



Federal Register

**Tuesday,
January 6, 2004**

Part II

Department of Homeland Security

Coast Guard

**33 CFR Parts 148, 149, and 150
Deepwater Ports; Temporary Interim Rule**

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Parts 148, 149, and 150

[USCG-1998-3884]

RIN 1625-AA20 (formerly RIN 2115-AF63)

Deepwater Ports

AGENCY: Coast Guard, DHS.

ACTION: Temporary interim rule with request for comments.

SUMMARY: This temporary interim rule revises regulations adopted in 1975 to implement the Deepwater Port Act of 1974. It updates and streamlines those regulations in accordance with the 1996 Deepwater Port Modernization Act. It also extends the deepwater port regulations to the natural gas deepwater ports authorized by Congress in the Maritime Transportation Security Act of 2002. This temporary interim rule will be followed by a final rule as soon as practicable.

DATES: This temporary interim rule is effective from January 6, 2004, until October 1, 2006. Comments and related material must reach the Docket Management Facility on or before July 5, 2004. Comments sent to the Office of Management and Budget (OMB) on collection of information must reach OMB on or before July 5, 2004.

ADDRESSES: You may submit comments identified by Coast Guard docket number USCG-1998-3884 to the Docket Management Facility at the U.S. Department of Transportation. To avoid duplication, please use only one of the following methods:

- (1) Web site: <http://dms.dot.gov>.
- (2) Mail: Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590-0001.
- (3) Fax: 202-493-2251.
- (4) Delivery: 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.
- (5) Federal rulemaking portal: <http://www.regulations.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.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call

Lieutenant Commander Kevin Tone, Vessel and Facility Operating Standards Division (G-MSO-2), Coast Guard, telephone 202-267-0226. If you have questions on viewing or submitting material to the docket, call Andrea M. Jenkins, Program Manager, Docket Operations, Department of Transportation, telephone 202-366-0271.

SUPPLEMENTARY INFORMATION:

Effective Dates

This temporary interim rule takes effect January 6, 2004. The Coast Guard finds that postponing the effective date of this temporary interim rule is unnecessary, because the immediate impact of changes that otherwise would take effect 30 days after publication are administrative in nature and have been the subject of permissible consultation with affected parties. The Coast Guard further finds that postponing the effective date of this temporary interim rule is contrary to the public interest in the prompt processing of deepwater port licensing applications. Therefore, the Coast Guard finds that good cause exists under 5 U.S.C. 553(d)(3) for this temporary interim rule to take effect upon publication. The effective period of this temporary interim rule ends October 1, 2006. The Maritime Transportation Security Act of 2002 (MTSA), Public Law 107-295, Title I, 106 (e)(2), provides in part: "The Secretary may issue an interim final rule as a temporary regulation implementing this section * * * as soon as practicable after the date of enactment of this section, without regard to the provisions of chapter 5 of title 5, United States Code [the Administrative Procedure Act or APA]." Although MTSA itself sets no time limit on the temporary regulation, we think a self-imposed termination date of October 1, 2006, is in keeping with the spirit of the act.

Public Participation and Request for Comments

This temporary interim rule has been issued without public notice and comment on certain provisions (see the preceding discussion of "Effective Dates"). The provisions being added without previous public notice and comment concern natural gas deepwater ports. Public notice for other aspects of this rulemaking was provided in the notice of proposed rulemaking (NPRM) issued May 30, 2002 (67 FR 37920), and the public was given several months to comment on that NPRM.

Section 106(e)(3) of MTSA requires publication of a final rule as soon as practicable. The final rule is not exempt

from the notice and comment provisions of the APA. We intend to issue a final rule after providing opportunity for public comment on this temporary interim rule, and we may revise the final rule in light of those comments. We encourage you to participate in this rulemaking by submitting comments and related materials. All comments received will be posted, without change, to <http://dms.dot.gov> and will include any personal information you have provided. We have an agreement with the Department of Transportation (DOT) to use the Docket Management Facility. Please see DOT's "Privacy Act" paragraph below.

Submitting comments: If you submit a comment, 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 electronic means, mail, fax, or delivery 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 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 temporary interim rule in view of them.

Viewing comments and documents: To view comments, as well as documents mentioned in this preamble as being available in the docket, go to <http://dms.dot.gov> at any time and conduct a simple search using the docket number. You may also visit the Docket Management Facility in 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.

Privacy Act: Anyone can search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review the Department of Transportation's Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477), or you may visit <http://dms.dot.gov>.

Public Meeting

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

Regulatory History

On May 30, 2002, we published in the **Federal Register** (67 FR 37920) a notice of proposed rulemaking entitled "Deepwater Ports," and announced a public comment period ending July 29, 2002. Subsequently, we published a **Federal Register** notice (67 FR 53764, August 19, 2002) extending the public comment period to September 18, 2002. The comments we received are discussed in "Discussion of Comments and Changes," below. No public hearing was held in connection with the NPRM.

