comment states that there are no requirements for fire detection systems for OCS and OHMB facilities and, therefore, these systems are unnecessary for deepwater ports.

We do not agree. Requirements for fire detection systems are proposed for fixed facilities in the OCS Activities NPRM and, therefore, are being proposed for deepwater ports.

(p) One comment states that the requirement in § 149.505 for the carriage of spare charges for 50 percent of all portable extinguishers is unnecessary.

We agree and propose to delete this requirement.

(q) Two comments on § 149.517 state that firemen's outfits are unnecessary on deepwater ports because personnel generally make some attempt to put out a fire first. Then, if the fire is not brought under control, they evacuate the facility.

We do not agree. Firemen's outfits are necessary for personnel who may have to rescue others who are trapped by fire. The OCS Activities NPRM proposes a requirement for two firemen's outfits. Therefore, we propose this requirement for deepwater ports.

(r) One comment states that the requirements in § 149.539 for portable lights are overly intrusive and detailed, requiring the selection and use of specific equipment.

We agree and propose to allow personnel on deepwater ports to use lights and supply cords suitable for the environment in which they are used.

(s) One comment concerning markings for piles in § 149.793 states that this requirement should not be applicable to deepwater ports because of the water depth.

The objective of this section is to require that objects protruding from the water, other than platforms and SPM's, be marked so that they are visible to vessels transiting the area. To avoid any further confusion, we propose to amend this section to clarify this point.

(t) Three comments recommend adopting the operations manual

requirements in §§ 154.300 through 154.320.

We agree and have aligned, to the extent practicable, the proposed operations manual requirements with those in 33 CFR 154.310 through 154.320 for OHMB facilities.

(u) One comment recommends that the Captain of the Port (COTP), instead of the Commandant as in § 150.105, be the approval authority for the original approval of the operations manual.

We do not agree that the COTP should be the final approval authority for the operations manual, because the Commandant reviews the submitted operations manual as part of the application process for a deepwater port license. Therefore, we propose no change to this requirement.

(v) One comment suggests that the requirement in § 150.106 for 25 copies of the operations manual is unnecessary and should be reduced to five.

We agree and propose to require the licensee to provide at least five copies of the operations manual to the Commandant (G-M).

(w) One comment states that the requirement in § 150.125, concerning water depth measurements, is unnecessary because deepwater ports are designed, located, and approved with a stable ocean floor.

This provision is not in the OCS Activities NPRM. We agree that this regulation is unnecessary and propose to delete it.

(x) One comment suggests that we remove § 150.419 on stopping oil transfers and move it to the operations manual.

We agree. We propose to move the shut down procedures for stopping oil transfers to the operations manual. See § 150.15(h)(6) in this proposal.

(y) One comment states that the requirement in § 150.421, concerning the displacement of oil in a single point mooring-oil transfer system (SPM-OTS), is impractical for deepwater ports.

We have decided to retain this provision. It is primarily intended for situations where the hose will not be used for long periods of time or when heavy weather threatens. Operators may apply for an exemption on a case-by-case basis, under proposed part 148, subpart F.

(z) One comment states that § 150.513, Sanitation, was unnecessary because of accepted industry standards.

We agree and propose to remove this regulation.

(aa) Two comments suggest that the requirement in § 150.516 that fire-fighting and rescue personnel present during aircraft operations be "appropriately clothed and sufficiently

qualified" is impractical, vague, and not addressed in the regulations for OCS and OHMB facilities.

The deepwater ports regulations do not state what clothing is "appropriate" and what qualifications are "sufficient."

We agree that these provisions are unnecessary and propose to remove them.

(bb) One comment states that the regulations for housekeeping (§ 150.521) and illumination of walking and working areas (§ 150.523) are unnecessary because of Occupational Safety and Health Administration (OSHA), industry, and insurance standards.

We agree and propose that these provisions be removed from the regulations and addressed in the operations manuals.

(cc) Two comments state that the requirements for emergency medical technicians in § 150.525 are unnecessary.

We propose to adopt the workplace safety and health requirements in proposed § 142.366(c) of the OCS Activities NPRM, which would require that the technician be registered with the National Registry of Emergency Technicians (EMT) at the EMT-Intermediate level.

(dd) One comment states that the oil throughput report required in § 150.707 is no longer needed because the Deepwater Port Liability Fund was superseded by the Oil Spill Liability Trust Fund under the Oil Pollution Act of 1990 (OPA 1990).

We agree and propose to remove this requirement because the National Pollution Funds Center no longer requires this report for any purpose.

(ee) One comment suggests that we remove § 150.757, concerning the oil throughput log, because U.S. Customs already requires this log for customs tariffs.

We agree and propose to remove this requirement.

(4) Should the Outer Continental Shelf Activities regulations (33 CFR chapter I, subchapter N) be applied to Deepwater Ports?

Three comments suggest that certain sections of the deepwater port regulations should be similar to those for fixed facilities on the OCS. These sections, primarily concerning safety equipment, are §§ 149.206, 149.217, 149.421, 149.431, 149.441, 149.515, 149.521, 149.523, 149.525, 149.527, 150.509, and 150.527.

We propose to adopt, for deepwater ports, the provisions on these subjects found in the OCS Activities NPRM for fixed facilities.

(5) Should the regulations for facilities transferring oil or hazardous material in bulk (OHMB facilities) in 33 CFR part 154 be applied to deepwater ports?

(a) One comment states that, though the OHMB facility regulations contain a number of operating standards that are followed by the petroleum industry, not all of them are applicable to deepwater ports. It contends that a deepwater port is unique in its licensing and application protocols and environmental risks and should not have all of the same requirements as an onshore facility. Another comment suggests that we align the deepwater port regulations with those for OHMB facilities in §§ 154.300 and 154.320 (operations manual), 154.560 (communications), 154.735 (safety requirements), and 156.150 (declaration of inspection).

We agree with the suggestion, except as to §§ 154.300 and 154.735. Section 154.735 is not suitable for deepwater ports because it addresses concerns for onshore facilities. Only certain provisions of § 154.300 are suitable for deepwater ports, such as the provisions on what should be in the operations manual and how the manual should be maintained.

(b) Another comment states that we should organize all of part 150 along the lines of 33 CFR part 154.

We disagree. Though there are similarities between deepwater ports and onshore facilities, not all regulations are suitable for both.

(6) Should the environmental monitoring program be revised?

The comments received concerning the environmental monitoring program suggest that we eliminate the program. One comment states that the environmental monitoring program should not be addressed in the regulations but be kept in the operations manual or licensing process, as appropriate.

We agree with the comment that suggests that we not include it in the regulations. Under the proposed rule, the environmental monitoring program is addressed in the operations manual and may also be part of the license.

(7) What other regulations, if any, should we align the deepwater port regulations with?

(a) One comment suggests that we delete the aids to navigation requirements in parts 149 and 150 and refer to 33 CFR chapter I, subchapter C, Aids to Navigation, instead.

We do not agree. The requirements for aids to navigation for deepwater ports contain detailed provisions not found in

subchapter C, such as the technical requirements for lights.

(b) One comment concerning notice of arrival of tankers at a deepwater port (§ 150.333) suggests that we rely on 33 CFR 160.207 and 160.211, which already address notice of arrival for vessels.

We agree that this section should reference 33 CFR 160.207 and 160.211 and propose this change.

(c) One comment suggests that extra lifesaving and fire fighting equipment be approved by the American Bureau of Shipping (ABS) rather than under 46 CFR parts 160 or 162, as required by 33 CFR 149.402.

We do not agree. Although ABS provides some technical review and inspection functions, it does not approve lifesaving gear or fire fighting equipment on behalf of the Coast Guard.

What Methods Did We Use To Make the Proposed Regulations More Readable?

One of the most noticeable changes in the proposed rule is in its organization and style. We use many plain-language techniques in this document. These techniques are intended to make the regulations easier to follow and understand. Some plain-language techniques include the use of—

1. The active voice to clarify who is responsible;
2. Section headings with text in a question-and-answer format to organize and convey the information in a logical way;
3. Common, everyday words, except for standard technical terms;
4. Short sentences for easier readability; and
5. Personal pronouns that directly address the reader.

These and similar techniques are consistent with the requirements of the Presidential Memorandum, "Plain Language in Government Writing" (63 FR 31885, June 1, 1998). We ask for your comments on the organization, style, and readability of this document.

What Are the Proposed Substantive Changes?

The following is a discussion of the proposed, substantive changes to the existing regulations. They are arranged in sequential order, by section number, as the sections appear in the current Code of Federal Regulations.

33 CFR 148.3 and 150.403 on Definitions

We propose to move the definitions in § 150.403 to § 148.3. This will simplify the reading of the regulations. The definitions of "Affiliate" and "Deepwater port" are defined by statute

and will be revised to cite their statutory definitions. We propose to add the definitions of "Adjacent coastal state," "Administrator of the Maritime Administration," "Applicant," "Application," "Approval series," "Citizen of the United States," "Coastal environment," "Coastal state," "Commandant (G-M)," "Construction," "Control," "District Commander," "Governor," "Lease block," "License," "Marine environment," "Officer in Charge Marine Inspection," "Person," "Personnel," "Safety zone," "State," "Secretary," and "Survival craft." We propose to delete the term "Marine site" because of changes in the proposed regulations that eliminate its use. We propose to update the definitions of "PAD District" and "Refining District" to reflect the change in agencies' handling of information on production of crude petroleum and revise the definition of "crude oil."

33 CFR 148.105, 148.107, and 148.213 on Application for a License

After reconsidering the number of copies of an application that the applicant must submit, we propose to reduce the number of copies required in these sections from 60 to 16, plus two copies for each adjacent coastal State.

We propose to change the \$100,000 nonrefundable fee in § 148.107 to \$350,000 to reflect the cost of inflation since 1975, when this provision was issued. The proposed amount is based on the Consumer Price Index of the Bureau of Labor Statistics, U.S. Department of Labor, and was calculated using the average percentage change year to year from 1975 to 1999.

33 CFR 148.109(e)(6)(i) and (ii), 148.109(e)(7), and (e)(9) Through (e)(13), and 148.323(b)(6) on Financial Information

We propose to remove these sections. They deal with the antitrust review that the Deepwater Port Modernization Act of 1996 eliminated.

33 CFR 148.109(f) on Reporting the Experience of the Applicant's Contractors

We propose to remove the requirement for reporting the experience of contractors with which a deepwater port proposes to make a contract. The proposed regulation would require information only from the contractor with whom the deepwater port applicant actually makes a contract or has a letter of intent.

33 CFR 148.109(t) on the "Guide to Preparation of Environmental Analyses for Deepwater Ports."

As suggested by the Environmental Protection Agency (EPA) and industry, we propose to remove the reference to the "Guide to Preparation of Environmental Analysis for Deepwater Ports" because of its outdated information. As a result, the current guidelines for environmental analyses are added to proposed appendix A to part 148. This will provide more flexibility in developing the environmental analysis and be more consistent with current practices and existing guidance.

33 CFR 148.211(c) on Processing an Application

We propose to remove this section to reduce the paperwork burden on the applicant.

33 CFR 148.507(c) and (d) on Reports of Site Evaluation and Pre-Construction Testing

We propose to combine paragraphs (c) and (d), which require preliminary and final reports, and require only a final report. The applicant would be given 120 days to submit this report.

33 CFR 149.203(d) on Photographic Records

We propose to remove the requirements for submitting drawings and specifications on 105-mm negatives and propose to let the licensee determine the most feasible way to record these drawings and specifications.

33 CFR 149.205 on Design Standards

In § 149.205(b), we propose to reference the updated American Petroleum Institute (API) recommended practice, API RP 2A-WSD (Working Strength Design), instead of the currently referenced API RP 2A. This updated recommended practice would apply to all deepwater ports contracted for on or after the effective date of the final rule.

As an alternative to API RP 2A-WSD, API developed API RP 2A-LRFD, Load and Resistance Factor Design. It contains the engineering design principles and practices that form the basis of API RP 2A-WSD and uses reliability-based calibration on individual structural members. We propose to allow the use of either API RP 2A-WSD or API RP 2A-LRFD.

For heliports on fixed deepwater ports, we propose to add API RP 2L as the standard for design and construction of heliports. See proposed § 149.625(f).

33 CFR 149.206 on Construction

We propose to align the requirements for structural fire protection with those

in proposed §§ 143.1115 through 143.1135 of the OCS Activities NPRM.

33 CFR 149.209, 150.119, and 150.121 on Classification Society Certificates for Single Point Moorings

We propose to combine §§ 150.119 and 150.121 with § 149.209 for easier reading. In addition, we propose to allow a deepwater port licensee to request the use of an alternate classification society's rules for building a single point mooring. We published a final rule (62 FR 67525) on December 24, 1997, on alternate compliance via recognized classification societies for U.S. tank vessels, passenger vessels, cargo vessels, miscellaneous vessels, and mobile offshore drilling units (MODU's).

33 CFR 149.211 on Installed Mountings for Emergency Equipment

We propose to remove this section because this subject is already dealt with in other sections of the OCS Activities NPRM.

33 CFR 149.215 on Interference With Helicopter Operations

We propose to remove this section because it has already been covered in NFPA 407, which is incorporated by reference in this subchapter.

33 CFR 149.217 on First Aid Stations

We propose to align this section with the OCS Activities NPRM.

33 CFR 149.305 (b) on Shutoff Valves for Pipeline End Manifolds

Based on LOOP's experience, we propose to delete the redundant phrase "Cargo Transfer Supervisor's normal place of duty," and replace it with "pumping platform complex." The pumping platform complex is the cargo transfer supervisor's normal place of duty.

33 CFR 149.311(b) on Monitoring the Malfunction Detection System

Section 149.311(a) requires that the oil transfer system have a system to detect and locate leaks. Paragraph (b) requires that the detection system be monitored at the Cargo Transfer Supervisor's place of duty. We propose to remove paragraph (b) because it is vague and unnecessarily restrictive. A system to detect leaks under paragraph (a) would necessarily involve monitoring.

33 CFR 149.317 on Communications Equipment

We propose to align the communications requirements with those in § 154.560.

33 CFR 149.321 on Special Requirements for On-Loading Ports

Based on LOOP's experience, we propose to add a sentence clarifying that, when a vessel-to-vessel transfer occurs at a deepwater port, the deepwater port is not required to receive oil residues.

33 CFR 149.403 on Curbs, Gutters, Drains, and Reservoirs

We propose to amend this section to require only that oil drainages and contaminants not authorized for discharge into the waters be collected in reservoirs.

33 CFR 149.421 on Means of Escape From a Platform

We propose to align this section with the proposed requirements for means of escape in the OCS Activities NPRM.

33 CFR 149.423 on Means of Escape From a Helicopter Landing Pad

We propose to align this section with the proposed requirements for means of escape in the OCS Activities NPRM.

33 CFR 149.441 on Guardrails, Fences, Nets, and Toeboards

We propose to align this section with the requirements in the OCS Activities NPRM.

33 CFR 149.477 on Spray Applicators

The final rule published in the **Federal Register** on May 23, 1996, (CGD 95-027, 61 FR 26009) eliminates the requirement for spray applicators. Newer nozzles may be approved without spray applicators. But, all fire hose nozzles approved under 46 CFR part 162, subpart 162.027, before 1996 need to have a spray applicator as approved under that subpart. We propose to include this provision in § 149.425.

33 CFR 149.479 on International Shore Connections

We propose to remove this requirement. Based on experience at LOOP, the connections are rarely used and are an unnecessary cost.

33 CFR 149.481 through 149.483 on Other Fire Extinguishing Systems

We propose to align this section with the OCS Activities NPRM.

33 CFR 149.491 on Fire Detection and Alarm Systems

We propose to align this section with the OCS Activities NPRM, with the following exception. An existing deepwater port would be able to use the fire detection system it currently has installed until the system is replaced.

33 CFR 149.505 and 149.507 on Spare Charges and Marking of Extinguishers

We propose to align these sections with the OCS Activities NPRM.

33 CFR 149.511 and 149.513 on Helicopter Landing Areas

We propose to align these sections with the OCS Activities NPRM.

33 CFR 149.515 on Fire Axes

We propose to align this section with the OCS Activities NPRM.

33 CFR 149.521 Through 149.537 on Lifesaving Equipment

We propose to align these sections with the OCS Activities NPRM. An existing deepwater port would be able to keep their existing equipment until it needs replacement.

33 CFR 149.539 on Portable Lights

We propose to revise this section by making it less detailed and by allowing the use of any light or supply cord suitable for the environment where they will be used.

33 CFR 149.543 on the Marking of the General Alarm

As a result of LOOP's experience and to better differentiate between the general alarm and the oil transfer system alarm, we propose to require the letters on the general alarm to be yellow on a red background.

33 CFR 149.703 through 149.775 on Aids to Navigation

We propose to update this section with the latest technological advances and to reorganize it for easier reading.

33 CFR 149.793 on Marking for Piles and Pile Clusters

We propose to clarify this section. The objective of this section is to require that objects protruding from the water, other than platforms and SPM's, be marked so that they are visible from vessels transiting the area.

33 CFR 150.105, 150.106, and 150.107 on the Operations Manual

We propose to remove the reference in § 150.105 to the "Guidelines for Preparation of a Deepwater Port Operations Manual." Instead of this reference, we propose to list, in § 150.15, the items that an operations manual should include. This change would be consistent with the requirements for onshore facilities, which do not reference a separate document listing the items. The new list would require less information than the detailed Guidelines.

Section 150.106 requires that 25 operations manuals be submitted to the Coast Guard. We see no need for this many manuals and propose that only five are submitted.

We propose to align § 150.107, concerning amendments to the operations manual, with the requirements for facilities transferring oil and hazardous material in bulk in § 154.320.

33 CFR 150.119 on Notice of an ABS Certificate

We propose to delete this section, which requires written notification from the licensee to the Commandant upon receipt of the American Bureau of Shipping (ABS) certificates for a single point mooring at a deepwater port.

33 CFR 150.123 on Weather Monitoring

We propose to move these requirements to the operations manual, as suggested by one comment. The day-to-day operation is a more appropriate subject for the operations manual.

33 CFR 150.125 on Water Depth Measurements

We propose to remove this section, as requested in several comments.

33 CFR 150.211 on Qualifications of a Mooring Master

In 1980, LOOP requested that the qualifications for a mooring master include a person with 1 year of experience in charge of an offshore crude oil lightering operation involving tankers of 70,000 DWT or larger. The Coast Guard approved the petition because it maintained a high level of qualification for the job, while expanding the number of U.S. citizens qualified for the job. We propose to include this qualification in this section.

33 CFR 150.333 on Advance Notice of Arrival

To remain consistent with other Coast Guard regulations, we propose to align, to the extent practicable, the regulations for advance notice of arrival with those in 33 CFR 160.207.

33 CFR 150.417 on the Declaration of Inspection

We propose to align the requirement for the declaration of inspection for transferring oil with that for OHMB facilities in 33 CFR 156.150.

33 CFR 150.509 on the Use of Personal Protection Equipment

We propose to align this section with the OCS Activities NPRM.

33 CFR 150.511 on Maintenance of Personal Protection Equipment

We propose to align this section with the OCS Activities NPRM.

33 CFR 150.513 on Sanitation

One comment states that this regulation was unnecessary in light of accepted industry standards. We agree and propose to remove this section.

33 CFR 150.516 on Aircraft Operations

Helicopter operations on offshore facilities are routine and relatively safe. They do not require that appropriately clothed personnel, as called for in § 150.516, be available on the helicopter deck during helicopter operations. Other offshore facilities are not required to have someone on the deck. Therefore, as one comment requests, we propose to remove this requirement.

33 CFR 150.521 and 150.523 on Housekeeping and Illumination

We propose to move these requirements to the operations manual.

33 CFR 150.525 on Emergency Medical Technicians (EMT's)

One comment suggests that we delete this requirement. In § 142.366(c) of the OCS Activities NPRM, an EMT is required for the rescue team for confined-space entry. We propose to delete § 150.525 because proposed § 150.600 incorporates the OCS Activities provision.

33 CFR 150.527 on First Aid Kits

We propose to align this section with the OCS Activities NPRM.

33 CFR 150.707 on the Oil Throughput Report

We propose to remove this section because, under the Oil Pollution Act of 1990 (OPA 90), the Deepwater Port Liability Fund (DPLF) was superseded by the Oil Spill Liability Trust Fund (OSLTF). All funds remaining in the DPLF were deposited in the OSLTF and oil throughput reports were no longer required.

33 CFR 150.711 on Casualty or Accident Reporting

We propose to update this section to reflect the Coast Guard's changes to the requirements for casualty reporting in other Coast Guard regulations.

33 CFR 150.713 on Sabotage and Subversive Activities

We propose to remove the requirement for a written confirmation following a report of sabotage or subversive activity, because we found that the confirmation is unnecessary.

33 CFR 150.755 on Port Inspection Records

We propose to replace this section with a requirement for an annual self-inspection report to be completed and sent to the local COTP. This self-inspection report would be similar to

the Fixed OCS Facility Inspection Report, form CG-5432, required for all fixed OCS facilities.

33 CFR 150.757 on the Oil Throughput Log

One comment in response to the ANPRM suggests that this requirement

was covered in other regulations, particularly the U.S. Customs Service, and should be removed. We agree and propose to remove this section.

Where Are Current Deepwater Ports Regulations Located in the Proposed Rule?