Related Rulemaking

The rule proposed in the May 30, 2002, NPRM contained numerous references to Coast Guard rules proposed in an earlier NPRM (64 FR 68416, December 7, 1999) titled "Outer Continental Shelf Activities." The Outer Continental Shelf (OCS) Activities rulemaking (USCG-1998-3868; RIN 1625-AA18, formerly RIN 2115-AF39) has not been completed. Therefore, instead of retaining the 2002 NPRM's references to the 1999 NPRM's proposed OCS provisions, we revised the Deepwater Ports rules so that they now contain detailed provisions that are based on the 1999 OCS NPRM's provisions. In many cases, we have modified those provisions so that they are substantively different from what we proposed in 1999. We consider the Deepwater Ports temporary interim rule to represent a logical outgrowth of the 2002 Deepwater Ports NPRM and the 1999 OCS Activities NPRM, modified to reflect MTSA's addition of natural gas deepwater ports as well as the public comments we received on both NPRMs. These detailed provisions primarily appear in those portions of the temporary interim rule concerning lifesaving and firefighting requirements, maintenance procedures, and workplace safety and health requirements.

One commenter on the 2002 NPRM said we should not couple Deepwater Ports rulemaking to the OCS Activities rulemaking without a further opportunity for public comment and that in the meantime we should rely on existing OCS regulations, while another

commenter said that aligning the two rulemakings was appropriate. As explained in "Public Participation and Request for Comments" and in the preceding paragraph, there will be further opportunity for public comment before a final rule is issued, and we have modified OCS Activities provisions, for use in this temporary interim rule, in light of public comments that we have previously received on both the Deepwater Ports and OCS Activities rulemakings.

Background and Purpose

A detailed discussion of this rulemaking's background and objectives can be found in the 2002 NPRM. In summary, our goal has been to modernize existing deepwater port regulations in light of experience, and in compliance with the Deepwater Port Modernization Act (DPMA; Public Law 104-324, title V, sec. 501-508, October 19, 1996), which amended the Deepwater Port Act of 1974 (DWPA; 33 U.S.C. 1501-1524). DPMA expressed a general interest in ensuring fair treatment for deepwater ports relative to other modes for importing or transporting oil; in eliminating unnecessary regulation and promoting innovation, flexibility, and efficiency; and in encouraging the construction of additional deepwater ports.

On November 25, 2002, the Maritime Transportation Security Act (MTSA) of 2002 was signed into law. MTSA amended DWPA, which as enacted in 1974 applied only to deepwater ports for oil, to cover natural gas facilities as well. It also called for the development of implementing regulations "as soon as practicable," and authorized publication of a temporary interim rule without regard to the usual public notice and comment provisions of the Administrative Procedure Act.

The proposed rule published in the 2002 NPRM has now been revised to reflect MTSA's amendment of DWPA to include natural gas facilities, and to reflect public comments that we received in response to the NPRM. We also changed many provisions taken from the 1999 OCS Activities NPRM (see "Related Rulemaking," above). We have tried to align the rules for natural gas deepwater ports with existing rules for facilities transferring (liquefied) natural gas (33 CFR part 127).

After MTSA's enactment, the Coast Guard and the Maritime Administration (MARAD) received two applications for the licensing of natural gas deepwater ports. As we announced in the **Federal Register**, those applications (Port Pelican LLC Deepwater Port, 67 FR 79234, Dec. 27, 2002; El Paso Energy

Bridge Gulf of Mexico, LLC Deepwater Port, 68 FR 3299, January 23, 2003) thus far have been processed using the existing provisions of 33 CFR part 148 that govern the license application process. With publication of this temporary interim rule, we now will complete the processing of these two applications under the revised provisions of part 148.

Applicable Standards

In the Deepwater Port Act's first three decades, only one deepwater port was constructed. By contrast, in the first three months following MTSA's amendment of DWPA, the Coast Guard became aware of about half a dozen potential applicants, and two applications for natural gas facilities were received within weeks of MTSA's enactment. In order to fulfill MTSA's mandate to issue implementing regulations as soon as practicable, we have sought to provide the public with a comprehensive regulatory scheme at this time, even though that scheme will certainly require fine-tuning as both government and industry acquire more experience in addressing the issues posed by the growing interest in deepwater ports.

One area in which we intend to refine these rules is in identifying the industry standards or similar commonly accepted authorities that we think provide deepwater port operators with adequate guidance for the safe design, construction, and operation of their facilities. Our 2002 NPRM listed several such authorities and invited the public to suggest others. Two commenters on that NPRM favored incorporation of industry standards wherever possible. Similarly, rules that were proposed in the 1999 OCS Activities NPRM—to which the 2002 NPRM referred and on which much of this new temporary interim rule's provisions are based—liberally incorporated industry standards or other authorities.

The incorporation by reference of such industry standards is attractive to industry and to regulators alike. However, it is not yet clear whether standards mentioned in the earlier NPRMs are the best guides for a deepwater port industry that soon could be dominated by natural gas facilities, some of them unmanned.

Accordingly, in this temporary interim rule we have removed references to industry standards in our regulatory text, and instead, we have written into the regulations performance levels that we believe deepwater ports must meet. Applicants and operators will need to demonstrate the ability to maintain these prescribed levels. We are

not ready to identify industry standards in the regulations that will have the force of law for both regulators and the regulated public.

The Deepwater Port Modernization Act of 1996 was intended to encourage flexibility and innovation and to avoid writing regulations that fit the existing model for deepwater ports represented by the Louisiana Offshore Oil Port (LOOP). DPMA supports detailing port-specific requirements in the license or, as much as possible, in the port's operations manual.

With rapid advances in technology, such as those now seen in the offshore energy and transportation industry, new regulations may lag and existing ones may not fully apply to proposed innovations. The current situation is similar to one that existed 15 years ago when tension leg platforms were introduced to access oil and gas on the U.S. Outer Continental Shelf at previously unattainable water depths. At that time industry submitted a design basis plan that the Coast Guard reviewed and approved as the standards to be used for a particular project. Now, applicants for deepwater port licenses have identified proposed standards or a design basis plan within their applications. The Coast Guard is identifying appropriate standards as part of the application reviews and for inclusion in the final rule for deepwater ports. In doing so, we will combine, to the extent practicable, existing standards and regulations that have proven successful for vessels, offshore structures, and onshore liquified natural gas (LNG) import terminals.

In addition, several classification societies are developing guides for offshore LNG terminals. We will work with them and other Federal agencies having experience in various aspects of oil and LNG terminals to determine the adequacy of these guides and other relevant standards and regulations, such as NFPA 59A and 49 CFR part 193.

We invite your comments about standards that may be of value to the Coast Guard and industry, and we may revise our final rule to incorporate some of these standards by reference.

Also, in the event that we adopt an interpretive policy under which specific industry standards are identified as beneficial in complying with requirements of the temporary interim rule, we will publish a notice in the **Federal Register** to call your attention to that policy. Standards identified in that manner will not have the force of law, but they should provide worthwhile guidance.

Old-to-New Reference Tables

This rulemaking amends 33 CFR parts 148, 149, and 150, which were first issued in 1975. In revising those parts, we have found it necessary to relocate some provisions and to eliminate others as obsolete. In addition, this temporary interim rule draws upon proposed regulatory text that first appeared in the 2002 Deepwater Ports NPRM and in the 1999 OCS Activities NPRM (*see* "Related Rulemaking," above), and relocates or eliminates much of that material as well. Therefore, we have inserted the following tables to help you locate related old and new provisions.

There are three tables:

Table 1 is arranged by "new" temporary interim rule section, and lists the "old" sources from which the new provision is drawn, whether that old parallel provision exists in the CFR rules that were in force until publication of the temporary interim rule, or was proposed in either the 2002 Deepwater Ports NPRM or the 1999 OCS Activities NPRM. If a new provision is listed without an old parallel, it has been added in this temporary interim rule for the first time, for a reason explained in "Discussion of Comments and Changes," below.

Table 2 is arranged by existing CFR section. These are "old" Coast Guard rules in force until the publication of this temporary interim rule, with their "new" parallel provisions in the temporary interim rule (as well as a middle column showing where the CFR section was paralleled in either the 2002 Deepwater Ports NPRM or the 1999 OCS Activities NPRM). If an old provision is listed without a new parallel, it was eliminated from this temporary interim rule for a reason explained in "Discussion of Comments and Changes," below.

Table 3 is arranged by NPRM section. These are "old" sections that were proposed either in the 2002 Deepwater Ports NPRM or as an amendment to 33 CFR part 142 or part 143 in the 1999 OCS Activities NPRM, with their "new" parallel provisions in the temporary interim rule. If an old provision is listed without a new parallel, it was eliminated from this temporary interim rule for a reason explained in "Discussion of Comments and Changes," below.

TABLE 1.—TEMPORARY INTERIM RULE (TIR) SECTIONS TO NPRM AND CFR SECTIONS

If you are looking at the TIR cite—	It is derived from the NPRM* at proposed—	That was derived from 33 CFR—
148.1	148.1	148.1
148.2	148.2	149.105, 150.103
148.3	148.3	
148.5	148.5	148.3, 150.204, 150.303, 150.403
148.100	148.100	148.101
148.105	148.105	148.109
148.107	148.107	148.109(z)
148.108	148.108	148.109(z)(5)
148.110	148.110	148.105
148.115	148.115	148.103, 148.107(a), (b)
148.125	148.125	148.107(c) through (e)
148.200	148.200	148.201
148.205	148.205	148.205
148.207	148.207	148.207
148.209	148.209	148.211
148.211	148.211	148.213
148.213	148.213	148.215
148.215	148.215	148.216
148.217	148.217	148.217
148.221	148.221	148.219
148.222	148.222(a) and (b)	148.231
148.227	148.227	148.235
148.228	148.228	148.251