TABLE 1.—DISTRIBUTION AND DERIVATION TABLE

If the regulation is in 33 CFR—	You will find it in the NPRM at proposed—	If you are looking at the proposed NRPM cite—	It is derived from 33 CFR—
148.1	148.1	148.1	148.1
148.3	148.5	148.2	149.105, 150.103
148.101	148.100	148.3	
148.103	148.115	148.5	148.3, 150.204, 150.303, 150.403
148.105	148.110	148.10	
148.107(a) and (b)	148.115	148.100	148.101
148.107(c) through (e)	148.125	148.105	148.109
148.109	148.105	148.107	148.109(z)(1)
148.109(z)(1)	148.107	148.108	148.109(z)(5)
148.109(z)(5)	148.108	148.110	148.105
148.111	148.130	148.115	148.103, 148.107(a), (b)
		148.125	148.107(c) through (e)
		148.130	148.111
148.201	148.200	148.200	148.201
148.203(b)	148.232	148.203	
148.205	148.205	148.205	148.205
148.207	148.207	148.207	148.207
148.211	148.209	148.209	148.211
148.213	148.211	148.211	148.213
148.215	148.213	148.213	148.215
148.216	148.215	148.215	148.216
148.217	148.217	148.217	148.217
148.219	148.221	148.221	148.219
148.231	148.222(a) and (b)	148.222(a) and (b)	148.231
148.233	148.222(c)	148.222(c)	148.233
148.235	148.227	148.227	148.235
148.251	148.228	148.228	148.251
148.253	148.230	148.230	148.253, .283
		148.232	148.203(b), .287, .291
148.255	148.234	148.234	148.255
148.257	148.236	148.236	148.257
148.259	148.232(a)		
148.261	148.238	148.238	148.261
148.263	148.240	148.240	148.263
148.265	148.242	148.242	148.265
148.267	148.244	148.244	148.267
148.269	148.232(a)		
148.271	148.232(a)		
148.273(a) and (c)	148.246	148.246	148.273(a) and (c)
148.273(b)	148.248	148.248	148.273(b)
148.275	148.250	148.250	148.275
148.277	148.232(a)		
148.279	148.232(a)		
148.281	148.252	148.252	148.281
148.283	148.230		
148.285	148.254	148.254	148.285
148.287	148.232		
148.289	148.232, .242		
148.291	148.232(a)		
		148.256	
148.321(a)	148.277	148.276	148.321(b)
148.321(b)	148.276	148.277	148.321(a)
148.323	148.279	148.279	148.323
148.325	148.281	148.281	148.325
148.327	148.283	148.283	148.327
148.400	148.300	148.300	148.400
148.403	148.305	148.305	148.403
		148.307	148.407(a)
148.405	148.310	148.310	148.405
148.407	148.277, .307		
		148.315	
148.501	148.400	148.400	148.501

TABLE 1.—DISTRIBUTION AND DERIVATION TABLE—Continued

If the regulation is in 33 CFR—	You will find it in the NPRM at proposed—	If you are looking at the proposed NRPM cite—	It is derived from 33 CFR—
148.503	148.405	148.405	148.503
148.505	148.410	148.410	148.505
148.507	148.415	148.415	148.507
148.509	148.420	148.420	148.509
148.601	148.500	148.500	148.601
148.603	148.505	148.505	148.603
148.605	148.510	148.510	148.605
148.607	148.515	148.515	148.607
148.701	148.600	148.600	148.701
148.703	148.605	148.605	148.703
		148.610	
148 Appendix A	148 Appendix A	148 Appendix A	148 Appendix A
148 Annex A	148 Annex A	148 Annex A	148 Annex A
149.101	149.1	149.1	149.101
149.105	148.2	149.5	
149.201	149.600	149.10	
149.203(a) through (c)	149.615	149.100	149.301
149.203(d)	149.620	149.105	149.303
149.205	149.625	149.110	149.305
149.206	149.640	149.115	149.307
149.209	149.650	149.120	149.309
149.211		149.125	149.311
149.213	149.655	149.130	149.313
149.215		149.135	149.315
149.217	149.680	149.140	149.317
149.301	149.100	149.145	149.403
149.303	149.105	149.150	149.321
149.305	149.110	149.300	
149.307	149.115	149.305	
149.309	149.120	149.310	149.402
149.311	149.125	149.400	
149.313	149.130	149.405	
149.315	149.135	149.410	149.451
149.317	149.140	149.415	149.453
149.319		149.420	149.457
149.321	149.150	149.425(a)	149.467
149.401		149.425(b)	149.469
149.402	149.310 and 149.430	149.425(c)	149.471
149.403	149.145	149.425(d) and (e)	149.473
149.411	149.660	149.430	149.402
149.421	149.690	149.500	149.701
149.423	149.690	149.505	149.705
149.431	149.690	149.510	149.707
149.433	149.690	149.520	
149.441	149.690	149.521	149.703
149.451	149.410	149.523	
149.453	149.415(a) through (c)	149.525	149.727
149.455	149.415(d)	149.527	149.723
149.457	149.420(a) through (c)	149.530	149.751 and 149.753
149.459	149.420(d)	149.531	149.755 and 149.757
149.461	149.420(e)	149.533	149.759
149.463	149.420(f)	149.535	149.797
149.465	149.420(g)	149.540	149.751
149.467	149.425(a)	149.545	149.755
149.469	149.425(b)	149.550	149.753
149.471	149.425(c)	149.555	149.755 and 149.757
149.473	149.425(d)	149.560	149.771 and 149.773
149.477	149.425(e)	149.565	149.773
149.479		149.570	149.791
149.481	149.405	149.575	149.793
149.483	149.405	149.580	149.795
149.491	149.405	149.585	149.799
149.501	149.405	149.600	149.201
149.503	149.405	149.610	150.117
149.505	149.405	149.615	149.203 (a) and (b)
149.507	149.405	149.620	149.203 (c) and (d)
149.511	149.405	149.625	149.205
149.513	149.405	149.630	New
149.515	149.405	149.640	149.206
149.517	149.405	149.650	149.209 and 150.121
149.521 through 149.537	149.305	149.655	149.213

TABLE 1.—DISTRIBUTION AND DERIVATION TABLE—Continued

If the regulation is in 33 CFR—	You will find it in the NPRM at proposed—	If you are looking at the proposed NRPM cite—	It is derived from 33 CFR—
149.539	149.695	149.660	149.411
149.541	149.665	149.665	149.541
149.543	149.670	149.670	149.543
149.545	149.675	149.675	149.545
149.701	149.500	149.680	149.217 and 150.527
149.703	149.521	149.685	
149.705	149.505	149.690	149.421, .423, .431, .433 and .441
149.707	149.510	149.695	149.539
149.721			
149.723	149.527		
149.724	149.520		
149.725			
149.727	149.525		
149.729			
149.751	149.540		
149.753	149.550		
149.755 (a) and (b)	149.531 (a) and (b)		
149.755 (c)	149.555 (a) and (b)		
149.757 (a)	149.531 (c)		
149.757 (b)	149.545 (a)(3)		
149.757 (c)	149.555 (c)		
149.759	149.533		
149.771			
149.773 (a)	149.560		
149.773 (b)			
149.775	149.565		
149.791	149.570		
149.793	149.575		
149.795	149.580		
149.797	149.535		
149.799	149.585		
150.101	150.1	150.1	150.101
150.103	148.2	150.5	
150.105 (a)—(b)	150.10, 150.105	150.10 (a)—(b)	150.105 (a)—(b)
150.106	150.20	150.10 (c)	150.109
150.107 (a)—(c)	150.25	150.15	150.105
150.107 (d)	150.35	150.20	150.106
150.109	150.10 (c)	150.25	150.107 (a)—(c)
150.113	150.40	150.30	150.107 (a)—(c)
150.115	150.45	150.35	150.107 (d)
150.117		150.40	150.113
150.119		150.45	150.115
150.121		150.50	150.129
150.123		150.100	
150.125			
150.127			
150.129	150.50		
150.201	150.200	150.200	150.201
150.203	150.210	150.205	
150.204	148.5	150.210	150.203
150.205	150.220	150.215	150.217
		150.220	150.205
150.207	150.225	150.225	150.207
150.209	150.230	150.230	150.209
150.211	150.235	150.235	150.211
150.213	150.240	150.240	150.213
150.215	150.245	150.245	150.215
150.217	150.215	150.250	
150.301	150.300	150.300	150.301
150.303	148.5		
150.305			
150.307	150.310	150.310	150.307
150.309 (a) and (b)	150.320		
150.309 (c)	150.365	150.320	150.309 (a) and (b)
150.311		150.325	150.333
150.313		150.330	150.335
150.315	150.345		
150.317	150.355	150.340	150.337
150.333	150.325	150.345	150.315
150.335	150.330	150.350	150.338

TABLE 1.—DISTRIBUTION AND DERIVATION TABLE—Continued

If the regulation is in 33 CFR—	You will find it in the NPRM at proposed—	If you are looking at the proposed NPRM cite—	It is derived from 33 CFR—
150.337	150.340	150.355	150.317, 150.339
150.338	150.350 .....	.....
150.339	150.355 .....	.....
.....	.....	150.365	150.309
150.341	150.370	150.370	150.341
150.342	150.375	150.375	150.342
150.345	150.380	150.380	150.345
.....	.....	150.385 .....	.....
.....
150.400	150.400	150.400	150.400
150.403	148.5 .....	.....	.....
150.405	150.405	150.405	150.405
150.407 .....	.....	.....	150.407
150.409 .....	.....	.....	150.409
150.411	150.420	150.420	150.411
150.413	150.425	150.425	150.413
150.415	150.430	150.430	150.415
150.417	150.435	150.435	150.417
150.419 .....	.....	.....	.....
150.421	150.447	150.440	150.423
150.423	150.440	150.445	150.425
150.425	150.445	150.447	150.421
150.500	150.500	150.500	150.500
150.503	150.505	150.505	150.503
.....	.....	150.510 .....	.....
150.504	150.515	150.515	150.504
150.505	150.520	150.520	150.505
150.507	150.525	150.525	150.507
150.509	150.600	150.530	150.515
150.511	150.600	150.535	150.517
150.513 .....	.....	.....	.....
150.515	150.530 .....	.....	.....
150.516 .....	.....	150.600	150.509
150.517	150.535 .....	.....	.....
150.519 .....	.....	.....	.....
150.521 .....	.....	.....	.....
150.523 .....	.....	.....	.....
150.525	150.600 .....	.....	.....
150.527	149.680 .....	.....	.....
.....
150.601	150.700	150.700	150.601
150.603	150.705	150.705	150.603
150.605	150.710	150.710	150.605
150.607	150.715	150.715	150.607
150.611	150.720	150.720	150.611
.....
150.701	150.800	150.800	150.701
150.703	150.805	150.805	150.703
150.705	150.810	150.810	150.705
150.707 .....	.....	150.815	150.711
150.711	150.815	150.820	150.711
150.713	150.835	150.825 .....	.....
150.751	150.840	150.830 .....	.....
150.753	150.845	150.835	150.713
150.755 .....	.....	150.840	150.751
150.757 .....	.....	150.845	150.753
150.759	150.850	150.850	150.759
.....
150 Appendix A	150.900 thorough 150.915	150.900	150 Appendix A
150 Annex A	150.935	150.905	150 Appendix A
.....	.....	150.910	150 Appendix A
.....	.....	150.915	150 Appendix A
.....	.....	150.920	147.30
.....	.....	150.925	147.35
.....	.....	150.930	147.105
.....	.....	150.935	150 Annex A

Safety and Environmental Management Program (SEMP)

In keeping with our belief that overall performance should be placed ahead of rote equipment testing and reliance on prescriptive regulations, we are requesting comments on the feasibility of allowing the voluntary use of safety and environmental management programs (SEMP's) as alternatives to certain regulations on workplace safety and health. The Minerals Management Service (MMS) has promoted this approach for offshore facilities since 1991. You can find more information about MMS by accessing the following web site: <http://www.mms.gov/sem/index.htm>. Also, you may refer to the American Petroleum Industry Recommended Practice 75 (API RP 75) entitled, "Recommended Practice for Development of a Safety and Environmental Management Program for Outer Continental Shelf (OCS) Operations and Facilities." API RP 75 is available for a fee from API on the Internet at <http://www.api.org>.

We would like your comments on the pros and cons of the voluntary use of SEMPs as an alternative to, or as a complement to, specific provisions in these proposed regulations.

Security and Terrorism

The terrorist attacks of September 11, 2001, have increased our awareness of the vulnerability of deepwater ports to attack. As a result, we are emphasizing a requirement already in the deepwater port regulations that an applicant for a deepwater port license include, within the port's operating manual, a plan to provide for port security that addresses actions to detect and deter potential terrorist threats and to mitigate the consequences of an attack. It is the operator's responsibility to identify risks and describe the actions that will be taken to increase security at a deepwater port. These actions will be developed by the operator, licensee, or both in consultation with the Coast Guard on a case-by-case basis and may include, but not be limited to, control of access to the port, monitoring and alerting vessels that approach or enter the port's security zone, notification requirements in the event of a perceived threat to the port, and response requirements in the event of an attack.

Incorporation by Reference

Material proposed for incorporation by reference appears in proposed § 148.10. You may inspect this material at U.S. Coast Guard Headquarters where indicated under **ADDRESSES**. Copies of

the material are available from the sources listed in § 148.10.

Before publishing a binding rule, we will submit this material to the Director of the Federal Register for approval of the incorporation by reference.

Regulatory Evaluation

This proposed rule is not a "significant regulatory action" under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not "significant" under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040, February 26, 1979). A draft Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is available in the docket as indicated under **ADDRESSES**. A summary of the Evaluation follows.

The proposed changes include those to clarify the language and structure of the regulations and also those to update the regulations with current technology and industry standards. In particular, many of the changes proposed in this rulemaking result from our attempt to align, to the extent feasible, the deepwater port regulations with those for fixed facilities in the OCS Activities NPRM. This alignment is accomplished by cross-references, in the deepwater ports NPRM, to provisions in the OCS Activities NPRM. For a complete list of the proposed changes to 33 CFR parts 148, 149, and 150, refer to appendices A and B in the Regulatory Evaluation, located in the docket as indicated under **ADDRESSES**.

Currently, there is only one licensed deepwater port, which is the Louisiana Offshore Oil Port (LOOP), located 18 miles offshore of Louisiana in the Gulf of Mexico. We estimate that this existing deepwater port is already compliant with many of the proposed regulations and also assume that LOOP represents industry standards. Therefore, the baseline we are using to estimate the benefits and costs of this proposed regulation is not the current 25-year old regulation, but rather the existing industry standard established by LOOP. Furthermore, we assume that new deepwater port construction will follow the industry standard. Based upon discussion with industry, we expect two additional deepwater ports will apply for a license within the next decade.

Costs. The total present value cost for the proposed rule for the 10-year period would be \$19,996. This estimate was derived as follows. The existing

deepwater port is already compliant with many of the proposed regulations. In addition to the existing population (LOOP), costs are also considered for two new deepwater ports, which we estimate will enter the industry in each of the years 2002 and 2005. We expect that these entrants would follow existing industry standards and would, therefore, face the same costs as the existing industry. Proposed changes that would have a quantitative impact are the following:

1. This proposal would require the facility to perform periodic weight testing of survival craft falls if a survival craft has a fall replaced or every 5 years, whichever comes first. This weight testing would ensure the delivery system is operational and ready for use in an emergency. We estimate the present value cost to total \$2,311 for all three deepwater ports.

2. This proposal would require the deepwater port to change the marking of the general alarm to yellow letters on a red background. We estimate the one-time present value cost to total \$67 for all three deepwater ports.

Although we assume the existing industry is compliant with the majority of the proposed rules, we do not assume that it meets the exact collection of information requirements. Therefore, we have integrated the costs associated with the paperwork burden into the total industry costs. The paperwork burden amounts to the present value cost of \$17,618 for all three deepwater ports.

Benefits. The total present value of industry benefits for the proposed rule for the 10-year period would be \$4,159. This estimate was derived as follows.

The proposed rulemaking is consistent with the deepwater port industry's request to have its regulations aligned with the OCS regulations. Hence, the accumulated benefits are the result of updating the regulations and removing any that are obsolete or unnecessary. Many of these proposed changes would neither change existing practice nor have a quantitative impact on the existing deepwater port, because the original regulations are obsolete.

Although the collection-of-information requirements represent a majority of the costs of this proposed regulation, they also represent a qualitative benefit. The Coast Guard considers that the proposal would aid its ability to enforce regulations, thereby promoting the safety of life and property on deepwater ports. Furthermore, by deepwater ports recording training and safety inspection information, their own safety level would increase by improving accident readiness, noise

level awareness, and lifesaving equipment preparation.

Some of the proposed changes, which are simply a sunk cost for the existing deepwater port, represent a quantitative benefit for the two new deepwater ports that are expected to enter the industry. These benefits include (1) Lowering the requirement for fire axes from eight to two (\$356 present value (PV)), (2) removing the requirement for the carriage of spare charges for 50 percent of all portable extinguishers (\$340 PV), and (3) removing the requirement to have appropriately clothed personnel during aircraft operations (\$340 PV). In addition, new deepwater ports would also accrue benefits due to the decrease in the collection of information requirements in the license application process. These reductions include (1) removing the requirement for various financial information (\$815 PV), (2) reducing the number of application copies (\$1,969 PV), and (3) removing the preliminary-report requirement for site evaluation and pre-construction testing (\$339 PV).

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this proposed rule would have a significant economic impact on a substantial number of small entities. The term “small entities” comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

There is one company that owns a deepwater port, LOOP. The NAICS code for LOOP is 488320 Marine Cargo Handling. According to the Small Business Administration’s definition, a company with this NAICS code and earning revenue less than \$18.5 million per year is considered a small entity. LOOP does not qualify as a small entity because its gross revenue exceeds \$18.5 million. We assume that new industry entrants will be comparable in size to LOOP and, thus, would not be small businesses.

Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities. If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment to the Docket Management Facility at the address under **ADDRESSES**. In your comment, explain why you think it

qualifies and how and to what degree this rule would economically affect it.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), we want to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please consult Robert Spears, Project Development Division (G–MSR–2), telephone 202–267–1099, fax 202–267–4547.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency’s responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

Collection of Information

This proposed rule would call for collections of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). As defined in 5 CFR 1320.3(c), “collection of information” comprises reporting, recordkeeping, monitoring, posting, labeling, and other similar actions. The titles and descriptions of the information collections, a description of those who must collect the information, and an estimate of the total annual burden follows. The estimate covers the time for reviewing instructions, searching existing sources of data, gathering and maintaining the data needed, and completing and reviewing the collections.

The information collection requirements of this proposed rule are addressed in the OMB collections 2115–0569 and 2115–0580.

1. OMB Collection 2115–0569.

Title: Outer Continental Shelf Activities and Deepwater Ports—Self-Inspection of Fixed Facilities, Confined-Space Entry, and Lifesaving/Firefighting Equipment.

Summary of the Collection of Information: This proposal would add collection-of-information requirements, which would result from the alignment with the OCS Facilities NPRM. The

burden is incorporated into the section of this analysis entitled “Costs.” In addition to affecting LOOP, we assume the collection would affect a new industry entrant in 2002. The additional requirements would be as follows:

1. Record all onboard training (abandonment drills, fire drills, other lifesaving appliances, and musters) in an official logbook.
2. Maintain a report of monthly tests and inspections of all lifesaving equipment under proposed § 143.615 of the OCS Activities NPRM.
3. Maintain weight-testing written attestments and a report of all inspections.
4. Maintain records of annual tests and inspections of hand-portable fire extinguishers, semi-portable fire extinguishers, and fixed fire extinguishing systems.
5. Establish a written program to reduce the risk of naturally occurring radioactive material (NORM) if there are operations that introduce NORM.
6. Establish a written program to prevent exposure from blood-borne pathogens or other infectious material.
7. Before doing work on equipment that is disconnected from the power source, place a tag at the location where the power is disconnected.
8. Conduct noise-level surveys and maintain results.
9. Issue confined-space entry permits.
10. Provide a certificate for all confined-space entry training.
11. Provide a certificate for all offshore competent persons.
12. Establish a written program for confined-space entry.
13. Establish a written hazard communication program.

Need for Information: The primary need for this information would be to determine if a deepwater port is in compliance with the regulations.

Proposed Use of Information: This information also can help determine, in the event of a casualty, whether failure to meet these regulations contributed to the casualty.

Description of the Respondents: Licensees or operators of deepwater ports.

Number of Respondents: Two.

Frequency of Response: Varies.

Burden of Response: The burden of response would vary depending upon the collection.

Estimate of Total Annual Burden: The average annual reporting burden to industry is 74 hours.

2. OMB Collection 2115–0580

Title: Outer Continental Shelf Activities—Emergency Evacuation Plans for Manned OCS Facilities, MODU’s,

and MIDU's; Design & Plan Approvals; In-service Inspection Plan & Letter of Compliance. Deepwater Ports—License Application and Notice and Report of Site Evaluation and Pre-construction Testing.

Summary of the Collection of Information: This proposal would change the collection-of-information requirements for the license application. The burden is not incorporated into "Costs" because it is not a new cost. Instead, the proposed regulation reduces the requirements for a deepwater port license applicant. The associated benefits are reflected in the section entitled "Benefits." The proposed requirements include the following:

1. License application.
2. Notice and report for site evaluation and pre-construction testing.

Need for Information: The primary use of this information would determine if an applicant for a deepwater port meets the necessary requisites.

Proposed Use of Information: The information determines whether a proposed deepwater port is constructed.

Description of the Respondents: Deepwater port applicants.

Number of Respondents: One.

Frequency of Response: Once.

Burden of Response: The burden of response would be 221 hours for the license application and 12 hours for the notice and report for site evaluation and pre-construction testing.

Estimate of Total Annual Burden: The average annual reporting burden to industry is 78 hours.

As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), we have submitted a copy of this proposed rule to the Office of Management and Budget (OMB) for its review of the collection of information.

We ask for public comment on the proposed collection of information to help us determine how useful the information is; whether it can help us perform our functions better; whether it is readily available elsewhere; how accurate our estimate of the burden of collection is; how valid our methods for determining burden are; how we can improve the quality, usefulness, and clarity of the information; and how we can minimize the burden of collection.

If you submit comments on the collection of information, submit them both to OMB and to the Docket Management Facility where indicated under **ADDRESSES**, by the date under **DATES**.

You need not respond to a collection of information unless it displays a currently valid control number from OMB. Before the requirements for this collection of information become

effective, we will publish notice in the **Federal Register** of OMB's decision to approve, modify, or disapprove the collection.

Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this proposed rule under that Order and have determined that it does not have implications for federalism. This rulemaking applies to deepwater ports only in waters beyond the territorial limits of the United States (33 U.S.C. 1501(a)(1)). As regulation of these deepwater ports is outside of the jurisdiction of the States, this rulemaking would not preempt State law.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 or more in any one year. Though this proposed rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This proposed rule would not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This proposed rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this proposed rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

Indian Tribal Governments

This proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

To help the Coast Guard establish regular and meaningful consultation and collaboration with Indian and Alaskan Native tribes, we published a notice in the **Federal Register** (66 FR 36361, July 11, 2001) requesting comments on how to best carry out the Order. We invite your comments on how this proposed rule might impact tribal governments, even if that impact may not constitute a "tribal implication" under the Order.

Energy Effects

We have analyzed this proposed rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Environment

We have considered the environmental impact of this proposed rule and concluded that, under figure 2–1, paragraphs (34)(a), (c), (e), and (i), of Commandant Instruction M16475.1D, this rule is categorically excluded from further environmental documentation. The environmental impact associated with requiring additional equipment, training, and improved facilities under this rulemaking would be insignificant. The environmental impact of an individual deepwater port is assessed under the licensing process. A "Categorical Exclusion Determination" is available in the docket where indicated under **ADDRESSES**.

List of Subjects

33 CFR Part 148

Administrative practice and procedure, Environmental protection,

Harbors, Incorporation by reference, Petroleum.