TABLE 1.—TEMPORARY INTERIM RULE (TIR) SECTIONS TO NPRM AND CFR SECTIONS—Continued

If you are looking at the TIR cite—	It is derived from the NPRM* at proposed—	That was derived from 33 CFR—
148.230	148.230	148.253, .283
148.232	148.232	148.203(b), .287, .291
148.234	148.234	148.255
148.236	148.236	148.257
148.238	148.238	148.261
148.240	148.240	148.263
148.242	148.242	148.265
148.244	148.244	148.267
148.246	148.246	148.273(a) and (c)
148.248	148.248	148.273(b)
148.250	148.250	148.275
148.252	148.252	148.281
148.254	148.254	148.285
148.256	148.256	
148.276	148.276	148.321(b)
148.277	148.277	148.321(a)
148.279	148.279	148.323
148.281	148.281	148.325
148.283	148.283	148.327
148.300	148.300	148.400
148.305	148.305	148.403
148.307	148.307	148.407(a)
148.310	148.310	148.405
148.315	148.315	
148.320	148.320	
148.400	148.400	148.501
148.405	148.405	148.503
148.410	148.410	148.505
148.415	148.415	148.507
148.420	148.420	148.509
148.500	148.500	148.601
148.505	148.505	148.603
148.510	148.510	148.605
148.515	148.515	148.607
148.600	148.610	
148.605	148.605	148.703
148.700, .702, .705, .707, .708, .709, .710, .715, .720, .722, .725, .730, .735, .737.	148 Appendix A	148 Appendix A
149.1	149.1	149.101
149.5	149.5	
149.10	149.10	
149.100	149.100	149.301
149.103	149.103	149.319
149.105	149.105	149.303
149.110	149.110	149.305
149.115	149.115	149.307
149.120	149.120	149.309
149.125	149.125	149.311
149.130	149.130	149.313
149.135	149.135	149.315
149.140	149.140	149.317
149.145	149.145	149.403
149.150	149.150	149.321
149.300	149.300	
149.301 through 149.339	149.305 [which references Sub N** NPRM sections 143.810 through 143.885, and 143.910 through 143.925]	
149.340	149.310	149.402
149.400	149.400	
149.401	149.405	
149.402	143.1010 [Sub N]	
149.403, .404	149.430/143.1015 [Sub N]	149.402
149.405	143.1020 [Sub N]	
149.406	143.1025 [Sub N]	
149.407	143.1026 [Sub N]	
149.408	143.1028 [Sub N]	
149.409	143.1029 [Sub N]	
149.410	143.1030 [Sub N]	
149.411	143.1035 [Sub N]	
149.412	143.1040 [Sub N]	
149.413	143.1045 [Sub N]	
149.414	143.1050 [Sub N]	

TABLE 1.—TEMPORARY INTERIM RULE (TIR) SECTIONS TO NPRM AND CFR SECTIONS—Continued

If you are looking at the TIR cite—	It is derived from the NPRM* at proposed—	That was derived from 33 CFR—
149.415	149.410/143.1055 [Sub N]	149.451
149.416	149.415	149.453
149.417	149.420	149.457
149.418	149.425(a)	149.467
149.419	New	
149.420	143.1060 [Sub N]	
149.421	143.1061 [Sub N]	
149.422	143.1062 [Sub N]	
149.423	143.1135 [Sub N]	
149.424	New.	
149.500	149.500	149.701
149.505	149.505	149.705
149.510	149.510	149.707
149.520	149.520	
149.535	149.535	149.797
149.540	149.540	149.751
149.550	149.550	149.753
149.560	149.560	149.771 and 149.772
149.565	149.565	149.773
149.570	149.570	149.791
149.575	149.575	149.793
149.580	149.580	149.795
149.585	149.585	149.799
149.600	149.600	149.201
149.610	149.610	150.117
149.615	149.615	149.203 (a) and (b)
149.620	149.620	149.203 (c) and (d)
149.625	149.625	149.205
149.630	149.630	
149.640	149.640	149.206
149.641	143.1115 [Sub N]	
149.642	143.1115 [Sub N]	
149.643	143.1115 [Sub N]	
149.644	143.1115 [Sub N]	
149.645	143.1120 [Sub N]	
149.646	143.1120 [Sub N]	
149.647	143.1120 [Sub N]	
149.650	149.650	149.209 and 150.121
149.655	149.655	149.213
149.660	149.660	149.411
149.665	149.665	149.541
149.670	149.670	149.543
149.675	149.675	149.545
149.680	149.680	149.217 and 150.527
149.685	149.685	
149.690	149.690	149.421, .423, .431, .433 and .441
149.691	143.1220 [Sub N]	
149.692	143.1221 [Sub N]	
149.693	143.1222 [Sub N]	
149.694	143.1230 [Sub N]	
149.695	143.1231 [Sub N]	
149.696	143.1232 [Sub N]	
149.697	143.1235 [Sub N]	
149.700	149.695	149.539
150.1	150.1	150.101
150.5	150.5	
150.10 (a)–(d)	150.10 (a)–(b)	150.105 (a)–(b)
150.10 (e)	150.10 (c)	150.109
150.15	150.15	150.105
150.20	150.20	150.106
150.25	150.25	150.107 (a)–(c)
150.30	150.30	150.107 (a)–(c)
150.35	150.35	150.107 (d)
150.40	150.40	150.113
150.45	150.45	150.115
150.50	150.50	150.129
150.100	150.100	
150.105	New	[see Note 1]
150.110	New	
150.200	150.205	
150.205	150.210	150.203
150.210	150.215	150.217

TABLE 1.—TEMPORARY INTERIM RULE (TIR) SECTIONS TO NPRM AND CFR SECTIONS—Continued

If you are looking at the TIR cite—	It is derived from the NPRM* at proposed—	That was derived from 33 CFR—
150.225	150.250	
150.300	150.300	150.301
150.305	150.305	
150.310	150.310	150.307
150.320	150.320	150.309 (a) and (b)
150.325	150.325	150.333
150.330	150.330	150.335
150.340	150.340	150.337
150.345	150.345	150.315
150.350	150.350	150.338
150.355	150.355	150.317, 150.339
150.380	150.380	150.345
150.385	150.385	
150.400	150.400	150.400
150.405	150.405	150.405
150.420	150.420	150.411
150.425	150.425	150.413
150.430	150.435	150.417
150.435	150.440	150.423
150.440	150.445	150.425
150.445	150.447	150.421
150.500	150.500	150.500
150.501	150.505	150.503
150.502	143.615 [Sub N]	
150.503	143.620 [Sub N]	
150.504	143.625 [Sub N]	
150.505	143.630 [Sub N]	
150.506	143.635 [Sub N]	
150.507	143.640 [Sub N]	
150.508	143.645 [Sub N]	
150.509	150.510	
150.510	143.710 [Sub N]	
150.511	143.715 [Sub N]	
150.512	143.720 [Sub N]	
150.513	143.725 [Sub N]	
150.514	143.730 [Sub N]	
150.515	143.735 [Sub N]	
150.516	143.740 [Sub N]	
150.517	143.745 [Sub N]	
150.518	143.765 [Sub N]	
150.519	143.760 [Sub N]	
150.520	143.750 [Sub N]	
150.521	143.755 [Sub N]	
150.530	150.515	150.504
150.531	150.520	150.505
150.532	150.525	150.507
150.540	150.530	150.515
150.550	150.535	150.517
150.555	New	
150.600	150.600	150.509
150.601	New	
150.602	142.20 [Sub N]	
150.603	142.25 [Sub N]	
150.604	142.30 [Sub N]	
150.605	142.35 [Sub N]	
150.606	142.40 [Sub N]	
150.607	New	
150.608	142.110 [Sub N]	
150.609	142.115 [Sub N]	
150.610	142.120 [Sub N]	
150.611	142.125 [Sub N]	
150.612	142.130 [Sub N]	
150.613	142.235 [Sub N]	
150.614	142.140 [Sub N]	
150.615	142.215 [Sub N]	
150.616	142.220 [Sub N]	
150.617	142.225 [Sub N]	
150.618	142.150–152/142.180–.183 [Sub N]	
150.619	142.155 [Sub N]	
150.620	142.245 [Sub N]	
150.621	142.260 [Sub N]	
150.622	142.285 [Sub N]	

TABLE 1.—TEMPORARY INTERIM RULE (TIR) SECTIONS TO NPRM AND CFR SECTIONS—Continued

If you are looking at the TIR cite—	It is derived from the NPRM* at proposed—	That was derived from 33 CFR—
150.623	Part 142 subpart D [Sub N]	
150.624	142.185 [Sub N]	
150.625	142.410 [Sub N]	
150.626	142.415 [Sub N]	
150.627	142.420 [Sub N]	
150.628	142.425 [Sub N]	
150.700	150.700	150.601
150.705	150.705	150.603
150.710	150.710	150.605
150.715	150.715	150.607
150.720	150.720	150.611
150.800	150.800	150.701
150.805	150.805	150.703
150.810	150.810	150.705
150.815	150.815	150.711
150.820	150.820	150.711
150.825	150.825	
150.830	150.830	
150.835	150.835	150.713
150.840	150.840	150.751
150.845	150.845	150.753
150.850	150.850	150.759
150.900	150.900	150 Appendix A
150.905	150.905	150 Appendix A
150.910	150.910	150 Appendix A
150.915	150.915	150 Appendix A
150.920	150.920	147.30
150.925	150.925	147.35
150.930	150.930	147.105

*Unless noted otherwise, "NPRM", notice of proposed rulemaking, refers to the NPRM on Deepwater Ports (USCG-1998-3884).