33 CFR Part 149

Fire prevention, Harbors, Marine safety, Navigation (water), Occupational safety and health, Oil pollution.

33 CFR Part 150

Harbors, Marine safety, Navigation (water), Occupational safety and health, Oil pollution, Reporting and recordkeeping requirements.

For the reasons discussed in the preamble, the Coast Guard proposes to revise 33 CFR chapter I, subchapter NN, as follows:

PART 148—DEEPWATER PORTS: GENERAL

SUBCHAPTER NN—DEEPWATER PORTS

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Appendix A to Part 148—Environmental Review Criteria for Deepwater Ports

Authority: 33 U.S.C. 1504; 49 CFR 1.46.

Subpart A—General

§ 148.1 What is the purpose of this subchapter?

This subchapter prescribes regulations for the licensing, construction, design and 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 49 CFR 1.46(s), the Coast Guard is authorized to do the following:

- (a) To process applications for the issuance, transfer, or amendment of licenses for deepwater ports in coordination with the Administrator of the Maritime Administration; and
 (b) To carry out the functions and responsibilities vested in the Secretary of Transportation by the Act, except for those—

(1) Reserved by the Secretary of Transportation under 49 CFR 1.44(o) (authority to issue, transfer, and amend a license);

(2) Delegated to the Administrator of the Maritime Administration under 49 CFR 1.66(aa) (approval of fees charged by adjacent coastal States and certain matters relating to international policy, civil actions, and suspension or termination of licenses); and

(3) Delegated to the Administrator of the Research and Special Programs Administration under 49 CFR 1.53(a)(3) (pipelines).

§ 148.5 How are terms used in this subchapter defined?

(a) Quotation marks around terms in this section mean that those terms are defined in this section.

(b) 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 Secretary of Transportation 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://www.uscg.mil/hq/g_m/mse/equiplistexpl.htm. The last printed version of the list, current only up through 1994, is published in COMDTINST M16714.3 (Series), Equipment List, and is available from Superintendent of Document, P.O. Box 371954, Pittsburgh, PA 15250, or by phone at 202–512–1800.

Approved means approved by the “Commandant (G–M)”.

Barrel means 42 U.S. gallons (159 liters) at atmospheric pressure and 60° Fahrenheit (16° 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.

Citizen of the United States means—

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

(2) A “State”;

(3) An agency of a “State” or a group of “States”; or

(4) A corporation, partnership, or association—

(i) That is organized under the laws of a “State” or the United States;

(ii) That has, as its president or other executive officer, an individual who is a United States citizen by law, birth, or naturalization;

(iii) That has, as its chairman of the board of directors or holder of a similar office, an individual who is a United States citizen by law, birth, or naturalization; and

(iv) That has at least the number of directors required for a quorum necessary to conduct the business of the board who are United States citizens by law, birth, or naturalization.

Coastal environment means the navigable 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 transitional and inter-tidal areas, bays, lagoons, salt marshes, estuaries, and beaches; the 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.

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, pile driving and bulkheading 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.

Deepwater port means a fixed or floating man-made structure (other than a “vessel”), or a group of structures, located beyond the territorial sea and off the coast of the United States and that are used, or intended for use, as a port or terminal for the transportation, storage, and further handling of oil for transportation to any “State” (except as otherwise provided in 33 U.S.C. 1522), and for other uses not inconsistent with the purposes of this subchapter, including transportation of oil from the United States Outer Continental Shelf. The term includes all associated components and equipment, including pipelines, pumping stations, service platforms, mooring buoys, and similar appurtenances to the extent they are located seaward of the high water mark.

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

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 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".

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; the fish, wildlife, and other living resources of those waters; and the recreational and scenic values of those waters and resources.

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.

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".

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

PAD District means one of the five Petroleum Administration for Defense Districts defined by the Energy Information Administration (EIA), Department of Energy, in their Petroleum Supply publications and U.S. Refinery Operations information available from the EIA at Energy Information Administration, National Energy Information Center, 1000

Independence Avenue SW., Washington, DC 20585 or at http://www.eia.doe.gov/oil_gas/petroleum/pet_frame.html.

Person means an individual, corporation, partnership, limited liability partnership, limited liability company, association, joint venture, or trust arrangement and includes a trustee, beneficiary, receiver, or similar representative of any of them.

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.

Production District means the States of Louisiana, New Mexico, and Texas and each district within those states for which the Energy Information Administration (EIA), Department of Energy, separately reports production of crude oil.

Pumping platform complex means a "platform" or a series of interconnected "platforms" that have one or more of the following features or capabilities:

- (1) Can pump oil between a "vessel" and the shore.
- (2) Can handle the mooring and loading of small "vessels".
- (3) Have berthing and messing facilities.
- (4) Have a landing area for helicopters.

Refining District means a refining district as defined by the Energy Information Administration (EIA), Department of Energy, for reporting refining operations. The refining districts are subsidiaries of "PAD Districts" and can be found listed in EIA's Petroleum Supply publications and U.S. Refinery Operations information available from the EIA at Energy Information Administration, National Energy Information Center, 1000 Independence Avenue SW., Washington, DC 20585 or at http://www.eia.doe.gov/oil_gas/petroleum/pet_frame.html.

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

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

Single point mooring-oil transfer system or *SPM-OTS* means the part of the oil 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—

- (1) Tug;
- (2) Linehandling boat;
- (3) Crewboat;
- (4) Supply vessel;
- (5) Bunkering vessel;
- (6) Barge; or
- (7) Other similar vessel working for a licensee at a deepwater port or cleared by a licensee to service a tanker calling at a deepwater port.

Survival craft means a craft capable of sustaining the lives of persons in distress after abandoning a port. The term includes lifeboats, life rafts, buoyant apparatus, survival capsules, and life floats. 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 at a "single point mooring."

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.

§ 148.10 How can I get a copy of a publication referenced in this subchapter?

(a) Certain material is incorporated by reference into this subchapter with the approval of the Director of the Federal Register under 5 U.S.C. 552(a) and 1 CFR part 51. To enforce any edition other than that specified in paragraph (b) of this section, the Coast Guard must publish notice of change in the **Federal Register**; and the material must be available to the public. All approved material is available for inspection at the Office of the Federal Register, 800 North Capitol Street NW., suite 700, Washington, DC, and at the U.S. Coast Guard, Office of Operating and Environmental Standards, 2100 Second Street SW., Washington, DC 20593-0001, and is available from the sources indicated in paragraph (b) of this section.

(b) The material approved for incorporation by reference in this subchapter and the sections affected are as follows:

American Bureau of Shipping (ABS)

ABS Technical Publications, 16855 Northcase Drive Houston, TX 77060
 Rules for Building and Classing Single Point Moorings, 1996 149.650
 150.405

American National Standards Institute (ANSI)

11 West 42nd Street, New York, NY 10036, or on the Internet at <http://www.ansi.org>
 ANSI B31.4-98, Pipeline Transportation Systems for Liquid Hydrocarbons and Other Liquids, 1998 edition 149.625

American Petroleum Institute (API)

Order Desk, 1220 L Street, NW, Washington, DC, 20005-4070, or on the Internet at <http://www.api.org>
 API RP 2A-WSD, Working Stress Design, Twentieth Edition, December, 2000 149.625
 API RP 2A-LRFD, Load and Resistance Factor Design, First Edition, February, 1997 149.625
 API RP 2L, Recommended Practice for Planning, Designing and Constructing Heliports for Fixed Offshore Platforms, May 1996 149.625
 API RP T-1, Orientation Programs for Personnel Going Offshore for the First Time, Fourth Edition, October 1995 150.250
 API RP T-4, Training of Offshore Personnel in Non-operating Emergencies, Second Edition, November 1995 150.250
 API RP T-7, Training of Personnel in Rescue of Persons in Water, Second Edition, October 1995 150.250

American Society of Mechanical Engineers (ASME)

3 Park Avenue, New York, NY 10016-5990
 Boiler and Pressure Vessel Code, sections I, IV, and VIII, 2001 edition 149.625

International Association of Marine Aids to Navigation and Lighthouse Authorities (AISM/IALA)

20 ter, rue Schnapper, 78100 Saint Germain en Laye, France
 Recommendations for the Colours of Light Signals on Aids to Navigation 149.525
 Recommendations on the Determination of the Luminous Intensity of a Marine Aid to Navigation Light, December 1977 149.521

National Fire Protection Association (NFPA)

Secretary, Standards Council, National Fire Protection Association, 1 Batterymarch Park, Quincy, MA 02269-9101.
 NFPA 72, National Fire Alarm Code®, 1999
 Edition 149.405
 NFPA 407, Standard for Aircraft Fuel Servicing, 1999 Edition 149.655

Underwriters Laboratories, Inc. (UL)

Available from: Global Engineering Documents, 15 Inverness Way East, Englewood, CO 80112; telephone 800-854-7179
 UL 19 Lined Fire Hose and Hose Assemblies, 2001 149.425
 UL Hazardous Location Equipment Directory, 2001, Portable Lighting Units 149.645

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 following:

(a) *The identity of the applicant and its affiliates and consultants.* (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.

(5) A statement on the history of the applicant and affiliates for the last 5 years, including whether they filed for bankruptcy and if so the dates, the disposition and any reorganization that may have resulted; whether there have been any violations of state or federal laws; and whether there is outstanding litigation.

(6) A declaration regarding lobbying activities on behalf of either the applicant or an affiliate under 31 U.S.C. 1352.

(b) *Experience in matters relating to deepwater ports.* (1) A description of the experience of the applicant, its affiliates, and its consultants in offshore operations, particularly operations involving the transfer and storage of

liquid cargo and the loading and unloading of vessels.

(2) For each affiliate with which the applicant has made a significant contract for the construction of any part of the deepwater port, a description of that affiliate's experience in construction of marine terminal facilities, offshore structures, underwater pipelines, and seabed foundations and a description of other experiences that would bear on the affiliate's qualification to participate in the construction of a deepwater port.

(c) *The identity of each engineering firm, if known, that will design the deepwater port or a portion of the port.* The firm's—

- (1) Name;
- (2) Address;
- (3) Citizenship;
- (4) Telephone number; and
- (5) Qualifications.

(d) *Information on citizenship, incorporation, and authority of the applicant.*

If the applicant is applying as—	Then the applicant must submit—
(1) An individual, a group of individuals, or a partnership	An affidavit from each individual stating that each is a citizen of the United States of America.
(2) A corporation	One copy of the charter signed by the Secretary of State or authorized official of the State of incorporation and one copy of the corporate by-laws certified by the corporation's secretary or assistant secretary.
(3) A State or combination of States or any political subdivision, agency, or instrumentality of a State, including a wholly owned corporation.	A copy of the State laws authorizing the operation of a deepwater port.
(4) A Limited Liability Company	Article of organization and any related amendments.

(e) *Address for service of documents.* The name and address of one individual who may be served with documents in case a formal hearing is held concerning the application, and the name and address of one individual who may receive other documents.

(f) *Location and use.* The proposed location and capacity of the deepwater port and a general description of the anticipated use of the port.

(g) *Financial information.* (1) For the applicant and each affiliate—

(i) Annual financial statements, audited by an independent certified public accountant, for the previous 3 years, including, but not limited to, an income statement, balance sheet, and cash flow statement with footnote disclosures prepared according to U.S. Generally Accepted Accounting Principles; and

(ii) Interim income statements and balance sheets for each quarter, unless included in the most recent annual financial statement, that ends at least 30 days before submission of the application.

(2) An estimate of construction costs, including—

(i) A phase-by-phase breakdown of costs;

(ii) The estimated completion dates for each phase; and

(iii) A detailed estimate of the cost of removing all of the marine components of the deepwater port, other than pipelines that lie beneath the seabed, when operations at the port cease.

(3) Annualized projections or estimates of each of the following, along with the underlying assumptions, for the next 5 years and at reasonable intervals throughout the life of the deepwater port:

(i) Total oil throughput and subtotals showing throughput owned by the applicant and its affiliates and throughput owned by others.

(ii) Projected financial statements, including a balance sheet and income statement.

(iii) Annual operating expenses, showing separately any payment made to an affiliate for any management duties carried out in connection with the operation of the deepwater port.

(4) A copy of all proposals or agreements concerning the management and financing of the deepwater port, including agreements relating to throughputs, capital contributions, loans, guarantees, commitments, charters, and leases.

(5) To the extent known to the applicant or its affiliates, the anticipated—

- (i) Total refinery capacity;
- (ii) Total runs to stills; and

(iii) Total demand for gasoline, jet aviation fuel, distillate fuel oils, and other refinery products for each Refining District in the PAD where oil from the deepwater port will be landed, at reasonable intervals throughout the expected useful life of the deepwater port.

(h) *Construction contract and studies.* (1) A copy of each contract that the applicant made for the construction of any component of the deepwater port or for the operation of the port.

(2) A listing and abstract of—

(i) All completed or ongoing studies on deepwater ports conducted by or for the applicant; and

(ii) All other related studies used by the applicant.

(i) *Compliance with Federal water pollution requirements.* (1) Evidence that the requirements of section 401(a)(1) of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1341(a)(1), will be satisfied.

(2) In those cases where certification under 33 U.S.C. 1341(a)(1) must be obtained from the Administrator of the Environmental Protection Agency, the request for certification.

(j) *Coastal zone management.* Each certification required by section 307 of the Coastal Zone Management Act of 1972, as amended (16 U.S.C. 1456).

(k) *Identification of lease block.* (1) Identification of each lease block where any part of the proposed deepwater port or its approaches is located. This identification should be made on Official Outer Continental Shelf Leasing Maps or Protraction diagrams, where they are available. For each lease block, provide the following:

(i) A description of each pipeline, or other right-of-way crossing, in enough detail to allow plotting of the rights-of-way to the nearest one-tenth of a second in latitude and longitude.

(ii) The identity of the lessee of each pipeline or other right-of-way.

(2) Detailed information concerning any interest that anyone, including the applicant, has in each block; and

(3) Detailed information concerning the present and planned use of each block.

(l) *Overall site plan.* Single-line drawings showing the location and type of each component of the proposed deepwater port and its necessary facilities, including—

(1) Floating structures;

(2) Fixed structures;

(3) Aids to navigation;

(4) Manifold systems; and

(5) Onshore storage areas, pipelines, and refineries.

(m) *Site plan for marine components.* A site plan consisting of the following:

(1) The proposed size and location of all—

(i) Fixed and floating structures;

(ii) SPM swing circles;

(iii) Maneuvering areas;

(iv) Recommended ships' routing measures and proposed vessel traffic patterns in the port area;

(v) Recommended anchorage areas;

(vi) Recommended mooring areas for support vessels;

(vii) Required and recommended aids to navigation; and

(viii) Pipelines and cables within the marine site.

(2) The charted water depth throughout the proposed marine site, as verified by the reconnaissance hydrographic survey in paragraph (m)(3) of this section.

(3) A reconnaissance hydrographic survey of the proposed marine site. A requirement to submit an engineering hydrographic survey of the final marine site will be imposed as a condition in the license.

(n) *Soil data.* An analysis of the general character and condition of the ocean bottom, sub-bottom, and upland soils throughout the marine site and along the path of the pipeline to the shore and onshore. The analysis must include an opinion by a registered professional engineer specializing in soil mechanics concerning—

(1) The suitability of the soil to accommodate the anticipated design load of each marine component that will be fixed to or supported on the ocean floor;

(2) The stability of the seabed when exposed to the environmental forces resulting from severe storms or lesser forces that occur over time, including any history of accretion or erosion of the coastline near the marine site.

(o) *Operational information.* (1) The maximum length, draft, and deadweight tonnage of the tankers to be accommodated at each SPM.

(2) Calculations, with supporting data and other documentation, to show that the charted water depth at each proposed SPM location is sufficient to provide at least a net under-keel clearance of 5 feet (1.5 meters) for each tanker that the applicant expects to be accommodated at the SPM.

(3) A detailed description of the manner of forecasting the wind, wave, and current conditions described in the draft operations manual during which the following would occur:

(i) Shutdown of oil transfer operations.

(ii) Departure of the tanker from the mooring.

(iii) Prohibition on mooring to an SPM.

(iv) Shutdown of all operations and evacuation of the port.

(4) The speed limits proposed for tankers in the safety zone around the proposed port.

(p) *Data on floating components.* (1) A description and preliminary design drawing of each floating component, including the hoses, anchoring or securing structure, and navigation lights if the component is a mooring buoy.

(2) The design criteria, developed under part 149 of the chapter, to which each floating component will be designed and built.

(3) The design standards and codes to be used.

(4) The title of each recommended engineering practice to be followed.

(5) A description of safety, fire fighting, and pollution prevention equipment to be used on each floating component.

(6) A description of lighting to be used on floating hoses for night detection.

(q) *Data on fixed offshore components.* (1) A description and preliminary design drawing for each fixed offshore component.

(2) The design criteria, developed under part 149 of the chapter, to which each fixed offshore component will be designed and built.

(3) The design standards and codes to be used.

(4) The title of each recommended engineering practice to be followed.

(5) A description and the results of any design and evaluation studies performed by or for the applicant for any fixed offshore component and used in the development of the application.

(6) A description of the following equipment to be installed:

(i) Navigational lighting.

(ii) Safety equipment.

(iii) Lifesaving equipment.

(iv) Fire fighting equipment.

(v) Pollution prevention and removal equipment.

(vi) Waste treatment equipment.

(7) A description and preliminary design drawing of the following:

(i) The oil pumping equipment.

(ii) The piping system.

(iii) The control and instrumentation system.

(iv) Any associated equipment, including oil-throughput-measuring equipment, leak-detection equipment, emergency-shutdown equipment, and the alarm system.

(8) The personnel capacity of each pumping platform complex.

(r) *Data on offshore pipelines.* (1) A description and preliminary design drawing of the marine pipeline, including—

- (i) Size;
- (ii) Throughput capacity;
- (iii) Length;
- (iv) Depth; and
- (v) Protective devices.

(2) The design criteria to which the marine pipeline will be designed and built.

(3) The design standards and codes to be used.

(4) The title of each recommended engineering practice to be followed.

(5) A description of the metering system to be used to measure flow rate.

(6) Information concerning all submerged or buried pipelines that will be crossed by the offshore pipeline and how each crossing will be made.

(s) *Data on onshore components.* (1) A description of the location, capacity, and ownership of all planned and existing onshore pipelines, storage facilities, refineries, petrochemical facilities, and transshipment facilities that will be served by the deepwater port. A deepwater port serves a facility if the facility is within a PAD District for which information is required under paragraph (g)(5) of this section and is either served by connection to a common carrier pipeline or to a component or auxiliary of a common carrier pipeline. Crude oil gathering lines and lines wholly within a facility must be included in data on onshore components only if specifically required under paragraph (cc) of this section. Entry points and major connections between lines and with bulk purchasers must be included.

(2) A chart showing the location of all planned and existing—

(i) Onshore pipelines;

(ii) Storage facilities;

(iii) Refineries;

(iv) Petrochemical facilities; and

(v) Transshipment facilities to be served by the deepwater port.

(3) The throughput reports for the calendar year preceding the date of the application for the applicant and each of the applicant's affiliates engaged in producing, refining, or marketing oil, along with a copy of each existing or proposed throughput agreement. Each throughput report must list the throughput of the following products:

(i) Crude oil.

(ii) Gasoline.

(iii) Jet aviation fuel.

(iv) Distillate fuel oils.

(v) Other refinery products.

(t) *Data on miscellaneous components.* (1) A description of the communications systems to be used in operation of the deepwater port.

(2) A description of the radar navigation system to be used in operation of the deepwater port to include—

- (i) The type of radar;
- (ii) The characteristics of the radar; and

(iii) The antenna location.

(3) A description of the method to be used for bunkering vessels using the deepwater port.

(4) Type, size, and number of vessels to be used in bunkering, mooring, and servicing the vessels using the deepwater port.

(5) A description and exact location of shore-based support facilities, if any, to be provided for vessels described in paragraph (t)(4) of this section.

(u) *Construction procedures.* A description of the method and procedures to be used in constructing each component of the deepwater port, including anticipated dates of completion for each specific component for each phase of construction.

(v) *Operations manual.* A draft of the operations manual for the proposed port containing the information under § 150.15 of this chapter. If the information required for the manual is not available, state why it is not and when it will be available.

(w) *Environmental impact analysis.* An analysis, as required by the National Environmental Policy Act, of the potential for impacts on the natural and human environments, including evidence of compliance with all applicable environmental laws. See appendix A to this part.

(x) *Aids to navigation.* (1) For each proposed aid to navigation, the proposed position of the aid described by latitude and longitude coordinates to the nearest second or tenth of a second as determined from the largest scale chart of the area in which the aid is to be located. Specify latitude and longitude to a level obtained by visual interpolation between the finest graduation of the latitude and longitude scales on the chart.

(2) For each proposed obstruction light and rotating lighted beacon—

(i) The color;

(ii) Characteristic;

(iii) Effective intensity (See § 149.521 of this chapter.);

(iv) Height above water; and

(v) General description of illumination apparatus.

(3) For each proposed fog signal on a structure, a general description of the apparatus.

(4) For each proposed buoy—

(i) The shape;

(ii) The color;

(iii) The number or letter;

(iv) The depth of water in which located; and

(v) A general description of any light or fog signal apparatus on the buoy.

(5) For the proposed radar beacon (RACON), height above water and a general description of the apparatus.

(y) *Telecommunications equipment.* A description of each radio station or other communications facility to be used during construction and operation of the deepwater port and their proposed concept of operation.

Note to paragraph (y): When applying for a Federal Communication Commission (FCC) license for these communications facilities, you may submit the application directly to the FCC when sufficient technical information is available to meet the rules of that agency. The holding of the appropriate FCC licenses is a condition on a deepwater port license.

(z) *National Pollutant Discharge Elimination System (NPDES).* To the extent available, the information prescribed by, and submitted on, the NPDES Application for Permit to Discharge, Short Form D, for applying for a discharge permit from the Environmental Protection Agency (EPA). If complete information is not available by the time the Secretary of Transportation must either approve or deny the application for a designated application area under 33 U.S.C. 1504(i)(1), the license for the deepwater port is conditioned upon the applicant receiving the required discharge permit from the EPA before the start of any discharge requiring such a permit.

(aa) *Placement of structures and the discharge of dredged or fill material.* The information prescribed on the application for a Department of Army permit for placement of structures and the discharge of dredged or fill material.

(bb) *Additional Federal authorizations.* All other applications for Federal authorizations not listed elsewhere in this subpart that are required for ownership, construction, and operation of a deepwater port.

(cc) *A statement that the information in the application is true.* This statement must be placed at the end of the application, sworn to before a notary public, and signed by a responsible official of the applicant.

§ 148.107 What additional information may be required?