**"[Sub N]" means the section listed was published in the NPRM on OCS Activities (USCG-1998-3868).

Note 1: The advent of this section was discussed on page 37927 (in the preamble only) of the NPRM on Deepwater Ports (USCG-1998-3884).

TABLE 2.—PRIOR CFR SECTIONS TO NPRM AND TIR SECTIONS

If the regulation is in 33 CFR—	It was found in the NPRM* at proposed—	And it is now in the TIR at—
148.1	148.1	148.1
148.3	148.5	148.5
148.101	148.100	148.100
148.103	148.115	148.115
148.105	148.110	148.110
148.107(a) and (b)	148.115	148.115
148.107(c), (d), and (e)	148.125	148.125
148.109	148.105	148.105
148.109(z)	148.107	148.107
148.109(z)	148.108	148.108
148.111		
148.201	148.200	148.200
148.203(b)	148.232	148.232
148.205	148.205	148.205
148.207	148.207	148.207
148.211	148.209	148.209
148.213	148.211	148.211
148.215	148.213	148.213
148.216	148.215	148.215
148.217	148.217	148.217
148.219	148.221	148.221
148.231	148.222(a) and (b)	148.222(a) and (b)
148.233	148.222(c)	148.222(c)
148.235	148.227	148.227
148.251	148.228	148.228
148.253	148.230	148.230
148.255	148.234	148.234
148.257	148.236	148.236
148.259	148.232(a)	148.232(a)
148.261	148.238	148.238
148.263	148.240	148.240
148.265	148.242	148.242
148.267	148.244	148.244

TABLE 2.—PRIOR CFR SECTIONS TO NPRM AND TIR SECTIONS—Continued

If the regulation is in 33 CFR—	It was found in the NPRM* at proposed—	And it is now in the TIR at—
148.269	148.232(a)	148.232(a)
148.271	148.232(a)	148.232(a)
148.273(a) and (c)	148.246	148.246
148.273(b)	148.248	148.248
148.275	148.250	148.250
148.277	148.232(a)	148.232(a)
148.279	148.232(a)	148.232(a)
148.281	148.252	148.252
148.283	148.230	148.230
148.285	148.254	148.254
148.287	148.232	148.232
148.289	148.232, .242	148.232, .242
148.291	148.232(a)	148.232
148.321(a)	148.277	148.277
148.321(b)	148.276	148.276
148.323	148.279	148.279
148.325	148.281	148.281
148.327	148.283	148.283
148.400	148.300	148.300
148.403	148.305	148.305, 148.307
148.405	148.310	148.310
148.407	148.277, .307	148.277, .307
148.501	148.400	148.400
148.503	148.405	148.405
148.505	148.410	148.410
148.507	148.415	148.415
148.509	148.420	148.420
148.601	148.500	148.500
148.603	148.505	148.505
148.605	148.510	148.510
148.607	148.515	148.515
148.701	148.600	148.600
148.703	148.605	148.605
148 Appendix A	148 Appendix A	148.700, .702, .705, .707, .708, .709, .710, .715, .720, .722, .725, .730, .735, .737
148 Annex A	148 Annex A	148.730, .735, .737
149.101	149.1	149.1
149.105	148.2	149.5
149.201	149.600	149.600
149.203(a) through (c)	149.615	149.615
149.203(d)	149.620	149.620
149.205	149.625	149.625
149.206	149.640	149.640
149.209	149.650	149.650
149.211 .....	.....	.....
149.213	149.655	149.655
149.215 .....	.....	.....
149.217	149.680	149.680
149.301	149.100	149.100
149.303	149.105	149.105
149.305	149.110	149.110
149.307	149.115	149.115
149.309	149.120	149.120
149.311	149.125	149.125
149.313	149.130	149.130
149.315	149.135	149.135
149.317	149.140	149.140
149.319	149.103	149.103
149.321	149.150	149.150
149.401	150.15	150.15
149.402	149.310 and 149.430	150.501
149.403	149.145	149.145
149.411	149.660	149.660
149.421	149.690	149.690
149.423	149.690	149.690
149.431	149.690	149.690
149.433	149.690	149.690
149.441	149.690	149.690
149.451	149.410	149.415
149.453	149.415(a) through (c)	149.416
149.455	149.415(d)	149.416(d)
149.457	149.420(a) through (c)	149.417