(a) The Commandant (G–M), in coordination with the Administrator of the Maritime Administration, may require the applicant or the applicant's affiliates to file, as a supplement to the application, any analysis, explanation, or detailing of information in the application or any other information the Commandant (G–M) deems necessary.

(b) The applicant must identify the locations where the applicant and its affiliates have filed documents relating

to deepwater ports that were prepared within 4 years of the date of the application for a license and that fall under one or more of the following categories:

(1) Prepared by or for, or submitted to, a Board of Directors or an executive, management, or planning committee.

(2) Concern the financing of construction or operation of a deepwater port, including throughput nominations and membership in and financing of any existing or proposed joint venture.

(3) Concern existing, proposed, or anticipated rates or joint rates.

(4) Determined by the Commandant (G–M) to be required to review and process the application.

(c) The application must identify the location of documents under paragraph (a) of this section. The Commandant (G–M) may require the documents to be consolidated into one or more locations.

(d) The Commandant (G–M) makes the documents under this section available for copying and inspection under § 148.207. Any claim of privilege or immunity with respect to any document required under this section must comply with § 148.221 and be submitted to the Commandant (G–M).

(e) The Commandant (G–M) may require the applicant or the applicant's affiliates to make available for examination, under oath or for interview, persons having, or believed to have, necessary information. The Commandant (G–M), or its designee, conducts the interviews and examination.

(f) The Commandant (G–M) may set a deadline for receiving the information. If the applicant states that the required information is not yet available but will be at a later date, the Commandant (G–M) may specify a later deadline. If a requirement is not met by a deadline fixed under this paragraph, the Commandant (G–M) may determine whether compliance with the requirement is important to processing the application within the time prescribed by the Act. If the requirement is important to processing the application within the time limit set by the Act, the Secretary of Transportation may either not approve the application or may suspend it indefinitely. The deadline for the Secretary's review under the Act is extended for a period of time equal to the time of the suspension.

§ 148.108 What if a Federal or State agency or other interested party requests additional information?

(a) Any Federal or State agency or other interested person may recommend that the applicant provide information

in addition to that required to be in the application.

(b) Recommendations must include a brief statement of why the information is needed.

(c) The Commandant (G–M) must receive the request within 30 days after publication of the notice of application. The request is considered before any final determination is made.

§ 148.110 How do I prepare my application?

(a) Any person may confer with the Commandant (G–M) or the Administrator of the Maritime Administration concerning the preparation of an application.

(b) The applicant may incorporate, by clear and specific reference in the application, the following:

(1) Standard reference material that the applicant relied on and that is readily available to Federal and State agencies.

(2) Current information contained in previous applications or reports that the applicant has submitted to the application staff.

(3) Current information contained in a tariff, report, or other document previously filed for public record with the Surface Transportation Board or the Securities and Exchange Commission, if—

(i) A certified true and complete copy of the document is attached to 5 of the 15 copies of the application required by § 148.115(a);

(ii) The date of filing and the document number or other locator are on the cover of the document; and

(iii) Any verification or certification required for the original filing (other than from auditors or other independent persons) is dated no earlier than 30 days before the date of the application.

§ 148.115 How many copies of the application must I send and where must I send them?

Send copies of the application as follows:

(a) Fifteen copies, plus two copies for each adjacent coastal State, to the Commandant (G–M), U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593–0001.

(b) 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/>.

§ 148.125 What are the application fees?

(a) The applicant must submit to the Commandant (G–M) a nonrefundable 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 the additional costs. These additional costs must be submitted to the Commandant (G–M) when they are assessed.

(c) Application fees and additional costs assessed under this section must be made payable to the “United States Treasury.”

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, including the procedures for maintaining the docket, designating adjacent coastal States, holding informal and formal public hearings, and approving or denying an application.

§ 148.203 What is the role of MARAD in the processing of applications?

The Commandant (G–M) coordinates the processing of applications with the Maritime Administrator.

§ 148.205 How are documents related to the application maintained?

(a) The Commandant (G–M) maintains the docket for each application.

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

(c) Recommendations submitted by Federal departments and agencies under 33 U.S.C. 1504(e)(2) are docketed when they are received. Copies of the draft and final environmental impact statements prepared under 33 U.S.C. 1504(f) are docketed when they are sent to the Environmental Protection Agency.

(d) For a document designated as protected from disclosure under 33 U.S.C. 1513(b), the Commandant (G–M)—

(1) Prevents the document from being made available for public inspection;

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

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

§ 148.207 How and where can 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–M) at the address under “Commandant (G–M)” 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.

§ 148.209 How is the application processed?

The Commandant (G–M) processes each application and 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–M) delivers copies of the application to the following:

(a) To each Federal agency with jurisdiction over any aspect of ownership, construction, or operation of deepwater ports. At a minimum, these must include the Environmental Protection Agency, the National Marine Fisheries Service, the U.S. Fish and Wildlife Service, the Minerals Management Service, the State Historic Preservation Officer, and relevant State environmental and natural resources protection agencies.

(b) To each adjacent coastal State.

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

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, to Commandant (G–M), 15 copies of the change or the additional information, plus 2 copies for each adjacent coastal State.

§ 148.213 How do I withdraw my application?

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

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

If a port of a State that will be directly connected by pipeline with a proposed deepwater port 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). The request must be sent, in writing, to Commandant (G–M) within 30 days after the date that the notice of application for the deepwater port is published in the **Federal Register**. The request must meet the following requirements:

(a) Be signed by the highest official of the port submitting the request.

(b) Contain a copy of the existing plans for the construction of a deep draft channel and harbor.

(c) Certify 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 pending an application for a permit under 33 U.S.C. 403 for the construction.

(d) Provide any available documentation on—

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

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

(3) Estimated time of completion of all elements of the project;

(4) Estimated volume of ship traffic and volume and variety of the tonnage;

(5) Potential traffic congestion conditions in the port and the port’s capability to control vessel traffic as a result of the proposed dredging project;

(6) Estimated economic benefits of the project, including—

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

(ii) Induced industrial development;

(iii) Increased employment; and

(iv) Increases in tax revenues; and

(7) Environmental and social impact of the project on elements of the local and regional community.

(e) State 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 (G–M) 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) State 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 (G–M) sends a copy of the State's request to the Administrator of the National Oceanic and Atmospheric Administration (NOAA) and asks for the Administrator's recommendations within a period of time that will allow the Commandant (G–M) 45 days from receipt of the request to determine the matter.

(d) If, after receiving NOAA's recommendations, the Commandant (G–M) determines that the State should be considered as an adjacent coastal State, the Commandant (G–M) designates it as an adjacent coastal State. If the Commandant (G–M) denies the request, the Commandant (G–M) notifies the Governor of the requesting State of the denial.

§ 148.221 What must I do to make a claim or object to a claim?

(a) Persons required to furnish information under this part may assert a claim of privilege or immunity as grounds for relief from the requirement. The claim must be submitted in writing to the Commandant (G–M).

(b) If the claim concerns a document protected from disclosure under 33 U.S.C. 1513(b), the document must be placed in a sealed envelope with the name of the person claiming the protection, the applicant's name, the date or anticipated date of the application, and a brief statement of the basis of the claim. If a number of documents are involved, they must be grouped according to the nature of the claim and both the documents and their envelopes must be numbered using a self-explanatory numbering system.

(c) If the claim concerns the attorney-client privilege, the claim must identify the communication by date, type, persons making and receiving it, and general subject matter. If the required information is in a separable part of a communication, such as an attachment to a letter, the separate part must be

identified the same way as the communication. The identification must be filed with the Commandant (G–M).

(d) A Federal or State agency, the applicant, an affiliate of the applicant, or other interested person may object to a claim. The objection must be in writing, must include a brief statement of the basis for the objection, and must identify the document to which the claim applies.

(e) Commandant (G–M) determines issues raised by claims filed under this section and may specify procedures to be used to resolve the issues. Any person may submit recommendations to the Commandant (G–M) as to the procedures to be used.

(f) The presiding officer at any formal or informal hearing may allow claims or objections that could be filed under this section to be made and may issue a decision or refer the matter to the Commandant (G–M).

(g) The filing of a claim under this section, other than a claim under paragraph (b) of this section, stays the time for meeting any deadline for submitting information related to an issue raised in a claim or objection. However, the filing of a claim does not stay the periods for processing and reviewing applications, unless the Commandant (G–M) determines that compliance with the requirement is material to the processing of the application within the required time. If the Commandant (G–M) determines that the information is material, the Commandant (G–M) may suspend the processing of the application. The period of suspension is not counted toward the time limits in 33 U.S.C. 1503(c)(6), 1504(d)(3), (e)(2), and (g), and 1508(b)(1).

Public Meetings

§ 148.222 When must public meetings be held?

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

(b) The Commandant (G–M), in coordination with the Administrator of the Maritime Administration, publishes a notice of public meetings in the **Federal Register** and mails or delivers a copy of the notice to the applicant, to each adjacent coastal State, and to all who request a copy.

(c) Anyone may attend the public meetings and provide oral or written information. The presiding officer may limit the time for providing oral information.

§ 148.227 How is a public meeting reported?

(a) After completion of a meeting, the presiding officer forwards a report on the hearing to the Commandant (G–M) for docketing.

(b) The report contains at least—

(1) An overview of the factual issues addressed;

(2) A transcript or recording of the meeting; and

(3) A copy of all material submitted to the presiding officer.

(c) During the hearing, the presiding officer announces what the report must contain.

Formal Hearings

§ 148.228 What if a formal hearing is necessary?

(a) After all public meetings under § 148.222 are concluded, the Commandant (G–M), in coordination with the Administrator of the Maritime Administration, considers whether there are one or more specific and material factual issues that may be resolved by a formal evidentiary hearing.

(b) If the Commandant (G–M), in coordination with the Administrator of the Maritime Administration, determines that one or more issues under paragraph (a) of this section exist, the Coast Guard holds at least one formal evidentiary hearing under 5 U.S.C. 554 in the District of Columbia.

(c) The Commandant (G–M) files a request for assignment of an administrative law judge with the ALJ Docketing Center. The Chief Administrative Law Judge designates an administrative law judge (ALJ) or other person to conduct the hearing.

(d) The recommended findings and the record developed in a hearing under paragraph (b) of this section are considered by the Secretary of Transportation in deciding whether to approve or deny a license.

§ 148.230 How is notice of a formal hearing given?

(a) The Commandant (G–M) publishes a notice of the hearing in the **Federal Register** and sends a notice of the hearing to the applicant, to each adjacent coastal State, and to each person who requests such a notice.

(b) The notice of the hearing includes the applicant's name, the name of the administrative law judge (ALJ) assigned to conduct the hearing, a list of the factual issues to be resolved, the address of the place where documents are to be filed, and the address where a copy of the rules of practice, procedure, and evidence to be used at the hearing is available.

§ 148.232 What are the rules for a formal hearing?

(a) The Commandant (G–M) determines the rules for each formal hearing. Unless otherwise specified in this part, the Commandant (G–M) applies the rules of practice, procedure, and evidence in part 20 of this chapter.

(b) The Commandant (G–M) sends a written copy of the procedure to the applicant, each person intervening in the proceedings, and each person who requests a copy.

§ 148.234 What are the limits of an administrative law judge's jurisdiction?

(a) An ALJ's jurisdiction begins upon assignment to a proceeding.

(b) An ALJ's jurisdiction ends after the recommended findings are filed with the Commandant (G–M) or immediately after the ALJ issues a notice of withdrawal from the proceeding.

§ 148.236 What authority does an administrative law judge have?

When assigned to a formal hearing, an ALJ may—

- (a) Administer oaths and affirmations;
- (b) Issue subpoenas;
- (c) Issue rules of procedure for written evidence;
- (d) Rule on offers of proof and receive evidence;
- (e) Examine witnesses;
- (f) Rule on motions of the parties;
- (g) Suspend or bar an attorney from representing a person in the proceeding for unsuitable conduct;
- (h) Exclude any person for disruptive behavior during the hearing;
- (i) Set the hearing schedule;
- (j) Certify questions to the Commandant (G–M);
- (k) Proceed with a scheduled session of the hearing in the absence of a party who has failed to appear;
- (l) Extend or shorten a non-statutorily imposed deadline under this subpart within the 240 day time limit for the completion of public hearings in 33 U.S.C. 1504(g);
- (m) Set deadlines not specified in this subpart or the Act; and
- (n) Take any other action authorized by or consistent with this subpart, the Act, or 5 U.S.C. 551–559.

§ 148.238 Who are the parties to a formal hearing?

The parties to a formal hearing are—

- (a) The applicant;
- (b) The Commandant (G–M); and
- (c) Any person intervening in the proceedings.

§ 148.240 How does a State or a person intervene in a formal hearing?

(a) Any person or adjacent coastal State may intervene in a formal hearing,

(b) A person must file a petition of intervention within ten days after notice of the formal hearing is issued. The petition must—

(1) Be addressed to the ALJ Docketing Center;

(2) Identify the issues and the petitioner's interest in those issues; and

(3) Designate the name and address of a person who can be served if the petition is granted.

(c) An adjacent coastal State need only file a notice of intervention with the ALJ Docketing Center.

(d) The ALJ has the authority to limit the scope and period of intervention during the proceeding.

(e) If the ALJ denies a petition of intervention, the petitioner may file a notice of appeal with the ALJ Docketing Center within 7 days of the denial. A brief may be submitted with the notice of appeal. Parties who wish to file a brief in support of or against the notice of appeal may do so within 7 days of the filing of the notice.

(f) The Commandant (G–M) will rule on the appeal. The ALJ does not have to delay the proceedings for intervention appeals.

§ 148.242 How does a person who is not a party to a formal hearing present evidence at the hearing?

(a) For a person who is not a party to a formal hearing to present evidence at the hearing, the person must send a petition to present evidence to the ALJ Docketing Center before the beginning of the formal hearing. The petition must describe the evidence that the person will present and show its relevance to the issues listed in the notice of formal hearing.

(b) If a petition is granted, the ruling will specify which evidence is approved to be presented at the hearing.

§ 148.244 Who must represent the parties at a formal hearing?

(a) All organizations that are parties to the proceeding must be represented by an attorney. Individuals may represent themselves.

(b) Any attorney representing a party to the proceeding must file a notice of appearance according to § 20.301(b) of this chapter.

(c) Each attorney must be in good standing and licensed to practice before a court of the United States or the highest court of any State, territory, or possession of the United States.

§ 148.246 When is a document considered filed and where must it be filed?

(a) If a document to be filed is submitted by mail, it is considered filed on the date it is postmarked. If a document is submitted by hand delivery

or electronically, it is considered filed on the date received by the clerk.

(b) File all documents and other materials related to an administrative proceeding at the U.S. Coast Guard Administrative Law Center, Attention: Hearing Docket Clerk, room 412, 40 South Gay Street, Baltimore, MD, 21201–4022.

§ 148.248 What happens when a document does not contain all necessary information?

Any document that does not satisfy the requirements in §§ 20.303 and 20.304 of this chapter will be returned to the person who submitted it with a statement of the reasons for denial.

§ 148.250 Who must be served before a document is filed?

Before a document may be filed by any party, it first must be served upon—

- (a) All other parties; and
- (b) The Commandant (G–M).

§ 148.252 What is the procedure for having a subpoena served?

(a) A party submit a request for a subpoena to the ALJ. The request must show the relevance and scope of the evidence sought.

(b) Requests should be submitted sufficiently in advance of the hearing so that exhibits and witnesses can be included in the lists required by § 20.601 of this chapter but may be submitted later before the end of the hearing if good cause is shown for the late submission.

(c) A request for a subpoena must be submitted to the ALJ.

(d) A proposed subpoena, such as the form in <http://cgweb.comdt.uscg.mil/g-cj/subpoena.doc>, must be submitted with the request. If you don't use this form, the proposed subpoena must contain—

(1) The docket number of the proceedings;

(2) The captions "Department of Transportation," "Coast Guard," and "Licensing of deepwater port for coastal waters off (insert name of the coastal State closest to the proposed deepwater port and the docket number of the proceeding)";

(3) The name and the address of the office of the ALJ;

(4) For a subpoena to give testimony, a statement commanding the person to whom the subpoena is directed to attend the formal hearing and give testimony;

(5) For a subpoena to produce documentary evidence, a statement commanding the person to produce designated documents, books, papers, or other tangible things at a designated time or place; and

(6) An explanation of the procedure in § 20.309(d) of this chapter and paragraph (f) of this section for quashing a subpoena.

(e) The procedure for serving a subpoena must follow rule 45 of the Federal Rules of Civil Procedure, unless the ALJ authorizes another procedure.

(f) The witness fees for a subpoenaed witness are the same as the fees for witnesses subpoenaed in U.S. District Courts. The person requesting the subpoena must pay these fees.

(g) When serving a subpoena, a party must include witness fees in the form of a check to the individual or organization for one day plus mileage or, in the case of a government-issued subpoena, a form SF-1157 for reimbursement for witness fees and mileage.

(h) Any person served with a subpoena has 10 days from the time of service to move to quash the subpoena.

(i) If a person does not comply with a subpoena, the ALJ decides whether judicial enforcement of the subpoena is necessary. If the ALJ decides it is, the Commandant (G-M) reviews this decision.

§ 148.254 How is a transcript of the hearing prepared?

(a) Under the supervision of the ALJ, the reporter prepares a verbatim transcript of the hearing. Nothing may be deleted from the transcript, unless ordered by the ALJ and noted in the transcript.

(b) After a formal hearing is completed, the ALJ certifies and forwards the record, including the transcript, to the clerk for docketing.

(c) At any time within the 20 days after the record is docketed, the ALJ may make corrections to the certified transcript. When corrections are filed, they are attached as appendices.

(d) Any motion to correct the record must be submitted within 10 days after the record is docketed.

§ 148.256 What happens at the conclusion of a formal hearing?

After closing the record of a formal hearing, the ALJ prepares a recommended finding on the issues that were the subject of the hearing. The ALJ submits that finding to the Commandant (G-M).

Approval or Denial of the Application

§ 148.276 When must the application be approved or denied?

Within 90 days after the close of the last public meeting or formal hearing, the Secretary of Transportation either approves or denies the application.

§ 148.277 How may Federal agencies and States participate in the application process?

(a) Under § 148.209, Federal agencies and adjacent coastal States are sent copies of the application. The agencies and States are encouraged to begin submitting their comments at that time.

(b) To be considered by the Secretary of Transportation, the Commandant (G-M), and the Administrator of the Maritime Administration, comments from Federal agencies and adjacent coastal States must reach the Commandant (G-M), at the latest, within 45 days after the completion of the last of the public meetings and formal hearings on an application.

(c) Comments should identify problems, if any, and suggest possible solutions.

§ 148.279 What are the criteria and considerations for approval of an application?

(a) The Secretary of Transportation approves an application if the Secretary determines that—

(1) The applicant is financially responsible and will carry insurance, or give other evidence of financial responsibility to meet its limit of liability established under subpart G of this part for removal costs and damages that could result from a discharge of oil from the deepwater port or a vessel moored at the deepwater port;

(2) The applicant can and will comply with applicable laws, regulations, and license conditions;

(3) The construction and operation of the deepwater port will be—

(i) In the national interest;

(ii) Consistent with national security;

(iii) Consistent with other national policy goals and objectives, including energy sufficiency and environmental quality; and

(iv) Consistent with the Act, this subchapter, and other applicable laws, including those listed in appendix A to this part;

(4) The deepwater port will not unreasonably interfere with international navigation or other reasonable uses of the high seas, as defined by treaty, convention, or customary international law;

(5) The applicant has demonstrated that the deepwater port will be constructed and operated according to the environmental review criteria in appendix A to this part and will use the best available technology, so as to prevent or minimize adverse impact on the marine environment; and

(6) Any State connected to the deepwater port by pipeline—

(i) Is receiving a planning grant under section 305 of the Coastal Zone

Management Act of 1972 (16 U.S.C. 1454); or

(ii) Has developed, or is developing, an approved coastal zone management program under the Coastal Zone Management Act of 1972 (16 U.S.C. 1451–1465). This program must include the area that will be directly and primarily impacted by land and water development in the coastal zone resulting from the deepwater port.

(b) After making the determinations under paragraph (a) of this section, the Secretary considers the following:

(1) The information in the application and any other applications for licenses submitted under 33 U.S.C. 1504(d)(3) for the same application area.

(2) The information from the public meetings and formal hearings held under this part.

(3) The final environmental impact statement for the application area concerned.

(4) The views on the adequacy of the application and its effects on programs within their respective jurisdictions by the Secretaries of the Army, State, and Defense.

(5) The comments of the Maritime Administration and other Federal departments and agencies that have a specific duty under the Act or expertise concerning, or jurisdiction over, any aspect of the ownership, construction, or operation of a deepwater port.

(6) The comments from the adjacent coastal States.

§ 148.281 What happens when more than one application is submitted for the same application area?

(a) When more than one application is submitted for the same application area under 33 U.S.C. 1504(d), the Secretary of Transportation approves only one application. Except as provided in paragraph (b) of this section, applicants receive priority in the following order:

(1) An adjacent coastal State (or combination of States), political subdivision of the State, or an agency or instrumentality, including a wholly owned corporation of the State.

(2) A person—

(i) Not engaged in producing, refining, or marketing oil;

(ii) Not an affiliate of a person engaged in producing, refining, or marketing oil; or

(iii) Not an affiliate of an affiliate of a person engaged in producing, refining, or marketing oil.

(3) Any other applicant.

(b) The Secretary of Transportation may also approve one of the proposed deepwater ports if the Secretary determines that that port will best serve the national interest. In making this

determination, the Secretary considers—

(1) The degree to which each deepwater port will affect the environment, as determined under the review criteria in appendix A to this part;

(2) The differences between the anticipated completion dates of the deepwater ports; and

(3) The differences in costs for construction and operation of the ports that would be passed on to consumers of oil.

§ 148.283 When is the application process stopped before the application is approved or denied?

The Commandant (G–M), in coordination with the Administrator of the Maritime Administration, stops the application process before the application is approved or denied if—

(a) All applications are withdrawn before the Secretary of Transportation approves one of them; or

(b) There is only one application, it is incomplete, and the applicant does not respond to a request by the Commandant (G–M) for further information.

Subpart D—Licenses

§ 148.300 What does this subpart concern?

This subpart concerns the license for a deepwater port and the procedures for transferring, amending, suspending, reinstating, revoking, and enforcing a license.

§ 148.305 What is included in a deepwater port license?

A deepwater port license contains the following:

(a) The name, and the number or other identification, of the port.

(b) The name of the owner and operator of the port.

(c) The conditions prescribed under 33 U.S.C. 1503(e) for ownership, construction, and operation of the deepwater port.

(d) A statement that—

(1) There will be no substantial change from the plans, operational systems, methods, procedures, and safeguards in the license, as approved, without the written approval, in advance, of the Secretary of Transportation; and

(2) The owner will comply with any condition that the Secretary may prescribe under the Act or this subchapter.

§ 148.307 Who may consult with the Commandant G–M and the Administrator of the Maritime Administration on developing the conditions of a license?

Federal agencies, the adjacent coastal States, and the owner of the deepwater port may consult with the Commandant (G–M) or the Administrator of the Maritime Administration on the conditions of the license being developed under 33 U.S.C. 1503(e).

§ 148.310 How long does a license last?

Each license remains in effect indefinitely unless—

(a) It is suspended or revoked by the Secretary of Transportation; or

(b) It is surrendered by the owner.

§ 148.315 How is a license amended, transferred, or reinstated?

(a) The Secretary of Transportation may amend, transfer, or reinstate a license if the Secretary finds that the amendment, transfer, or reinstatement, is consistent with the requirements of the Act and this subchapter.

(b) The owner must submit a request for an amendment, transfer, or reinstatement to the Commandant (G–M).

§ 148.320 How is a license enforced, suspended, or revoked?

The Secretary of Transportation may enforce, suspend, or revoke a license under 33 U.S.C. 1507(c).

Subpart E—Site Evaluation and Pre-Construction Testing

§ 148.400 What does this subpart do?

(a) This subpart prescribes requirements under 33 U.S.C. 1504(b) for the activities that are involved in site evaluation and pre-construction testing at potential locations for deepwater ports and that may—

(1) Adversely affect the environment;

(2) Interfere with authorized uses of the Outer Continental Shelf; or

(3) Pose a threat to human health and welfare.

(b) For the purpose of this subpart, “site evaluation and pre-construction testing” means studies performed at potential deepwater port locations, including—

(1) Preliminary studies to determine the feasibility of a site;

(2) Detailed studies of the topographic and geologic structure of the ocean bottom to determine its ability to support offshore structures and other equipment; and

(3) Studies done for the preparation of the environmental analysis required under § 148.105(w).

§ 148.405 What are the procedures for notifying the Commandant (G–M) of proposed site evaluation and pre-construction testing?

(a) Any person who wants to conduct site evaluation and pre-construction testing at a potential site for a deepwater port must submit a written notice to the Commandant (G–M) at least 30 days before the beginning of the evaluation or testing. The Commandant (G–M) advises and coordinates with appropriate Federal agencies and the States concerning activities covered by this subpart.

(b) The written notice must include the following:

(1) The names of all parties participating in the site evaluation and pre-construction testing.

(2) The type of activities and the way they will be conducted.

(3) Charts showing where the activities will be conducted and the locations of all offshore structures, including pipelines and cables, in or near the proposed area.

(4) The specific purpose for the activities.

(5) The dates when the activities will begin and end.

(6) The available data on the environmental consequences of the activities.

(7) A preliminary report, based on existing data, of the historic and archeological significance of the area where the proposed activities are to take place. A report of each contact made with any appropriate State liaison officer for historic preservation must be included.

(8) Additional information, if necessary, in individual cases.

(c) For the following activities, the notice need have only the information required in paragraphs (b)(1), (b)(2), and (b)(5) of this section, as well as a general indication of the proposed location and purpose of the activities:

(1) Gravity and magnetometric measurements.

(2) Bottom and sub-bottom acoustic profiling without the use of explosives.

(3) Sediment sampling of a limited nature using either core or grab samplers, if geological profiles indicate no discontinuities that may have archeological significance.

(4) Water and biotic sampling, if the sampling does not adversely affect shellfish beds, marine mammals, or an endangered species, or if the sampling is permitted by another Federal agency.

(5) Meteorological measurements, including the setting of instruments.

(6) Hydrographic and oceanographic measurements, including the setting of instruments.

(7) Small diameter core sampling to determine foundation conditions.

(d) A separate written notice is required for each site.

§ 148.410 What are the conditions for conducting site evaluation and pre-construction testing?

(a) No persons may conduct site evaluation and pre-construction testing unless they comply with this subpart and other applicable laws.

(b) Measures must be taken to prevent or minimize the effect of activities under § 148.400(a).

§ 148.415 When conducting site evaluation and pre-construction testing, what must be reported?

(a) When conducting site evaluation or pre-construction testing, the following must be immediately reported by any means to the Commandant (G–M):

(1) Any evidence of objects of cultural, historical, or archeological significance.

(2) Any adverse effect on the environment.

(3) Any interference with authorized uses of the Outer Continental Shelf.

(4) Any threat to human health and welfare.

(5) Any adverse effect on an object of cultural, historical, or archeological significance.

(b) Within 120 days after the site evaluation or pre-construction testing, a final written report must be submitted to the Commandant (G–M) that contains—

(1) A narrative description of the activities performed;

(2) A chart, map, or plat of the area where the activities occurred;

(3) The dates that 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, if the physical data indicate the need for such an expert; and

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

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

(a) The Commandant (G–M) 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 harm to—

(1) Human life;

(2) Biota;

(3) Property;

(4) Cultural resources;

(5) Any valuable mineral deposits; or

(6) The environment.

(b) The Commandant (G–M) consults with the applicant on measures to remove the cause for suspension.

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

Subpart F—Exemption from 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.

§ 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–M).

(c) The Commandant (G–M) 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–M) forwards the petition to the Governor of the State for the Governor's recommendation.

§ 148.515 When is an exemption allowed?

The Commandant (G–M) allows an exemption if the Commandant (G–M) 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 defense or national economy justify 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 construction, maintenance, and operation of the deepwater port; and

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

Subpart G—Limit of Liability

§ 148.600 What is the purpose of this subpart?

This subpart concerns the establishment of the limit of liability under section 1004 of the Oil Pollution Act of 1990 (33 U.S.C. 2704) for deepwater ports.

§ 148.605 How is the limit of liability determined?

(a) The Secretary of Transportation establishes the limit of liability for deepwater ports according to 33 U.S.C. 2704(d)(2).

(b) Requests to adjust the limit of liability for a deepwater port must be submitted to Commandant (G–M). Adjustments are established by a rulemaking based on the request of the applicant. This may be done concurrently with the processing of the deepwater port license application.

§ 148.610 What is the limit of liability for LOOP?

The limit of liability for the Louisiana Offshore Oil Port (LOOP) is \$62,000,000.

Appendix A to Part 148—Environmental Review Criteria for Deepwater Ports

Authority

(a) Under section 6 of the Deepwater Port Act of 1974 (33 U.S.C. 1505), the Commandant is required to establish environmental review criteria for use in evaluating a proposed deepwater port. In developing these criteria, the Coast Guard consulted with the Environmental Protection Agency, the National Oceanic and Atmospheric Administration, the Maritime Administration, and other Federal agencies having jurisdiction over any aspect of the construction or operation of a deepwater port. Both the construction and operation phases of a deepwater port will be evaluated by the following criteria:

(1) The effect on the marine environment.

(2) The effect on oceanographic currents and wave patterns.

(3) The effect on alternate uses (e.g., scientific study, fishing, and exploitation of other living and nonliving resources) of the oceans and navigable waters.

(4) The potential dangers to a deepwater port from waves, winds, weather, and geological conditions and the steps that can be taken to protect against or minimize these dangers.

(5) The potential for risks to the marine and terrestrial environments under normal operating scenarios and a range of spill or failure scenarios.

(6) The effects of land-based developments related to deepwater port development.

(7) The effect on human health and welfare.

(8) Other considerations deemed necessary by the Commandant (G–M).

(b) The Commandant (G–M) periodically reviews and revises, as necessary, these

criteria. These reviews and revisions are performed in the same way as the originally developed criteria. The criteria established are consistent with the National Environmental Policy Act (42 U.S.C. 4321–4347) and were developed concurrently with the regulations under 33 U.S.C. 1504(a) for deepwater ports.

Purpose

(a) The Secretary of Transportation may issue a license to construct a deepwater port under the Act if, among other things, the Secretary determines—

(1) That the construction and operation of the deepwater port will be in the national interest and consistent with national security and other national policy goals and objectives, including energy sufficiency, environmental quality, and protection from the threat of terrorist attack and other subversive activity against persons and property on the port and the vessels and crews calling at the port.

(2) That, under the environmental review criteria in this appendix, the applicant has demonstrated that the deepwater port will be constructed and operated using the best available technology to prevent or minimize adverse impact on the environment (33 U.S.C. 1503(c)(3) and 1504).

(b) Under 33 U.S.C. 1504(f), these criteria must be considered in the preparation of a single, detailed environmental impact statement for all timely applications covering a single application area. Additionally, 33 U.S.C. 1504(i)(3) specifies that, if more than one application is submitted for an “application area” (as defined in 33 U.S.C. 1504(d)(2)), the criteria must be used, among other factors, in determining whether any one proposed deepwater port clearly best serves the national interest.

Environmental Review Criteria

(a) The environmental review of a proposed deepwater port consists of the following two parts:

(1) The assessment of the probable negative and positive environmental impacts that will result from construction and operation of the port. (See “Part I of Environmental Review: Environmental Impacts in this appendix.” This is also discussed in the Council on Environmental Quality’s regulations at 40 CFR parts 1500 through 1508.

(2) The effort made by the applicant to prevent or minimize adverse environmental effects. (See “Part II of Environmental Review: Environmental Mitigation” in this appendix.) This effort will be closely considered in the review.

(b) The overall intent of the review is to obtain a comprehensive evaluation of the significance of both the separate and cumulative environmental impacts, adverse and beneficial, of the proposed deepwater port project. In addition, the overall intent of the review is to determine whether or not the applicant has demonstrated that the deepwater port will be constructed and operated using the best available technology, thereby preventing or minimizing the adverse impact on the marine environment.

Part I of Environmental Review: Environmental Impacts

(a) The proposed deepwater port will be evaluated to assess the extent and importance of its probable negative and positive environmental impacts. The information needed for this evaluation will be provided by the Federal Environmental Impact Statement and other necessary sources. This review will include comparisons with reasonable alternative actions, such as the no-action case, alternative schemes for transporting oil, alternative sites, designs, and systems, and other deepwater ports.

(b) The evaluation should provide a clear picture of the relative net environmental impact of the proposed project. It should identify the procedures that might be taken and the technology applied to prevent or minimize probable adverse effects.

Part II of Environmental Review: Environmental Mitigation

Under this part, the proposed project will be appraised for the effort made to prevent or minimize the probable adverse impacts on the environment. This appraisal is primarily concerned with the project as it is proposed. The alternatives are relevant only insofar as they may represent an array of possible actions that the proposal will be judged against. The review will consider the degree of adherence to the following guidelines:

(a) *Siting.*

(1) A proposed deepwater port should be sited in an optimum location to prevent or minimize detrimental environmental effects. For example, the deepwater port and all its components (including receiving terminals, inline transportation facilities and stations, ancillary and service facilities, and pipelines) should occupy the minimum space necessary for safe and efficient operation and should be located, to the extent possible, in areas where permanent alteration of wetlands is not necessary. Buffer zones should be provided to separate onshore facilities from incompatible adjacent land uses.

(2) The deepwater port facility and its offshore components should be located in areas that have stable sea-bottom characteristics; and its onshore components should be located in areas where a stable foundation can be developed and flood protection levees, if appropriate, can be constructed.

(3) The deepwater port facility should be located in an area where existing offshore structures and activities will not interfere with its safe operation, and where the facility or navigation to and from that facility, will not interfere with the safe operation of existing offshore structures. Water depths and currents in and around the deepwater port and its approaches should pose no undue hazard to safe navigation. Extensive dredging or removal of natural obstacles, such as reefs, should be avoided. The siting procedure should select an area where projected weather, wave conditions, and seismic activity minimize the probability that damage will occur to the deepwater port, tankers, pipeline, and component shore-side facilities from storms, earthquakes, or other natural hazards.

(4) Sites should maximize the permitted use of existing work areas and facilities and

access routes for construction and operations activities. Where temporary work areas, facilities, or access routes must be used, they should be, to the fullest extent possible, designed and constructed in such a manner as to permit restoration to the pre-construction environmental conditions or better.

(5) The deepwater port facility, navigational fairways, and pipelines should be sited where the interactions of requirements of the facility and the natural environment are optimized to prevent adverse impacts or to produce acceptably low adverse effects. Key factors in assessments should include, but are not be limited to, projected winds, waves, current, spill size, spill frequency, and cleanup capability; shoreline, estuarine, and bay sensitivity; biological resources, damage potential and recovery rate; facility design; and project economics.

(6) The deepwater port, pipelines, and attendant facilities should be located as far as practicable from the vicinity of critical habitats for biota, including, but not limited to, commercial and sports fisheries and threatened and endangered species.

(7) Sites should reflect negligible displacement of existing or potentially important uses, such as the following:

- (i) Fisheries.
- (ii) Recreation.
- (iii) Mining.
- (iv) Oil and gas production.
- (v) Transportation.

(8) Siting should favor areas already allocated for similar use and the implications of density of these uses.

(i) Port facilities—existing tanker and barge traffic—existing ports, which can be used for service vessels.

(ii) Pipelines—use of existing corridors.

(iii) Secondary facilities—use of (or expansion of) existing storage, refinery, and other support facilities.

(iv) Construction facilities—use of existing equipment and personnel staging yards.

(9) The deepwater port, pipelines, and other offshore facilities should be sited so that they will not permanently interfere with the natural littoral process and will not significantly alter any tidal pass or other part of the physical environment that is important to natural currents and wave patterns.

(10) Pipelines, or other deepwater port components or facilities requiring dredging, should not be located where sediments with high levels of heavy metals, biocides, oil, or other pollutants or hazardous materials exist.

(b) *Design, construction, and operation.* Selection of design and procedures for construction and operation of a deepwater port must reflect the use of the best available technology. The following are some examples:

(1) All oil transfer, transportation, and storage facilities and their systems and equipment should include appropriate safeguards and backup systems or should be operated under procedures both to minimize the possibility of pollution incidents resulting from personnel and equipment failures, natural calamities, and casualties, such as tanker collisions or groundings, and to minimize the adverse effects of those

pollution incidents that do occur. These facilities, systems, and equipment should be designed to permit safe operation, including appropriate safety margins, under maximum operating loads and the most adverse operating conditions.

(2) All facilities should be provided with a safe, environmentally sound method for the collection, storage, and disposal of solid and liquid wastes generated by these facilities. When prescribed by law or regulation, the deepwater port may be required to be fitted with additional facilities for the collection and treatment of ship-generated liquid and solid wastes, such as oily bilge and oily ballast water, tank cleaning residues, sludge wastes, and sewage and garbage.

(3) The proposed project should be designed, constructed and operated so it will not permanently interfere with natural littoral processes or other significant aspects of currents and wave patterns. Additionally, harmful erosion or accretion, both onshore and offshore, should be prevented. Groundwater drawdown or saltwater intrusion should not be permitted. Moreover, the mixing of salt, brackish, and fresh waters should be minimized. Designs should not include factors that will disrupt natural sheet flow, water flow, and drainage patterns or systems.

(4) The proposed project should not interfere with biotic populations. Potential effects on breeding habitats or migration routes should receive particular attention.

(5) The proposed project should be designed, constructed, and operated to make maximum, feasible use of already existing local facilities, such as roads, pipelines, docking facilities and communications facilities.

(6) Disposal of spoil and refuse material should be effected only at disposal sites specifically selected and approved by competent authorities. Whenever and wherever possible, the proposal should provide for resource recovery, reclamation of affected areas, or enhancing uses of spoil and waste.

(7) Personnel trained in oil spill prevention should be present at critical points at the deepwater port (as identified in the accident analysis). Personnel should also be trained in oil spill control to mitigate the effects of any spill that may occur.

(c) *Land Use and Coastal Zone Management.* A deepwater port should not conflict with existing or planned land use, including management of the coastal region. A measure of whether or not conflict exists will be made by the following means:

(1) The proposed project should adhere closely to approved master plans or other plans of competent local or State authorities in designated adjacent coastal States or in other States where significant effects are likely to occur. A minimum of special exceptions or zoning variances should be required. Non-conforming uses should not be prolonged where reasonable alternatives are available.

(2) The proposed project should conform with approved or planned coastal zone management programs of the relevant adjacent coastal States.

(3) The proposed use of floodplains should not—

(i) Entail loss of wetlands;
(ii) Pose an undue risk of exposure of that use to flood damage;
(iii) Increase the potential need for Federal expenditures for flood protection or flood disaster relief; and

(iv) Decrease the unique public value of the floodplain as an environmental resource or provide an incentive for other uses of the floodplains that have similar ultimate results.

(4) The use of or effect on wetlands should be considered in the following manner:

(i) Uses that would permanently alter or adversely affect wetlands should be avoided; or

(ii) Positive action must be taken to minimize adverse effects on wetlands.

Environmental Statutes

(a) In constructing and operating a deepwater port, the port must comply with all applicable environmental statutes, including the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*), the Clean Air Act (42 U.S.C. 7401 *et seq.*), the Federal Water Pollution Control Act (33 U.S.C. 1251 *et seq.*), the Marine Protection, Research and Sanctuaries Act (33 U.S.C. 1401 *et seq.*), the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 *et seq.*), the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*), the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 *et seq.*), the National Historic Preservation Act of 1966 (16 U.S.C. 661 *et seq.*), the Comprehensive Environmental Response, Compensation, and Liabilities Act.

(b) In addition, the port must comply with section 5 of the Deepwater Port Act of 1974 on preparation of a single, detailed environmental impact statement (33 U.S.C. 1504(f)) and section 6 on the effect of the port on the marine environment (33 U.S.C. 1505(a)).

PART 149—DEEPWATER PORTS: DESIGN, CONSTRUCTION, AND EQUIPMENT

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Authority: 33 U.S.C. 1504; 49 CFR 1.46.

Subpart A—General**§ 149.1 What does this part do?**

This subpart provides requirements for the design and construction of deepwater ports. It also provides the requirements for equipment for deepwater ports.

§ 149.5 Where can I find the definition of a term used in this part?

- (a) See § 148.5 for the definition of certain terms used in this part.
- (b) See § 140.25 of this chapter for the definition of the following terms: “accommodation module,” “major conversion,” “sleeping spaces,” and “temporary accommodation module.”

§ 149.10 What is the Coast Guard publication for equipment type approval, and where can I obtain it?

(a) Where equipment in this subchapter must be of an approved type, the equipment must be specifically approved by the Commandant (G–M). A list of approved equipment, including all of the approval series, is available at <http://www.uscg.mil/hq/g-m/mse/equiplistexpl.htm>. The last printed version of the list, current only up through 1994, is published in COMDTINST M16714.3 (Series), Equipment List, and is available from Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250, or by phone at 202–512–1800.

(b) Specifications for certain items required to be of an approved type are in 46 CFR parts 160 through 164.

Subpart B—Pollution Prevention Equipment**§ 149.100 What does this subpart do?**

This subpart provides requirements for pollution equipment on deepwater ports.

§ 149.103 What are the requirements for discharge containment and removal material and equipment?

(a) Each deepwater port must have oil discharge containment and removal material and equipment that, to the extent best available technology allows, can contain and remove an oil discharge of at least 10,000 U.S. gallons. The material and equipment must be stored on the pumping platform or on a service craft operating at the deepwater port.

(b) Each deepwater port must have readily accessible additional containment and removal material and equipment for containing and removing oil discharges larger than those specified in paragraph (a) of this section. For purposes of this paragraph, access may be by direct ownership, joint ownership, cooperative venture, or contractual agreement.

(c) The type of discharge containment and removal material and equipment that best meets the requirements of paragraphs (a) and (b) of this section must be determined on the basis of—

- (1) The oil handling rates of the deepwater port;
- (2) The volume of oil susceptible to being spilled;
- (3) The frequency of oil transfer operations at the deepwater port;
- (4) The prevailing wind and sea state condition at the deepwater port;
- (5) The age, capability, and arrangement of, and the licensee's experience with, the oil transfer system equipment at the deepwater port; and
- (6) The expected availability and frequency of use of the discharge containment material and equipment and whether they are shared.

§ 149.105 What are the requirements for the overflow and relief valves?

(a) Each oil transfer system (OTS) must include a relief valve that, when activated, prevents pressure on any component of the OTS from exceeding its maximum rated pressure.

(b) The oil transfer system overflow or relief valve must not allow an oil discharge into the sea.

§ 149.110 What are the requirements for pipeline end manifold shutoff valves?

Each pipeline end manifold must have a shutoff valve capable of operating both manually and from the pumping platform complex.

§ 149.115 What are the requirements for blank flange and shutoff valves?

Each floating hose string must have a blank flange and a shutoff valve at the vessel's manifold end.

§ 149.120 What are the requirements for manually operated shutoff valves?

Each oil transfer line passing through an SPM buoy must have a manual shutoff valve on the buoy.

§ 149.125 What are the requirements for the malfunction detection system?

Each oil system between a pumping platform complex and the shore must have a system that can detect and locate all leaks and other malfunctions.

§ 149.130 What are the requirements for the oil transfer system alarm?

(a) Each oil transfer system must have an alarm to signal a malfunction or failure in the system.

- (b) The alarm must be—
- (1) Capable of being activated at the pumping platform complex;
 - (2) A signal audible in all areas of the pumping platform complex, except in areas under paragraph (b)(3) of this section;

(3) A high intensity flashing light in areas of high ambient noise levels where hearing protection is required under § 150.600 of this chapter; and

(c) Distinguishable from the general alarm.

§ 149.135 What should be marked on the oil transfer system alarm switch?

Each switch for activating an alarm, and each audio or visual device for signaling an alarm, under § 149.130 must be identified by the words "OIL TRANSFER ALARM" in red letters at least 1-inch (2.5 centimeters) high on a yellow background.

§ 149.140 What communications equipment must be on a deepwater port?

Each deepwater port must have the following communications equipment:

(a) A means of continuous two-way voice communication among the deepwater port and the tankers, support vessels, and other vessels operating at the port. The means must be usable and effective in all phases of a transfer and in all conditions of weather at the port.

(b) A means to effectively indicate the need to use the communication system required by paragraph (a) of this section, even if the means is the communication system itself.

(c) For each portable means of communication used to meet the requirements of this section, equipment that is—

(1) Certified under 46 CFR 111.105–11 to be operated in Group D, Class 1, Division 1 Atmosphere; and

(2) Permanently marked with the certification required in paragraph (c)(1) of this section. As an alternative to this marking requirement, a document certifying that the portable radio devices in use are in compliance with this section may be kept at the deepwater port.

§ 149.145 What are the requirements for curbs, gutters, drains, and reservoirs?

Each pumping platform complex must have enough curbs, gutters, drains, and reservoirs to collect, in the reservoirs, all oil and contaminants not authorized for discharge into the ocean according to the port's National Pollution Discharge Elimination System (NPDES) permit.