TABLE 2.—PRIOR CFR SECTIONS TO NPRM AND TIR SECTIONS—Continued

If the regulation is in 33 CFR—	It was found in the NPRM* at proposed—	And it is now in the TIR at—
149.459	149.420(d)	149.417(a)
149.461	149.420(e)	149.417(c)
149.463	149.420(f)	
149.465	149.420(g)	149.417(e)
149.467	149.425(a)	150.532
149.469	149.425(b)	
149.471	149.425(c)	
149.473	149.425(d)	
149.477	149.425(e)	
149.479		
149.481	149.405	149.401
149.483	149.405	149.401
149.491	149.405	
149.501	149.405	
149.503	149.405	
149.505	149.405	
149.507	149.405	
149.511	149.405	149.401
149.513	149.405	149.421
149.515	149.405	149.412
149.517	149.405	149.411
149.521 through 149.537	149.305	149.301 through .333
149.539	149.695	149.700
149.541	149.665	149.665
149.543	149.670	149.670
149.545	149.675	149.675
149.701	149.500	149.500
149.703	149.521	149.535
149.705	149.505	149.520
149.707	149.510	149.510
149.721	150.715	150.715
149.723	149.527	
149.724	149.520	149.520
149.725		
149.727	149.525	149.520
149.729		
149.751	149.540	149.540
149.753	149.550	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)	149.550
149.759	149.533	
149.771		
149.773	149.560	149.560
149.775	149.565	149.565
149.791	149.570	149.570
149.793	149.575	149.575
149.795	149.580	149.580
149.797	149.535	149.535
149.799	149.585	149.585
150.101	150.1	150.1
150.103	148.2	148.2
150.105	150.10	150.10
150.106	150.20	150.20
150.107(a)–(c)	150.25	150.25
150.107(d)	150.35	150.35
150.109	150.10	150.10(e)
150.113	150.40	150.40
150.115	150.45	150.45
150.117		
150.119		150.110
150.121		
150.123		
150.125		
150.127	150.15	150.15
150.129	150.50	150.50
150.201	150.200	
150.203	150.210	150.205
150.204	148.5	148.5
150.205	150.220	

TABLE 2.—PRIOR CFR SECTIONS TO NPRM AND TIR SECTIONS—Continued

If the regulation is in 33 CFR—	It was found in the NPRM* at proposed—	And it is now in the TIR at—
150.207	150.225	
150.209	150.230	
150.211	150.235	
150.213	150.240	
150.215	150.245	
150.217	150.215	150.210
150.301	150.300	150.300
150.303	148.5	148.5
150.305	150.15	150.15
150.307	150.310	150.310
150.309 (a) and (b)	150.320	150.320
150.309 (c)	150.365	150.320
150.311		150.15
150.313		150.340
150.315	150.345	150.345
150.317	150.355	150.355
150.333	150.325	150.325
150.335	150.330	150.330
150.337	150.340	150.340
150.338	150.350	150.350
150.339	150.355	150.355
150.341	150.370	
150.342	150.375	
150.345	150.380	150.380
150.400	150.400	150.400
150.403	148.5	148.5
150.405	150.405	150.405
150.407		
150.409		
150.411	150.420	150.420
150.413	150.425	150.425
150.415	150.430	
150.417	150.435	150.430
150.419		
150.421	150.447	150.445
150.423	150.440	150.435
150.425	150.445	150.440
150.500	150.500	150.500
150.503	150.505	150.501
150.504	150.515	150.530
150.505	150.520	150.531
150.507	150.525	150.532
150.509	150.600	150.540
150.511	150.600	150.550
150.513		
150.515	150.530	150.540
150.516		150.600
150.517	150.535	150.550
150.519		
150.521		
150.523		
150.525	150.600	150.600
150.527	149.680	149.680
150.601	150.700	150.700
150.603	150.705	150.705
150.605	150.710	150.710
150.607	150.715	150.715
150.611	150.720	150.720
150.701	150.800	150.800
150.703	150.805	150.805
150.705	150.810	150.810
150.707		
150.711	150.815, .820	150.815, .820
150.713	150.835	150.835
150.751	150.840	150.840
150.753	150.845	150.845
150.755		
150.757		
150.759	150.850	150.850
150 Appendix A	150.900 through 150.915	150.900 through .930
150 Annex A	150.935	150.905

*Unless noted otherwise, "NPRM", notice of proposed rulemaking, refers to USCG-1998-3884.