§ 149.150 What are the requirements for the receipt of oil residues from vessels?

(a) Each deepwater port that receives oil from vessels must have a means for receiving oil residues from those vessels.

(b) A deepwater port is not required to receive oil residues from vessels that are engaged in a vessel-to-vessel transfer.

Subpart C—Lifesaving Equipment

§ 149.300 What does this subpart do?

This subpart provides requirements for lifesaving equipment on deepwater ports.

§ 149.305 What are the requirements for lifesaving equipment?

(a) Each deepwater port on which at least one person occupies an accommodation space for more than 30 consecutive days in any successive 12-month period must comply with the requirements for lifesaving equipment in §§ 143.810 through 143.885 of this chapter.

Note: Sections 143.810 through 143.885 referred to in this paragraph are as proposed in 64 FR 68476–68480, December 7, 1999.

(b) Each deepwater port not under paragraph (a) of this section must comply with the requirements for lifesaving equipment in §§ 143.910 through 143.925 of this chapter.

Note: Sections 143.910 through 143.925 referred to in this paragraph are as proposed in 64 FR 68480, December 7, 1999.

§ 149.310 What are the requirements for lifesaving equipment that is not required by this subchapter?

Each item of lifesaving equipment on a pumping platform complex that is not required by this subchapter must be approved by the Commandant (G–M).

Subpart D—Fire-Fighting and Fire-Protection Equipment

§ 149.400 What does this subpart apply to?

This subpart applies to all deepwater ports; except that, for deepwater ports in existence on [the effective date of the final rule], this subpart applies on [date 2 years after effective date of the final rule].

§ 149.405 What are the general requirements for fire-fighting and fire-protection equipment?

(a) Each deepwater port must comply with the requirements for fire-fighting and fire-protection equipment in §§ 143.1010 through 143.1050 and 143.1060 through 143.1063 of this chapter.

Note: Sections 143.1010 through 143.1050 and 143.1060 through 143.1063 referred to in this paragraph are as proposed in 64 FR 68481–68485, December 7, 1999.

(b) A fire detection and alarm system on a deepwater port on [the effective date of the final rule.] need not meet the requirements in § 143.1050 of this chapter until the system needs replacing.

Note: Section 143.1050 referred to in this paragraph is as proposed in 64 FR 68484, December 7, 1999.

§ 149.410 What are the requirements for a fixed fire main system?

Each pumping platform complex must have a fixed fire main system.

§ 149.415 What are the requirements for fire pumps?

(a) Each pumping platform complex must have at least two independently driven fire pumps. Each pump must be able to simultaneously deliver two streams of water at a pitot tube pressure of at least 75 p.s.i. measured at each fire hose nozzle.

(b) Each fire pump must have—

(1) A relief valve on its discharge side that is set to relieve at 25 p.s.i. in excess of the pressure necessary to meet the requirement in paragraph (a) of this section;

(2) A pressure gauge on its discharge side; and

(3) Its own sea connection.

(c) Fire pumps may only be connected to the fire main system.

(d) The fire pumps required by paragraph (a) of this section shall be located in separate spaces and the arrangement of pumps, sea connections and sources of power shall be such as to ensure that a fire in any one space will not put all of the fire pumps out of service.

§ 149.420 What are the requirements for fire hydrants?

(a) Except for machinery spaces, each part of the pumping platform complex that is accessible to a person must have enough fire hydrants so that it can be reached by at least two hose streams from separate hydrants. At least one hose stream must be from a single length of hose.

(b) Each pumping platform complex must have enough fire hydrants so that each machinery space can be reached by at least two hose streams from separate hydrants. At least one hose stream must be from a single length of hose.

(c) A single length of fire hose, with an attached nozzle, must be connected to each fire hydrant at all times. If the hose is exposed to freezing weather, it may be removed from the location during freezing weather.

(d) The outlet on each fire hydrant must not point above the horizontal.

(e) Each fire hydrant must have a shutoff valve.

(f) Any equipment that is located in the same space as the fire hydrant must not impede access to the hydrant.

(g) Each fire hydrant must have at least one spanner wrench at the fire hydrant.

§ 149.425 What are the requirements for fire hoses?

- (a) At each fire hydrant, there must be a fire hose rack that is—
 - (1) Prominently marked;
 - (2) In an exposed location; and
 - (3) Protected from freezing weather.
- (b) Each length of fire hose must be—
 - (1) 1 1/2 or 2 1/2 inches (4 or 6 centimeters) nominal hose size diameter;
 - (2) 50-feet (15-meters) nominal hose size length; and
 - (3) Lined commercial fire hose that conforms to UL 19.
- (c) Each fire hose coupling must—
 - (1) Be made of brass, bronze, or material that has strength and corrosion resistant properties at least equal to those of brass or bronze; and
 - (2) Have nine threads per inch for 1 1/2-inch (4-centimeter) hose or seven and a half threads per inch for 2 1/2-inch (6-centimeter) hose.
- (d) Each fire hose nozzle must be a combination solid-stream and waterspray fire hose nozzle that is approved under 46 CFR part 162, subpart 162.027. Nozzles approved under that subpart before June 24, 1996, may be retained as long as they are maintained in good condition to the satisfaction of the Officer in Charge, Marine Inspection (OCMI).
- (e) A combination solid-stream and waterspray fire hose nozzle approved under 46 CFR part 162, subpart 162.027, before June 24, 1996, must have a low-velocity water spray applicator (also approved under the provisions of that subpart in effect before June 24, 1996 and contained in the 46 CFR parts 156 to 165 volume revised as of October 1, 1995) when installed—
 - (1) In a machinery space containing oil fired boilers, internal combustion machinery, or fuel oil units; or
 - (2) On a helicopter deck.

Each item of fire-fighting equipment on a pumping platform complex that is not required by this subchapter must be approved by the Commandant (G–M).

Subpart E—Aids to Navigation

General

§ 149.500 What does this subpart do?

This subpart provides requirements for aids to navigation on deepwater ports.

§ 149.505 What are the general requirements for aids to navigation?

The following requirements apply to aids to navigation under this subpart:

(a) Section 66.01–5 of this chapter on application to establish, maintain, discontinue, change, or transfer ownership of an aid, except as under § 149.510.

(b) Section 66.01–25(a) and (c) of this chapter on discontinuing or removing an aid. For the purposes of § 66.01–25(a) and (c) of this chapter, aids to navigation at a deepwater port are considered Class I aids under § 66.01–15 of this chapter.

(c) Section 66.01–50 of this chapter on protection of an aid from interference and obstruction.

(d) Section 66.01–55 of this chapter on transfer of ownership of an aid.

§ 149.510 How do I get permission to establish an aid to navigation?

(a) To establish an aid to navigation on a deepwater port, the licensee must submit an application under § 66.01–5 of this chapter, except the application must be sent to the Commandant (G–M).

(b) At least 180 days before the installation of any structure at the site of a deepwater port, the licensee must submit an application for obstruction lights and other private aids to navigation for the particular construction site.

(c) At least 180 days before beginning oil transfer operations or changing the mooring facilities at the deepwater port, the licensee must submit an application for private aids to navigation.

Lights

§ 149.520 What kind of lights are required?

(a) Lights required by this subpart must be generated by omnidirectional lanterns or rotating beacons.

(b) An omnidirectional lantern must generate a fan beam, where the beam is concentrated in a horizontal plane.

(c) A rotating beacon must generate one or more pencil beams, where each beam is conical, similar to the beam from a flashlight.

(d) Lanterns and beacons must have a way to focus the light or must be certified by the manufacturer as not requiring focusing.

§ 149.521 What is “effective intensity,” as used in this subpart?

For the purpose of this subpart, “effective intensity” means the intensity of an intermittent light signal calculated by using the following equation:

$$I_e = \frac{J}{C + \frac{J}{I_o}}$$

where I_e is the effective intensity of the light; I_o is the maximum intensity of the flash; C is a visual time constant taken

to be 0.2 seconds for nighttime observation; and J is the integrated intensity of the flash. J is calculated by the following equation:

$$J = \int_{t_1}^{t_2} I(t) dt,$$

where t_1 is the starting time and t_2 is the ending time for the light. This equation is valid for both flashed and rotated light signals.

§ 149.523 What are the requirements for flash intervals?

The flash interval (i.e., time difference between the beginning and end of any single flash) from an omnidirectional lantern must not be less than 0.2 seconds. For lights that are pulsed during the flash interval, the pulse frequency must not be less than 100 Hz.

§ 149.525 What are the chromaticity requirements for lights?

The color emitted by a light must be uniform at all angles and in all directions and have chromaticity coordinates lying within the regions defined by the corner coordinates in table 149.525 of this section, when plotted on the CIE Standard Observer Diagram.

TABLE 149.525—CHROMATICITY COORDINATES

Color	Chromaticity coordinates	
	x Axis	y Axis
White	0.285	0.332
	.453	.440
	.500	.440
	.500	.382
	.440	.382
Green .....	.285	.264
	0.009	0.720
	.284	.520
	.207	.397
Red .....	.013	.494
	0.665	0.335
	.645	.335
	.680	.300
Yellow .....	.700	.300
	0.560	0.440
	.555	.435
	.612	.382
	.618	.382

§ 149.527 What are the requirements for vertical divergence of lights?

(a) Each light on a buoy, hose string, or SPM must—

(1) Meet the effective intensity required by this subpart within ±1° from the focal plane of the light for the arc included; and

(2) Meet 50 percent of the effective intensity required by this subpart within

$\pm 2^\circ$ from the focal plane of the light for the arc.

(b) Each light on a platform must—

(1) Meet the effective intensity required by this subpart within $\pm 0.5^\circ$ from the focal plane of the light for the arc included; and

(2) Meet 50 percent of the effective intensity required by this subpart within $\pm 1^\circ$ from the focal plane of the light for the arc.

Lights on Platforms

§ 149.530 How many obstruction lights must a platform have, and where must they be located?

(a) A platform that is 30 feet (9 meters) or less on any side, or in diameter, must have at least one obstruction light.

(b) A platform that is more than 30 feet (9 meters) but less than 50 feet (15 meters) on any side, or in diameter, must have at least two obstruction lights located as far apart from each other as possible.

(c) A platform that is more than 50 feet (15 meters) on any side must have at least one obstruction light located on each corner.

(d) A circular platform that has a diameter of more than 50 feet (15 meters) must have at least four obstruction lights located as far apart from each other as possible.

(e) Obstruction lights on platforms must be located at least 20 feet (6 meters) above mean high water.

(f) If a platform has more than one obstruction light, the lights must all be located in the same horizontal plane.

(g) At least one obstruction light on a platform must be visible from the water, regardless of the angle of approach to the structure.

§ 149.531 What are the required characteristics and intensity of obstruction lights on platforms?

(a) Each obstruction light on a platform must—

- (1) Display a white light signal; and
- (2) Flash 50 to 70 times per minute.

(b) If a platform has more than one obstruction light, the lights must flash simultaneously.

(c) Each obstruction light on a platform must have an effective intensity of at least 75 candela.

§ 149.533 What are the requirements for leveling obstruction lights on platforms?

Each obstruction light on a platform must have—

(a) Mounting hardware that allows the light to be leveled horizontally; and

(b) One or more leveling indicators permanently attached to the light, each with an accuracy of $\pm 0.25^\circ$ or better.

§ 149.535 What are the requirements for rotating beacons on platforms?

In addition to obstruction lights, the tallest platform of a deepwater port must have a rotating lighted beacon that—

(a) Has an effective intensity of at least 15,000 candela;

(b) Flashes at least once every 20 seconds;

(c) Provides a white light signal;

(d) Operates in wind speeds up to 100 knots at a rotation rate that is within 6 percent of the operating speed displayed on the beacon;

(e) Has one or more leveling indicators permanently attached to the light, each with an accuracy of $\pm 0.25^\circ$, or better; and

(f) Is located—

(1) At least 60 feet (18 meters) above mean high water;

(2) Where the structure of the platform, or equipment mounted on the platform, does not obstruct the light in any direction; and

(3) So that it is visible all around the horizon.

Lights on Single Point Moorings

§ 149.540 What are the requirements for obstruction lights on an SPM?

(a) An SPM must have at least one obstruction light.

(b) At least one obstruction light must be visible from the water, regardless of the angle of approach to the SPM.

(c) Obstruction lights on an SPM must be located at least 10 feet (3 meters) above mean high water.

(d) If an SPM has more than one obstruction light, the lights must all be installed in the same horizontal plane.

§ 149.545 What are the required characteristics and intensity of obstruction lights on an SPM?

(a) Each obstruction light on an SPM must—

- (1) Display a white light signal;
- (2) Flash 50 to 70 times per minute; and

(3) Have an effective intensity of at least 15 candela.

(b) If an SPM has more than one obstruction light, the lights must flash simultaneously.

Lights on Floating Hose Strings

§ 149.550 What are the requirements for lights on a floating hose string?

(a) A floating hose string must have at least one omnidirectional light, mounted on the hose-end support buoy.

(b) Lights marking the floating hose string must be located at the same height 2 to 5 feet (.6 meters to 1.5 meters) above the surface of the water.

(c) Lights on the hose-end support buoy must be located so that the

structure of the buoy, or any other devices mounted on the buoy, do not obstruct the light in any direction.

(d) Additional lights may be installed along the length of the floating hose string. Any additional lights marking the floating hose string must comply with the requirements for lights on the hose-end support buoy.

§ 149.555 What are the required characteristics and intensity of lights on a floating hose string?

Each light marking a floating hose string must—

(a) Display a yellow light signal;

(b) Flash 50 to 70 times per minute; and

(c) Have an effective intensity of at least 10 candela.

Lights on Buoys Used to Define Traffic Lanes

§ 149.560 How must buoys used to define traffic lanes be marked and lighted?

(a) Each buoy that is used to define the lateral boundaries of a traffic lane at a deepwater port must meet § 62.25 of this chapter.

(b) The buoy must have an omnidirectional light located at least 8 feet (2.4 meters) above the water.

(c) The buoy light must be located so that the structure of the buoy, or any other devices mounted on the buoy, do not obstruct the light in any direction.

§ 149.565 What are the required characteristics and intensity of lights on buoys used to define traffic lanes?

(a) The color of the light on a buoy that is used to define the lateral boundaries of a traffic lane must correspond with the color schemes for buoys in § 62.25 of this chapter.

(b) The buoy light may be fixed or flashing. If it is flashing, it must flash at intervals of not more than 6 seconds.

(c) Buoy lights must have an effective intensity of at least 25 candela.

Miscellaneous

§ 149.570 How is a platform or SPM identified?

(a) Each platform and SPM must display the name of the deepwater port and the name or number identifying the structure, so that the information is visible—

(1) From the water at all angles of approach to the structure; and

(2) If the structure is equipped with a helicopter pad, from aircraft on approach to the structure.

(b) The information required in paragraph (a) of this section must be displayed in numbers and letters that are—

(1) At least 12 inches (30 centimeters) high;

- (2) In vertical block style; and
- (3) Displayed against a contrasting background.

§ 149.575 How must objects protruding from the water, other than platforms and SPM's, be marked?

(a) Each object protruding from the water that is within 100 yards (91 meters) of a platform or SPM must be marked with white reflective tape.

(b) Each object protruding from the water that is more than 100 yards (91 meters) from a platform or SPM must meet the obstruction lighting requirements in this subpart for a platform.

§ 149.580 What are the requirements for a radar beacon?

(a) A radar beacon must be located on the tallest platform of a pumping platform complex.

(b) The beacon must meet the following:

(1) Be an FCC-type-accepted radar beacon (RACON).

(2) Transmit—

(i) In both the 2900–3100 MHz and 9300–9500 MHz frequency bands; or

(ii) If installed before July 8, 1991, in the 9320–9500 MHz frequency band.

(3) Transmit a signal of at least 250 milliwatts radiated power that is omnidirectional and polarized in the horizontal plane.

(4) Transmit a two or more element Morse code character, the length of which does not exceed 25 percent of the radar range expected to be used by vessels operating in the area.

(5) If of the frequency agile type, be programmed so that it will respond at least 40 percent of the time but not more than 90 percent of the time with a response time duration of at least 24 seconds.

(6) Be located at a minimum height of 15 feet (4.5 meters) above the highest deck of the platform and where the structure of the platform, or equipment mounted on the platform, does not obstruct the signal propagation in any direction.

§ 149.585 What are the requirements for fog signals?

(a) Each pumping platform complex must have a fog signal approved under

part 67, subpart 67.10, of this chapter that has a 2-mile (3-kilometer) range. A list of Coast Guard approved fog signals is available from any District Commander.

(b) Each fog signal must be—

(1) Located at least 10 feet (3 meters) but not more than 150 feet (46 meters) above mean high water; and

(2) Located where the structure of the platform, or equipment mounted on it, does not obstruct the sound of the signal in any direction.

Subpart F—Design and Equipment

General

§ 149.600 What does this subpart do?

This subpart provides general requirements for equipment and design on deepwater ports.

§ 149.610 What must the District Commander be notified of and when?

The District Commander must be notified of the following:

When—	The District Commander must be notified—
(a) Construction of a pipeline, platform, or SPM is planned	At least 30 days before construction begins.
(b) Construction of a pipeline, platform, or SPM begins	Within 24 hours, from the date construction begins, that the lights and fog signals are in use at the construction site.
(c) A light or fog signal is changed during construction	Within 24 hours of the change.
(d) Lights or fog signals used during construction of a platform, buoy, or SPM are replaced by permanent fixtures to meet the requirements of this part.	Within 24 hours of the replacement.
(e) The first oil transfer operation begins	At least 60 days before the operation.

§ 149.615 What construction drawings and specifications are required?

(a) To show compliance with the Act and this subchapter, the licensee must submit to the Commandant (G–M) three copies of—

(1) Each construction drawing and specification; and

(2) Each revision to a drawing and specification.

(b) Each drawing, specification, and revision under paragraph (a) of this section must bear the seal, or a facsimile imprint of the seal, of the registered professional engineer responsible for the accuracy and adequacy of the material.

§ 149.620 What happens when the Commandant (G–M) reviews and evaluates the construction drawings and specifications?

(a) The Commandant (G–M) reviews and evaluates construction drawings and specifications to ensure compliance with the Act and this subchapter.

(b) Construction may not begin until the drawings and specifications are approved by the Commandant (G–M).

(c) Once construction begins, the Coast Guard periodically inspects the construction site to ensure that the construction complies with the drawings and specifications approved under paragraph (b) of this section.

(d) When construction is complete, the licensee must submit two complete sets of as-built drawings and specifications to the Commandant (G–M).

§ 149.625 What are the design standards?

(a) Each component, except for hoses, mooring lines, and aids to navigation buoys, must be designed to withstand at least the combined wind, wave, and current forces of the most severe storm that can be expected to occur at the deepwater port in any period of 100 years.

Note to § 149.625(a): “Recommended Procedure for Developing Deepwater Ports Design Criteria” describes a method to prepare the wind, wave, and current criteria for use in determining the forces of the storm described by this paragraph. You may obtain this guide from the Commandant (G–M).

(b) Each port that is contracted for on or after [effective date of final rule.] must be designed according to API RP 2A–WSD (working stress design) or API RP 2A–LRFD (load and resistance factor design) to the extent that they are consistent with this subchapter.

(c) Each electrical installation on a port must be designed, to the extent practicable according to 46 CFR chapter I, subchapter J, (Electrical Equipment).

(d) Each boiler and pressure vessel on a port must be designed according to ASME “Boiler and Pressure Vessel Code,” sections I, IV, and VIII, to the extent that they are consistent with this subchapter.

(e) Main oil transfer piping on a port must be designed according to ANSI B 31.4 (Liquid Petroleum Transportation Piping Systems).

(f) Heliports on fixed deepwater ports must be designed according to API RP 2L. Heliports on floating deepwater ports must meet the design requirements for heliports on mobile offshore drilling units in 46 CFR part 108.

Systems Fire Protection

§ 149.630 What do the systems fire protection regulations apply to?

Sections 149.635 through 149.690 apply to the following:

- (a) Each deepwater port that—
 - (1) Was contracted for, or the construction of which began, on or after [effective date of final rule.]; or
 - (2) Underwent a major conversion that began on or after [effective date of final rule.].
- (b) When on a deepwater port under paragraph (a)(1) of this section—
 - (1) Each accommodation module; or
 - (2) Each temporary accommodation module.

§ 149.640 What are the requirements for systems fire protection?

The pumping platform complex must comply with the requirements for systems fire protection in §§ 143.1115 through 143.1135 of this chapter, except for the requirements on Emergency Evacuation Plans under § 143.1125 of this chapter.

Note: Sections 143.1115 through 143.1135 referred to in this paragraph are as proposed in 64 FR 68488, December 7, 1999.

Single Point Moorings

§ 149.650 What are the requirements for single point moorings and their attached hoses?

(a) Before operating an SPM and its attached hose, the SPM and hose must meet—

- (1) ABS Rules for Building and Classing Single Point Moorings; or
- (2) If approved by the Commandant (G-M), the standards of another recognized classification society that provide the same or a greater level of safety.

(b) As evidence of compliance with the standards under paragraph (a) of this section, the licensee must obtain—

- (1) An Interim Class Certificate or a Classification Certificate issued by the American Bureau of Shipping (ABS); or
- (2) A similar certificate issued under paragraph (a)(2) of this section by another recognized classification society.

(c) The SPM and hose must be maintained in class.

Helicopter Fueling Facilities

§ 149.655 What are the requirements for helicopter fueling facilities?

Helicopter fueling facilities must comply with the NFPA 407, part 2–5 (fueling on elevated heliports). For the purposes of this section, “ground level” as used in NFPA 407 means below the lowest platform working level.

Emergency Power

§ 149.660 What are the requirements for emergency power?

(a) Each pumping platform complex must have emergency power equipment to provide power to operate simultaneously all of the following for a continuous period of 8 hours:

- (1) Emergency lighting circuits.
- (2) Aids to navigation equipment.
- (3) Communications equipment.
- (4) Radar equipment.
- (5) Alarm systems.
- (6) Electrically operated fire pumps.
- (7) Other electrical equipment

identified as emergency equipment in the Operations Manual for the deepwater port.

(b) No emergency power generating equipment may be located in any enclosed space on a platform that contains oil transfer pumping equipment or other power generating equipment.

General Alarm System

§ 149.665 What are the requirements for a general alarm system?

Each pumping platform complex must have a general alarm system that meets the following:

- (a) Is capable of being activated manually by the use of alarm boxes located according to NFPA 72.
- (b) Is audible in all parts of the pumping platform complex, except in areas of high ambient noise levels where hearing protection is required under § 150.600 of this chapter.
- (c) Has a high intensity flashing light in areas where hearing protection is used.

§ 149.670 What are the requirements for marking a general alarm system?

Each of the following must be marked with the words “GENERAL ALARM” in yellow letters at least 1-inch high on a red background:

- (a) Each general alarm box.
- (b) Each audio or visual device under § 149.665 for signaling the general alarm.

Public Address System

§ 149.675 What are the requirements for the public address system?

Each pumping platform complex must have a public address system operable from two locations on the complex.

Medical Treatment Rooms

§ 149.680 What are the requirements for medical treatment rooms?

Each deepwater port with sleeping spaces for 12 or more persons, including persons in accommodation modules and temporary accommodation modules,

must have a medical treatment room that has—

- (a) A sign at the entrance designating it as a medical treatment room;
- (b) An entrance that is wide enough and arranged to readily admit a person on a stretcher;
- (c) A single berth or examination table that is accessible from both sides; and
- (d) A washbasin located in the room.

§ 149.685 May I use a medical treatment room for other purposes?

Yes, you may use a medical treatment room as a sleeping space if the room meets the requirements of this subpart for both medical treatment rooms and sleeping spaces. You may also use it as an office. However, when you use the room for medical purposes, it may not be used as a sleeping space or office.

Miscellaneous

§ 149.690 What are the requirements for means of escape, personnel landings, guardrails, and similar devices and for noise limits?

The deepwater port must comply with §§ 143.1220 through 143.1236 of this chapter on means of escape, personnel landings, guardrails and similar devices, and noise limits.

Note: Sections 143.1220 through 143.1236 referred to in this paragraph are as proposed in 64 FR 68487–68490, December 7, 1999.

§ 149.695 What kind of portable lights may be used on a pumping platform complex?

Each portable light and its supply cord on a pumping platform complex must be designed for the environment where it is used.

PART 150—DEEPWATER PORTS: OPERATIONS

Subpart A—General

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Authority: 33 U.S.C. 1231, 1321(j)(1)(c), (j)(5), (j)(6) and (m)(2), 33 U.S.C. 1509(a); sec. 2, E.O. 12777, 56 FR 54757; 49 CFR 1.46.

Subpart A—General**§ 150.1 What does this part do?**

This part provides requirements for the operation of deepwater ports.

§ 150.5 Where can I find the definition of a term used in this part?

See § 148.5 of this chapter for the definition of certain terms used in this part.

§ 150.10 What are the general requirements for operations manuals?

(a) Each deepwater port must have an operations manual that is approved by the Commandant (G–M) as meeting the requirements of the Act and this subchapter. The original manual is approved as part of the application process in part 148 of this chapter.

(b) The manual must be readily available on the deepwater port for use by personnel.

(c) The licensee must ensure that all personnel follow the procedures in the manual while at the deepwater port.

§ 150.15 What must the operations manual include?

The operations manual required by § 150.10 must identify the deepwater port and include the following:

- (a) A description of the geographic location of the deepwater port.
- (b) A physical description of the port.
- (c) A description of the communication system.
- (d) A plan of the layout of the mooring areas, aids to navigation, cargo transfer locations, and control stations.
- (e) The hours of operation.
- (f) The size, type, number, and simultaneous operations of tankers that the port can handle.
- (g) The procedures for the navigation of tankers, including—
 - (1) The operating limits, maneuvering capability, draft, net under-keel clearance, and dimensions of the tanker;
 - (2) Any special navigation or communication equipment that may be required for operating in the safety zone;
 - (3) The measures for routing vessels;
 - (4) Any mooring equipment needed to make up to the SPM;
 - (5) The procedures for clearing tankers, support vessels, and other vessels during emergency and routine conditions;
 - (6) Any special illumination requirements for arrival, discharge, and departure operations;
 - (7) Any special watchstanding requirements for transiting, mooring, or while at anchor;
 - (8) The hours when a radio watch is maintained and the frequencies monitored;
 - (9) The weather limits for tankers; and

(10) The duties, title, qualifications, and training of personnel of the port.

(h) The procedures for transferring cargo, including—

(1) The requirements for oil transfers;

(2) The shipping name of, and Material Safety Data Sheet on, the product transferred;

(3) The duties, title, qualifications, and training of personnel of the port;

(4) Minimum requirements for watch personnel on board the vessel during transfer operations (i.e., personnel necessary for checking mooring gear, monitoring communications and having propulsion/steering on standby);

(5) The start-up and completion of pumping;

(6) Emergency shutdown;

(7) The maximum relief valve settings, the maximum available working pressure and hydraulic shock to the system without relief valves, or both;

(8) Equipment necessary to discharge cargo to the port complex; and

(9) Describe the method to be used to water and de-water the SPM hoses when required.

(i) Unusual arrangements that may be applicable, including—

(1) A list and description of any extraordinary equipment or assistance available to vessels with inadequate pumping capacity, small cargoes, small diameter piping, or inadequate crane capacity; and

(2) A description of special storage or delivery arrangements for unusual cargoes.

(j) Safety and fire protection procedures, including—

(1) Housekeeping and illumination of walking and working areas;

(2) Emergency internal and external notifications;

(3) Quantity, type, location, and use of safety and fire protection equipment;

(4) Personal protection equipment; and

(5) Helicopter landing pad operations.

(k) A port security plan that addresses security issues, including but not be limited to controlling access of personnel and the introduction of goods and material into the deepwater port, monitoring and alerting vessels that approach or enter the port's security zone, identifying risks and procedures for increasing the probability of detecting and deterring terrorist or subversive activity (such as using security lighting and designating restricted areas within the port and remotely alarming them, as appropriate), notification requirements (both internally and externally) and response requirements in the event of a perceived threat or an attack on the port, designating the Port Security Officer,

providing positive and verifiable identification of personnel with access to the port, the training (including drills) required for all personnel regarding security issues, and the scalability of actions and procedures for the various levels of threat.

(l) Procedures for any special operations, including—

(1) Evacuation and re-manning procedures;

(2) Refueling operations;

(3) Diving operations;

(4) Support vessel operations; and

(5) Providing logistical services.

(m) The maintenance procedures, tests, and recordkeeping for—

(1) Oil transfer equipment;

(2) Fire prevention equipment;

(3) Safety equipment; and

(4) Cranes.

(n) Emergency drills, including—

(1) Type;

(2) Frequency; and

(3) Documentation.

(o) A program for monitoring the environmental effects of the port and its operations in order to maintain compliance with the environmental conditions in the license and applicable environmental laws. The program must provide for the periodic re-examination of the physical, chemical, and biological factors contained in the port's environmental impact analysis and baseline study submitted with the license application.

§ 150.20 How many copies of the operations manual must I give to the Coast Guard?

The licensee must give the Commandant (G–M) at least five copies of the original operations manual approved when the deepwater port license was issued and five copies of each subsequent amendment to the manual.

§ 150.25 When must I amend the operations manual?

(a) Whenever the Captain of the Port (COTP) finds that the operations manual does not meet the requirements of this part, the COTP notifies the licensee in writing of the inadequacies in the manual.

(b) Within 45 days after the notice under paragraph (a) of this section is sent, the licensee must submit written amendments to eliminate the inadequacies.

(c) The COTP reviews the amendments, makes a determination as to the adequacy of the amendments and notifies the licensee of the determination.

(d) If the COTP decides that an amendment is necessary, the

amendment goes into effect 60 days after the COTP notifies the licensee of the amendment.

(e) The licensee may petition the Commandant (G–M) to review the decision of the COTP. In this case, the effective date of the amendment is delayed pending the Commandant's decision. Petitions must be made in writing and presented to the COTP for forwarding to the Commandant (G–M).

(f) If the COTP finds that a particular situation requires immediate action to prevent a spill or discharge, or to protect the safety of life and property, the COTP may issue an amendment effective on the date that the licensee receives it. The COTP must include a brief statement of the reasons for the immediate amendment. The licensee may petition the District Commander for review, but the petition does not delay the effective date of the amendment.

§ 150.30 How may I propose an amendment to the operations manual?

(a) The licensee may propose an amendment to the operations manual—

(1) By submitting in writing the amendment and reasons for the amendments to the COTP not less than 30 days before the requested effective date of the amendment; or

(2) If the amendment is needed immediately, by submitting the amendment, and reasons why the amendment is needed immediately, to the COTP in writing.

(b) The COTP responds to a proposed amendment by notifying the licensee, in writing, before the requested date of the amendment whether the request is approved. If the request is disapproved, the COTP includes the reasons for disapproval in the notice. If the request is for an immediate amendment, the COTP responds as soon as possible.

§ 150.35 How may an adjacent coastal State request an amendment to the operations manual?

(a) An adjacent coastal State connected by pipeline to the deepwater port may petition the COTP to amend the operations manual. The petition must include sufficient information to allow the COTP to reach a decision concerning the proposed amendment.

(b) After the COTP receives a petition, the COTP requests comments from the licensee.

(c) After reviewing the petition and comments and considering the costs and benefits involved, the COTP may approve the petition if the proposed amendment will provide equivalent or improved protection and safety. The adjacent coastal State may petition the Commandant (G–M) to review the

decision of the COTP. Petitions must be made in writing and presented to the COTP for forwarding to the Commandant (G–M) via the District Commander.

§ 150.40 When may I deviate from the operations manual?

If, because of a particular situation, the licensee needs to deviate from the operations manual, the licensee must submit a written request to the COTP explaining why the deviation is necessary and what alternative is proposed. If the COTP determines that the deviation would ensure equivalent or greater protection and safety, the COTP authorizes the deviation and notifies the licensee in writing.

§ 150.45 In an emergency, when may I deviate from this subchapter or the operations manual?

In an emergency, any person may deviate from any requirement in this subchapter or any procedure in the operations manual to ensure the safety of life, property, or the environment. Each deviation must be reported to the COTP at the earliest possible time.

§ 150.50 What are the requirements for an oil spill response plan?

(a) Each deepwater port must have an oil spill response plan that meets part 154, subpart F, of this chapter.

(b) The response plan must be submitted to the COTP in writing not less than 60 days before the deepwater port begins operation.

Subpart B—Inspections

§ 150.100 What are the requirements for inspecting deepwater ports?

Under the direction of the OCMI, marine inspectors may inspect deepwater ports to determine whether the requirements of this subchapter are met. A marine inspector may conduct an inspection, with or without advance notice, at any time the OCMI deems necessary.

Subpart C—Personnel

§ 150.200 What does this subpart do?

This subpart prescribes qualifications for personnel on deepwater ports.

§ 150.205 Who must ensure that personnel are qualified?

The licensee must ensure that the individual filling a position meets the qualifications for that position in this subpart.

§ 150.210 What are the language requirements for personnel?

Only persons who read, write, and speak English may occupy the following positions:

- (a) Port Superintendent.
- (b) Cargo Transfer Supervisor.
- (c) Cargo Transfer Assistant.
- (d) Vessel Traffic Supervisor.
- (e) Mooring Master.
- (f) Assistant Mooring Master.

§ 150.215 What are the restrictions on serving in more than one position?

No person may serve in more than one of the following positions at any one time:

- (a) Port Superintendent.
- (b) Cargo Transfer Supervisor.
- (c) Cargo Transfer Assistant.
- (d) Vessel Traffic Supervisor.
- (e) Mooring Master.
- (f) Assistant Mooring Master.

§ 150.220 What are the qualifications for a Port Superintendent?

(a) A Port Superintendent must meet the following:

- (1) Have enough experience in managing an oil transfer facility to demonstrate the capability of managing a deepwater port;
- (2) Know the operational requirements in this part;
- (3) Know the hazards of each product handled at the port;
- (4) Know the procedures in the operations manual; and
- (5) Be designated as Port Superintendent by the licensee.

(b) The COTP must be notified, in writing, of the designation.

§ 150.225 What are the qualifications for a Cargo Transfer Supervisor?

(a) A Cargo Transfer Supervisor must meet the following:

- (1) Have enough experience in managing cargo transfers at an oil transfer facility to demonstrate the capability of managing cargo transfers at a deepwater port.
- (2) Have had at least 1 year of continuous employment as supervisor at an oil transfer facility in charge of offloading tank vessels of 70,000 deadweight tons (DWT) or larger.
- (3) Have supervised at least 25 cargo transfer evolutions from tankers of 70,000 DWT or larger or served in a training capacity for cargo transfer supervisor at a deepwater port in the United States for at least 1 year.

(4) Know the requirements for oil transfer operations in subpart E of this part.

(5) Know the oil transfer procedures and transfer control systems, in general, of tankers serviced at the port.

(6) Know the special handling characteristics of each product transferred at the port.

(7) Know the procedures in the operations manual for—

- (i) Oil transfers;
 - (ii) Spill prevention, containment, and cleanup;
 - (iii) Accidents and emergencies; and
 - (iv) Voice radio-telecommunications.
- (8) Be designated as Cargo Transfer Supervisor by the licensee.

(b) The COTP must be notified, in writing, of the designation.

§ 150.230 What are the qualifications for a Vessel Traffic Supervisor?

(a) A Vessel Traffic Supervisor must meet the following:

(1) Have worked with radar plotting and analysis of vessel movement for 1 of the previous 5 years or successfully completed a marine radar operators school acceptable to the Commandant (G–M).

(2) Know the procedures for using the port's radar equipment.

(3) Know the procedures in the operations manual for vessel control and voice radio-telecommunications.

(4) Be designated as Vessel Traffic Supervisor by the licensee.

(b) The COTP must be notified, in writing, of the designation.

§ 150.235 What are the qualifications for a Mooring Master?

(a) A Mooring Master must meet the following:

(1) Hold a current merchant mariners license issued by the Coast Guard under 46 CFR part 10 as—

(i) A master of ocean steam or motor vessels of any gross tons, endorsed as radar observer, and have 1 year of experience as—

(A) A master on tankers of 70,000 DWT or larger and have satisfactorily completed a very-large-crude-carrier (VLCC) shiphandling course acceptable to the Commandant (G–M); or

(B) A Mooring Master at any deepwater port servicing tankers of 70,000 DWT or larger;

(ii) Master of ocean steam or motor vessels of limited tonnage, endorsed as radar observer, and endorsed as first-class pilot of vessels of any gross tons for at least one port in the area of the deepwater port, and have one year of experience—

(A) Piloting ocean going vessels, including tankers of 70,000 DWT or larger; or

(B) As assistant mooring master at the facility and satisfactorily completed a very-large-crude-carrier (VLCC) shiphandling course acceptable to the Commandant (G–M); or

(iii) Master of ocean steam or motor vessels of limited tonnage or chief mate of ocean, steam, or motor vessels of unlimited tonnage with 1-year experience in charge of an offshore crude oil lightering operation.

(2) Know the procedures in the operations manual for—

- (i) Vessel control;
 - (ii) Vessel responsibilities;
 - (iii) Spill prevention, containment, and cleanup;
 - (iv) Accidents and emergencies; and
 - (v) Voice radio-telecommunications.
- (3) Be designated as Mooring Master by the licensee.

(b) The COTP must be notified, in writing, of the designation.

(c) Applicants for Mooring Master must have observed 20 mooring evolutions at a deepwater port.

§ 150.240 What are the qualifications for a Cargo Transfer Assistant?

(a) A Cargo Transfer Assistant must meet the following:

(1) Have 1 year of experience, or must have performed 15 cargo transfer evolutions, at an oil transfer facility servicing tankers of 70,000 DWT or larger. This experience must include connecting and disconnecting tankers to a floating hose string for a single point mooring.

(2) Know the requirements for oil transfer operations in subpart E of this part.

(3) Know the oil transfer procedures and transfer control systems, in general, of tankers serviced at the facility.

(4) Know the special handling characteristics of each product to be transferred.

(5) Know the procedures in the operations manual for—

- (i) Oil transfers;
- (ii) Spill prevention, containment, and cleanup;
- (iii) Accidents and emergencies; and
- (iv) Voice radio-telecommunications.

(6) Be designated as Cargo Transfer Assistant by the licensee.

(b) This designation must be kept in writing at the deepwater port.

§ 150.245 What are the qualifications for an Assistant Mooring Master?

(a) An Assistant Mooring Master must meet the following:

(1) Hold a current merchant mariners license issued by the Coast Guard under 46 CFR part 10 as—

(i) A master of ocean steam or motor vessels of any gross tonnage, endorsed as radar observer, and have 6-months experience as master or chief mate on tankers of 70,000 DWT or larger; or

(ii) A master of ocean steam or motor vessels of limited tonnage, endorsed as

radar observer, and endorsed as first-class pilot of vessels of any gross tonnage for at least one port in the area of the deepwater port.

(2) Know the procedures in the operations manual for—

- (i) Vessel control;
- (ii) Vessel responsibilities;
- (iii) Spill prevention, containment, and cleanup;
- (iv) Accidents and emergencies; and
- (v) Voice radio-telecommunications.

(3) Be designated as Assistant Mooring Master by the licensee.

(b) The COTP must be notified in writing of the designation.

§ 150.250 What training and instruction are required?

Personnel must receive training and instruction under §§ 143.510 and 143.515 of this chapter. [Note: Sections 143.510 and 143.515 referred to in this paragraph are as proposed in 64 FR 68473, December 7, 1999.]

Subpart D—Vessel Navigation

§ 150.300 What does this subpart do?

(a) This subpart prescribes requirements that—

(1) Apply to the navigation of all vessels at or near a deepwater port; and

(2) Describe the activities that vessels may or may not engage in a safety zone under subpart J of this part.

(b) These requirements supplement the International Regulations for Preventing Collisions at Sea (COLREGS).

§ 150.310 When is radar surveillance required?

The Vessel Traffic Supervisor must maintain radar surveillance of the safety zone when—

(a) A tanker is proceeding to the safety zone after submitting the report required in § 150.325;

(b) A tanker or support vessel is underway in the safety zone; or

(c) A vessel other than a tanker or support vessel is about to enter or is underway in the safety zone.

§ 150.320 What advisories are given to tankers?

The Vessel Traffic Supervisor must advise the master of each tanker underway in the safety zone of the following:

(a) At intervals not exceeding 10 minutes, the vessel's position by range and bearing from the pumping platform complex.

(b) The position and the estimated course and speed, if moving, of all other vessels that may interfere with the movement of the tanker within the safety zone.

§ 150.325 What is the first notice required before a tanker enters the safety zone?

(a) The owner, master, agent, or person in charge of a tanker bound for a deepwater port must report the following information to the Vessel Traffic Supervisor of the port and to the COTP at least 96 hours before entering the safety zone at the port:

(1) The name, gross tonnage, and draft of the tanker.

(2) The type and amount of cargo in the tanker.

(3) The location of the tanker at the time of the report.

(4) Any conditions on the tanker that may impair its navigation, such as fire or malfunctioning propulsion, steering, navigational, or radiotelephone equipment. The testing requirements in § 164.25 of this chapter are applicable to vessels arriving at a deepwater port.

(5) Any leaks, structural damage, or machinery malfunctions that may impair cargo transfer operations or cause a discharge of oil.

(6) The operational condition of the equipment listed under § 164.35 of this chapter on the tanker.

(b) If the estimated time of arrival changes by more than 6 hours from the last reported time, the COTP and Vessel Traffic Supervisor of the port must be notified of the correction as soon as the change is known.

(c) If the information reported in paragraphs (a)(4) or (a)(5) of this section changes at any time before the tanker enters the safety zone at the deepwater port, or while the tanker is in the safety zone, the master of the tanker must report the changes to the COTP and Vessel Traffic Supervisor of the port as soon as possible.

(d) In addition to the requirements in paragraphs (a), (b), and (c) of this section, the notice of arrival requirements in § 160.207 of this chapter are applicable to vessels arriving at a deepwater port.

§ 150.330 What is the second notice required before a tanker enters the safety zone?

When a tanker bound for a deepwater port is 20 miles (32 kilometers) from the entrance to the port's safety zone, the master of the tanker must notify the port's Vessel Traffic Supervisor of the tanker's name and location.

§ 150.340 What are the rules of navigation for tankers in the safety zone?

(a) A tanker must not enter or depart a safety zone except within a designated safety fairway.

(b) A tanker must not anchor in the safety zone except in a designated anchorage area.

(c) A tanker underway in a safety zone must keep at least 5 miles (8 kilometers) behind any other tanker underway ahead of it in the safety zone.

(d) A tanker must not operate, anchor, or moor in any area of the safety zone in which the net under-keel clearance would be less than 5 feet (1.5 meters).

§ 150.345 How are support vessels cleared to move within the safety zone?

All movements of support vessels within the safety zone must be cleared in advance by the Vessel Traffic Supervisor.

§ 150.350 What are the rules of navigation for support vessels in the safety zone?

A support vessel must not anchor in the safety zone, except—

(a) In an anchorage area; or

(b) For vessel maintenance that is cleared by the Vessel Traffic Supervisor.

§ 150.355 How are other vessels cleared to move within the safety zone?

(a) The Vessel Traffic Supervisor's clearance is required before a vessel, other than a tanker or support vessel, is allowed to enter the safety zone.

(b) The Vessel Traffic Supervisor may clear a vessel under paragraph (a) of this

section only if its entry into the safety zone would not—

(1) Interfere with the purpose of the deepwater port;

(2) Endanger the safety of life or property or the environment; or

(3) Otherwise be prohibited by regulation.

§ 150.365 What are the responsibilities of the Vessel Traffic Supervisor?

(a) The Vessel Traffic Supervisor controls the movement of vessels entering, moving within, and departing the safety zone around a deepwater port.

(b) The Vessel Traffic Supervisor must provide information concerning other vessels underway or moored in the safety zone.

(c) If the Vessel Traffic Supervisor determines that a vessel may be in danger with respect to any other vessel in the safety zone or to any part of the deepwater port, the Vessel Traffic Supervisor must attempt to inform the vessel's master by radio or by other means.

§ 150.370 What are the responsibilities of the Mooring Master?

(a) A Mooring Master must be onboard each tanker when it is underway in the safety zone.

(b) The Mooring Master must advise the master of the tanker on operational and ship-control matters that are particular to the specific deepwater port, such as—

(1) The port's navigational aids;

(2) The depth and current characteristics of the maneuvering area;

(3) The mooring equipment and procedures; and

(4) The port's vessel traffic control procedures.

§ 150.375 What are the responsibilities of the Assistant Mooring Master?
When a tanker is mooring at an SPM, an Assistant Mooring Master must be stationed on the forecastle of the tanker to assist the Mooring Master by—

(a) Reporting position approach data relative to the SPM; and

(b) Advising the tanker personnel in the handling of mooring equipment peculiar to the deepwater port.

§ 150.380 Under what circumstances may vessels operate within the safety zone?

(a) Table 150.380(a) of this section lists the areas within a safety zone where a vessel may operate and the clearance needed for that location.

TABLE 150.380(A).—REGULATED ACTIVITIES OF VESSELS AT DEEPWATER PORTS

Regulated Activities	Safety Zone		
	Areas to be avoided around each platform pumping complex and SPM ¹	Anchorage areas	Other areas within safety zone
1. Tankers calling at port	C	C	C
2. Support vessel movements	C	C	C
3. Transit by vessels other than tankers or support vessels	N	P	P
4. Mooring to SPM by vessels other than tankers or support vessels	F		
5. Anchoring by vessels other than tankers or support vessels	N	F	N
6. Fishing, including bottom trawl (shrimping)	N	P	P
7. Mobile drilling operations or erection of structures ²	N	N	N
8. Lightering/transshipment ³	N	N	N

¹ Areas to be avoided are in subpart J of this part.

² Not part of Port Installation.

³ Exception, 33 CFR 150.440(e).

Key to regulated activities: F—Only in an emergency. N—Not permitted. C—Movement of the vessel is permitted when cleared by the Vessel Traffic Supervisor. P—Transit is permitted when the vessel is not in the immediate area of a tanker and when cleared by the Vessel Traffic Supervisor. Communication with the Vessel Traffic Supervisor is required. For transiting foreign-flag vessels, the requirement for clearance to enter the safety zone is advisory in nature.

(b) If the activity is not listed in table 150.380(a) of this section or is not otherwise provided for in this subpart, the COTP's permission is required first.

§ 150.385 What is required in an emergency?

In an emergency for the protection of life or property, a vessel may deviate from a vessel movement requirement in

this subpart without clearance from the Vessel Traffic Supervisor if the master advises the Vessel Traffic Supervisor of the reasons for the deviation at the earliest possible moment.

Subpart E—Oil Transfer Operations

§ 150.400 What does this subpart do?

This subpart prescribes rules that apply to the transfer of oil at a deepwater port.

§ 150.405 How must an Oil Transfer System (OTS) be tested and inspected?

(a) No person may transfer oil through an OTS at a deepwater port unless it has

been inspected and tested according to this section.

(b) The SPM-OTS must be maintained as required by the ABS Rules for Building and Classing Single Point Moorings or by the rules for maintenance of an SPM-OTS of another classification society approved by the Commandant (G-M).

(c) If the manufacturer's maximum pressure rating for any oil transfer hose in the SPM-OTS has been exceeded (unless it was exceeded for testing required by this section), the hose must be—

- (1) Removed;
- (2) Hydrostatically tested to 1.5 times its maximum working pressure; and
- (3) Visually examined externally and internally for evidence of—
 - (i) Leakage;
 - (ii) Loose covers;
 - (iii) Kinks;
 - (iv) Bulges;
 - (v) Soft spots; and
 - (vi) Gouges, cuts, or slashes that penetrate the hose reinforcement.

(d) Each submarine hose used in oil transfer operations in the SPM-OTS must have been removed from its coupling, surfaced, and examined as described in paragraphs (c)(2) and (c)(3) of this section within the preceding 2 years; and

(e) Before resuming oil transfer operations, each submarine hose in the SPM-OTS must be visually examined in place as described in paragraph (c)(3) of this section after oil transfer operations are shut down due to sea conditions at the deepwater port.

§ 150.420 What actions must be taken when oil transfer equipment is defective?

When any piece of equipment involved in oil transfer operations is defective—

- (a) The piece of equipment must be replaced or repaired before making any further oil transfers; and
- (b) The repaired or replaced piece must meet or exceed its original specifications.

§ 150.425 What are the requirements for transferring oil?

No person may transfer oil through an OTS unless the following occur:

(a) Before connecting the hose string to the vessel manifold at the start of each oil transfer operation, the hose string in use for that transfer operation must be visually examined and found to have no—

- (1) Leakage;
- (2) Loose covers;
- (3) Kinks;
- (4) Bulges;
- (5) Soft spots; and

(6) Gouges, cuts, or slashes that penetrate the hose reinforcement.

(b) During each oil transfer operation, the hose string in use for that transfer operation must be visually examined for leakage.

(c) The vessel's mooring attachment to the SPM must be strong enough to hold in all expected conditions of surge, current, and weather.

(d) The oil transfer hoses must be long enough to allow the vessel to move to the limits of its mooring attachment to the SPM without placing strain on the hoses.

(e) Each oil transfer hose must be supported in a manner that prevents strain on its coupling.

(f) Each part of the OTS necessary to allow the flow of oil must be lined up for the transfer.

(g) Each part of the OTS not necessary for the transfer operation must be securely blanked or shut off.

(h) Except when used to receive or discharge ballast, each overboard discharge or sea suction valve that is connected to the vessel's oil transfer, ballast, or cargo tank systems must be sealed, lashed, or locked in the closed position.

(i) Each connection in the OTS must meet § 150.430.

(j) The discharge containment and removal material and equipment required by the deepwater port's response plan must be in place.

(k) Each scupper and overboard drain on the vessel must be closed.

(l) The drip pan under the vessel manifold must not overflow.

(m) The communications equipment required by § 149.140 of this chapter must be tested and found operational for the transfer operation.

(n) The means of emergency shutdown must be in position and operative.

(o) The Cargo Transfer Supervisor, Cargo Transfer Assistant, and any other required personnel must be on duty and present to conduct the transfer operations according to the operations manual and the oil transfer procedures that apply to the vessel during transfer operations.

(p) The vessel's officer in charge of cargo transfers and the port's Cargo Transfer Assistant must have held a conference and each must understand the following details of the transfer operation:

- (1) The identity of the product to be transferred.
- (2) The sequence of transfer operations.
- (3) The transfer rate.
- (4) The name or title and location of each person participating in the transfer operation.

(5) The particulars of the transferring and receiving systems.

(6) The critical stages of the transfer operation.

(7) The Federal regulations that apply to the transfer of oil.

(8) The emergency procedures.

(9) The discharge containment procedures.

(10) The discharge reporting procedures.

(11) The watch or shift arrangement.

(12) The transfer shutdown procedures.

(q) The vessel's officer in charge of cargo transfers and Cargo Transfer Assistant must agree to begin the transfer operation.

(r) The flame screens must be structurally sound and securely fastened in place in all cargo tank vents and ullage holes on the vessel.

(s) The declaration of inspection required by § 150.435 is completed.

§ 150.430 What are the requirements for connections to vessels?

(a) The licensee must provide adapters that allow connection of the hose string to the vessel manifold. The adapters must meet the design and material standards of any one of the following:

- (1) American National Standards Institute (ANSI).
- (2) British Standard (BS).
- (3) German Standard (DIN).
- (4) Japanese Industrial Standard (JIS).
- (5) Universal Metric Standard.

(b) Each temporary connection between the hose string and a vessel manifold must meet the following:

- (1) Be made using either—
 - (i) A bolted coupling; or
 - (ii) A quick-connect coupling acceptable to the Commandant (G-M).
- (2) Have suitable materials in joints and couplings to make a tight seal.
- (3) If using an ANSI-standard bolted flange coupling, have a bolt in at least every other hole of the coupling and in no case less than four bolts.
- (4) If using a bolted flange coupling other than ANSI-standard coupling, have a bolt in each hole of the coupling.
- (5) Have bolts in a bolted coupling that are all—
 - (i) The same size;
 - (ii) Tightened so they uniformly distribute the load around the coupling; and
 - (iii) Free of any signs of strain, elongation, or deterioration.
- (6) Made and broken under the direct supervision of the Cargo Transfer Assistant.

§ 150.435 What are the requirements for a declaration of inspection?

(a) No person may transfer oil or hazardous materials from a tanker to a

deepwater port unless a declaration of inspection meeting § 156.150(c) of this chapter has been filled out and signed by the vessel's officer in charge of cargo transfer and the Cargo Transfer Assistant.

(b) Before signing a declaration of inspection, the vessel's officer in charge of cargo transfer must inspect the tanker and the Cargo Transfer Assistant must inspect the deepwater port. They must indicate by initialing each item on the declaration of inspection form that the tanker and deepwater port meet § 156.150 of this chapter.

§ 150.440 When are oil transfers not allowed?

No person may transfer oil at a deepwater port—

(a) When the Port Superintendent is not on duty at the port;

(b) During an electrical storm in the port's vicinity;

(c) During a fire at the port, at the onshore receiving terminal, or aboard a vessel berthed at the port, unless the Port Superintendent determines that an oil transfer should be resumed as a safety measure;

(d) When there are not enough personnel and equipment at the port dedicated to contain and remove the discharges as specified in the port's response plan under part 154 of this chapter;

(e) By lighterage, except in bunkering operations, unless otherwise authorized by the COTP; or

(f) When the weather at the port does not meet the minimum operating conditions for oil transfers in the port's operations manual.

§ 150.445 How may the COTP order suspension of oil transfers?

(a) In case of emergency, the COTP may order the suspension of oil transfers at a port to prevent the discharge, or threat of discharge, of oil or to protect the safety of life and property.

(b) An order of suspension may be made effective immediately.

(c) The order of suspension must state the reasons for the suspension.

(d) The licensee may petition the District Commander in writing, or by any means if the suspension is effective immediately, to reconsider the order of suspension. The decision of the District Commander is considered final agency action.

§ 150.447 When is oil in an SPM-OTS displaced with water?

The Port Superintendent must ensure that the oil in an SPM-OTS is displaced with water and that the valve at the

pipeline end manifold is closed whenever—

(a) A storm warning is received forecasting weather conditions that will exceed the design operating criteria listed in the operations manual for the SPM-OTS;

(b) A vessel is about to depart the SPM because of storm conditions; or

(c) The SPM is not scheduled for use in an oil transfer operation within the next 7 days.

Subpart F—Operations

§ 150.500 What does this subpart do?

This subpart concerns operations at a deepwater port.

§ 150.505 How must emergency equipment be maintained and repaired?

All lifesaving, fire-fighting, and other emergency equipment at a deepwater port must be maintained and repaired according to §§ 143.610 through 143.645 of this chapter. [Note: Sections 143.610 through 143.645 referred to in this paragraph are as proposed in 64 FR 68473–68475, December 7, 1999.]

§ 150.510 How must emergency equipment be tested and inspected?

All lifesaving, fire-fighting, and other emergency equipment at a deepwater port must be tested and inspected according to §§ 143.710 through 143.765 of this chapter. [Note: Sections 143.710 through 143.765 referred to in this paragraph are as proposed in 64 FR 68474–68475, December 7, 1999.]

§ 150.515 What may the fire main system be used for?

The fire main system may be used only for fire fighting and for deck washing.

§ 150.520 How many fire pumps must be kept ready for use at all times?

At least one of the fire pumps required by this subchapter must be kept ready for use at all times.

§ 150.525 What are the requirements for connection and stowage of firehoses?

(a) At least one length of firehose with a combination nozzle must be connected to each fire hydrant at all times. If in a location exposed to the weather, the firehose may be removed from the hydrant during freezing weather.

(b) When not in use, firehose connected to a fire hydrant must be stowed on a hose rack.

(c) If the edge of a platform deck is in an exposed location, the hydrant nearest that edge must have enough lengths of firehose connected to it to allow 10 feet (3 meters) of hose, when pressurized, to curve over the edge.

§ 150.530 What are the restrictions on fueling aircraft?

If the deepwater port is not equipped with a permanent fueling facility, the COTP's approval is necessary before aircraft may be fueled at the port.

§ 150.535 What are the requirements for the muster list?

(a) A muster list must be posted on each pumping platform complex.

(b) The muster list must—

(1) List the name and title of each person, in order of succession, who is the person in charge of the pumping platform complex for purposes of supervision during an emergency.

(2) List the special duties and duty stations for each person on the pumping platform complex in the event of an emergency that requires the use of equipment covered by part 149 of this chapter; and

(3) Identify the signals for calling persons to their emergency stations and for abandoning the pumping platform complex.

Subpart G—Workplace Safety and Health

§ 150.600 What are the requirements for workplace safety and health?

The requirements for workplace safety and health in part 142 of this chapter must be complied with on each deepwater port. [Note: Part 142 referred to in this paragraph is as proposed in 64 FR 68457–68467, December 7, 1999.]

Subpart H—Aids to Navigation

§ 150.700 What does this subpart do?

This subpart provides requirements for the operation of aids to navigation at a deepwater port.

§ 150.705 What are the requirements for the maintaining and inspecting aids to navigation?

(a) All aids to navigation must be maintained in proper operating condition at all times.

(b) The Coast Guard may inspect all aids to navigation at any time without notice.

§ 150.710 What are the requirements for supplying power to aids to navigation?

The power to all aids to navigation must be maintained, at all times, at or above the level recommended by the equipment's manufacturer.

§ 150.715 What are the requirements for lights used as aids to navigation?

(a) Each light under part 149, subpart E, of this chapter used as an aid to navigation at a deepwater port must be lit continuously from sunset to sunrise.

(b) During construction, a platform or SPM must be marked with at least one of the following:

(1) The obstruction lights required for the structure in part 149, subpart E, of this chapter.

(2) The fixed lights of a vessel attending the structure.

(3) The general illumination lights on the structure, if they meet or exceed the intensity required for obstruction lights required for the structure.

(c) The focal plane of each obstruction light and rotating lighted beacon must always coincide with the horizontal plane that passes through the light source.

§ 150.720 What are the requirements for fog signals?

(a) The fog signal on each pumping platform complex must be operated whenever the visibility in any horizontal direction from the structure is less than 5 miles (8 kilometers).

(b) If, during construction of a platform, the requirements in paragraph (a) of this section can not be met, a 2-second whistle blast made every 20 seconds by a vessel moored at the platform must be used instead of a fog signal.

Subpart I—Reports and Records

§ 150.800 What does this subpart do?

This subpart concerns reports that must be submitted, and records that must be kept, by the licensee.

Reports

§ 150.805 What reports must I send both to a classification society and to the Coast Guard?

A copy of each report submitted to ABS (or other classification society approved by the Coast Guard) for maintenance of an SPM's class under the rules of that society for the building and classing of SPM's must also be submitted the Commandant (G-M).

§ 150.810 How do I report a problem with an aid to navigation?

(a) Any problem affecting the operation or characteristics of an aid to navigation at the deepwater port must be reported, by the fastest means available, to the District Commander. The report must identify—

- (1) The aid to navigation affected;
- (2) The location of that aid;
- (3) The nature of the problem; and
- (4) The estimated time of repair.

(b) When the problem is corrected, the District Commander must be notified.

§ 150.815 How do I report a casualty?

(a) Immediately after aiding the injured and stabilizing the situation, the

owner, operator, or person in charge of a deepwater port must notify the nearest Marine Safety Office, Coast Guard Activity, or Coast Guard Group Office of each event on or involving the deepwater port that results in one or more of the following:

- (1) Death.
- (2) Injury to five or more persons.
- (3) Injury to a person requiring

hospitalization for more than 48 hours within 5 days of the event.

(4) A fractured bone (other than in a finger, toe, or nose); a loss of a limb; severe hemorrhaging; severe damage to a muscle, nerve, or tendon; or damage to an internal organ.

(5) Impairment to the operation of any of the port's primary lifesaving or fire-fighting equipment.

(6) Property damage in excess of \$100,000, including damage resulting from a vessel or aircraft striking the port. This amount includes the cost of labor and material to restore all affected items, including, but not limited to, the port and the vessel or aircraft to their condition before the damage. This amount does not include the cost of salvage, cleaning, gas freeing, drydocking, or demurrage of the port, vessel, or aircraft.

(b) The notice under paragraph (a) of this section must identify the following:

- (1) The deepwater port involved.
- (2) The owner, operator, or person in charge of the port.
- (3) The nature and circumstances of the event.
- (4) The nature and extent of the injury and damage resulting from the event.

§ 150.820 When must I submit a written report of casualty and what must it contain?

(a) In addition to the notice of casualty under § 150.815, the owner, operator, or person in charge of a deepwater port must submit a written report of the event to the nearest OCM within 10 days after the notice of casualty. The report may be on Form 2692 (Report of Marine Accident, Injury, or Death) or in narrative form if it contains all of the applicable information requested in Form 2692. Copies of Form 2692 are available from the OCM.

(b) The written report must also include the information relating to alcohol and drug involvement specified by 46 CFR 4.05-12.

(c) If filed immediately after the event, the written report required by paragraph (a) of this section serves as the notice required under § 150.815.

§ 150.825 How must I report a diving-related casualty?

Diving-related deaths and injuries within the safety zone of a deepwater

port must be reported according to 46 CFR 197.484 and 197.486, rather than to §§ 150.815 and 150.820.

§ 150.830 How must I report a pollution incident?

Oil pollution incidents involving a deepwater port are reported according to §§ 135.305 and 135.307 of this chapter.

§ 150.835 How must I report sabotage or a subversive activity?

The owner, operator, or person in charge of a deepwater port must immediately report to the COTP, by the fastest possible means, any evidence of sabotage or subversive activity against any vessel at the deepwater port or against the deepwater port itself.

Records

§ 150.840 What records must I keep?

(a) The licensee must keep copies at the deepwater port of the reports, records, test results, and operating data required by this part.

(b) The copies must be readily available to Coast Guard inspectors.

(c) Except for personnel records under § 150.845, the copies must be kept for 3 years.

§ 150.845 What personnel records must I keep?

The licensee must keep documentation on the designation and qualification under subpart C of this part of the following individuals:

- (a) Port Superintendent.
- (b) Cargo Transfer Supervisor.
- (c) Cargo Transfer Assistant.
- (d) Vessel Traffic Supervisor.
- (e) Mooring Master.
- (f) Assistant Mooring Master.

§ 150.850 How long must I keep a declaration of inspection form?

The licensee must keep signed copies of the declaration of inspection forms required by § 150.435 for one month from the date of signature.

Subpart J—Safety Zones

§ 150.900 What does this subpart do?

(a) This subpart provides requirements for the establishment, restrictions, and location of safety zones around deepwater ports.

(b) Subpart D of this part, concerning vessel navigation and activities permitted and prohibited at deepwater ports, applies within safety zones and their adjacent waters and supplements the International Regulations for Preventing Collisions at Sea.

(c) Shipping safety fairways associated with deepwater ports are described in part 166 of this chapter.

§ 150.905 Why are safety zones established?

Safety zones under this subchapter are established to promote safety of life and property, marine environmental protection, and navigational safety at deepwater ports and adjacent waters. Safety zones accomplish these objectives by preventing or controlling specific activities, limiting access by vessels or persons, and by protecting the living resources of the sea from harmful agents.

§ 150.910 What installations, structures, or activities are prohibited in a safety zone?

No installations, structures, or activities that are incompatible with port operations are allowed in the safety zone of a deepwater port.

§ 150.915 How are safety zones established and modified?

(a) A safety zone is developed and designated during the application process for a deepwater port license and may be modified according to this section.

(b) Before a safety zone is established, all factors detrimental to safety, including the congestion of vessels, the presence of unusually harmful or hazardous substances, and the presence of obstructions around the site of the deepwater port, are considered.

(c) The District Commander may modify a safety zone by publishing a notice of proposed rulemaking in the **Federal Register** and providing an opportunity for public comment. After considering the comments, the District Commander may publish a final rule modifying the zone and its regulations.

(d) When there is an imminent threat to the safety of life and property within the zone, the District Commander may modify the safety zone and its regulations in an interim rule without first publishing a notice of proposed rulemaking. The interim rule makes the safety zone and its regulations effective on publication in the **Federal Register** and requests public comments. After considering the comments received, the District Commander publishes a final rule, which may adopt the interim rule with or without changes or remove it.

(e) If required by circumstances, safety zones may be placed into effect immediately but must be followed promptly by the procedures in paragraph (d) of this section.

§ 150.920 How am I notified of new or proposed safety zones?

In addition to documents published in the **Federal Register** under § 150.915, the District Commander may provide public notice of new or proposed safety zones by Broadcast Notices to Mariners, Notices to Mariners, Local Notices to Mariners, newspapers, and broadcast stations, or other means.

§ 150.925 How long may a safety zone last?

A safety zone and its regulations may go into effect as early as when equipment and materials for construction of the deepwater port arrive at the zone and may remain in effect until the deepwater port is removed.

§ 150.930 What datum is used for the geographic coordinates in this subpart?

The geographic coordinates used in this subpart are not intended for plotting on charts or maps using coordinates based on the North American Datum of 1983 (NAD 83). If you use the geographic coordinates in this subpart to plot on a chart or map referencing NAD 83, you must make corrections as shown on the chart or map.

§ 150.935 What is the safety zone for LOOP?

(a) *Location.* The safety zone for the Louisiana Offshore Oil Port (LOOP) is as follows:

TABLE 150.155(A).—SAFETY ZONE FOR LOOP, GULF OF MEXICO

Latitude N.	Longitude W.
(1) Starting at: 28°55'23"	90°00'37"
(2) A rhumb line to: 28°53'50"	90°04'07"
(3) Then an arc with a 4,465 meter (4,883 yard) radius centered at the port's pumping platform complex: 28°53'06"	90°01'30"
(4) To a point: 28°51'07"	90°03'06"
(5) Then a rhumb line to: 28°50'09"	90°02'24"
(6) Then a rhumb line to: 28°49'05"	89°55'54"
(7) Then a rhumb line to: 28°48'36"	89°55'00"
(8) Then a rhumb line to: 28°52'04"	89°52'42"
(9) Then a rhumb line to:	

TABLE 150.155(A).—SAFETY ZONE FOR LOOP, GULF OF MEXICO—Continued

Latitude N.	Longitude W.
28°53'10"	89°53'42"
(10) Then a rhumb line to: 28°54'52"	89°57'00"
(11) Then a rhumb line to: 28°54'52"	89°59'36"
(12) Then an arc with a 4,465 meter (4,883 yard) radius centered again at the port's pumping platform complex;	
(13) To the point of starting: 28°55'23"	90°00'37"

(b) *Areas to be avoided.* The areas to be avoided within the safety zone are as follows:

(1) The area encompassed within a circle having a 600 meter radius around the port's pumping platform complex and centered at—

Latitude N.	Longitude W.
28°53'06"	90°-1'30"

(2) The six areas encompassed within a circle having a 500 meter radius around each single point mooring (SPM) at the port and centered at—

Latitude N.	Longitude W.
28°54'12"	90°00'37"
28°53'16"	89°59'59"
28°52'15"	90°00'19"
28°51'45"	90°01'25"
28°52'08"	90°02'33"
28°53'07"	90°03'02"

(c) *Anchorage area.* The anchorage area within the safety zone is enclosed by the rhumb lines joining points at—

Latitude N.	Longitude W.
28°52'21"	89°57'47"
28°54'05"	89°56'38"
28°52'04"	89°52'42"
28°50'20"	89°53'51"
28°52'21"	89°57'47"

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