TABLE 3.—NPRM SECTIONS TO TIR SECTIONS

The regulation in the NPRM* at section—	Is now in the TIR at section—
148.1	148.1
148.2	148.2
148.3	148.3
148.5	148.5
148.10	
148.100	148.100
148.105	148.105
148.107	148.107
148.108	148.108
148.110	148.110
148.115	148.115
148.125	148.125
148.200	148.200
148.203	
148.205	148.205
148.207	148.207
148.209	148.209
148.211	148.211
148.213	148.213
148.215	148.215
148.217	148.217
148.221	148.221
148.222	148.222
148.227	148.227
148.228	148.228
148.230	148.230
148.232	148.232
148.234	148.234
148.236	148.236
148.238	148.238
148.240	148.240
148.242	148.242
148.244	148.244
148.246	148.246
148.248	148.248
148.250	148.250
148.252	148.252
148.254	148.254
148.256	148.256
148.276	148.276
148.277	148.277
148.279	148.279
148.281	148.281
148.283	148.283
148.300	148.300
148.305	148.305
148.307	148.307
148.310	148.310
148.315	148.315
148.320	148.320
148.400	148.400
148.405	148.405
148.410	148.410
148.415	148.415
148.420	148.420
148.500	148.500
148.505	148.505
148.510	148.510
148.515	148.515
148.600	148.600
148.605	148.605
148.610	
148 Appendix A ...	148.700, .702, .705, .707, .708, .709, .710, .715, .720, .722, .725, .730, .735, .737
148 Annex A	148.730, .735, .737
149.1	149.1
149.5	149.5

TABLE 3.—NPRM SECTIONS TO TIR SECTIONS—Continued

The regulation in the NPRM* at section—	Is now in the TIR at section—
149.10	149.10
149.100	149.100
149.105	149.105
149.110	149.110
149.115	149.115
149.120	149.120
149.125	149.125
149.130	149.130
149.135	149.135
149.140	149.140
149.145	149.145
149.150	149.150
149.300	149.300
149.305	149.301 through 149.339
149.310	
149.400	149.400
149.405	149.401
149.410	149.415
149.415	149.416
149.420	149.417
149.425	149.418
150.430	
149.500	150.500
149.505	149.505
149.510	149.510
149.520	149.520
149.521	
149.523	
149.525	
149.527	
149.530	
149.531	
149.533	
149.535	149.535
149.540	149.540
149.545	
149.550	149.550
149.555	
149.560	149.560
149.565	149.565
149.570	149.570
149.575	149.575
149.580	149.580
149.535	149.535
149.585	149.585
149.600	149.600
149.610	149.610
149.615	149.615
149.620	149.620
149.625	149.625
149.630	149.630
149.640	149.640
149.650	149.650
149.655	149.655
149.660	149.660
149.665	149.665
149.670	149.670
149.675	149.675
149.680	149.680
149.685	149.685
149.690	149.690
149.695	149.700
150.1	150.1
150.5	150.5
150.10	150.10
150.15	150.15
150.20	150.20
150.25	150.25
150.30	150.30

TABLE 3.—NPRM SECTIONS TO TIR SECTIONS—Continued

The regulation in the NPRM* at section—	Is now in the TIR at section—
150.35	150.35
150.40	150.40
150.45	150.45
150.50	150.50
150.100	150.100
150.200	
150.205	150.200
150.210	150.205
150.215	150.210
150.220	
150.225	
150.230	
150.235	
150.240	
150.245	
150.250	150.250
150.300	150.300
150.310	150.310
150.320	150.320
150.325	150.325
150.330	150.330
150.340	150.340
150.345	150.345
150.350	150.350
150.355	150.355
150.365	150.320
150.370	
150.375	
150.380	150.380
150.400	150.400
150.405	150.405
150.420	150.420
150.425	150.425
150.430	
150.435	150.430
150.440	150.435
150.445	150.440
150.447	150.445
150.500	150.500
150.505	150.501
150.510	150.509
150.515	150.530
150.520	150.531
150.525	150.532
150.530	150.540
150.535	150.550
150.600	150.601
150.700	150.700
150.705	150.705
150.710	150.710
150.715	150.715
150.720	150.720
150.800	150.800
150.805	150.805
150.810	150.810
150.815	150.815
150.820	150.820
150.825	150.825
150.830	150.830
150.835	150.835
150.840	150.840
150.845	150.845
150.850	150.850
150.900	150.900
150.905	150.905
150.910	150.910
150.915	150.915
150.920	150.920
150.925	150.925

TABLE 3.—NPRM SECTIONS TO TIR SECTIONS—Continued

The regulation in the NPRM* at section—	Is now in the TIR at section—
150.930	150.930
150.935	

*Unless noted otherwise, "NPRM", notice of proposed rulemaking, refers to USCG-1998-3884.

Discussion of Comments and Changes

In the following pages we discuss public comments received on our 2002 NPRM as well as other significant changes made to the regulatory text since that NPRM was published. This discussion begins with a review of general comments and then moves sequentially through the three parts of Title 33, Code of Federal Regulations (parts 148, 149, and 150) that are amended by this rulemaking. The section designations match those that you will see in the regulatory text that follows this preamble. In many cases, those designations have changed since the 2002 NPRM. In addition, the temporary interim rule incorporates provisions that appeared in the 1999 OCS Activities NPRM (see "Related Rulemaking," above) and that were proposed as amendments to parts 142 and 143 of title 33. Finally, you may wish to compare the text of parts 148, 149, or 150 that were effective prior to this temporary interim rule. To move between "old" provisions and their "new" parallels, or vice versa, use the three tables appearing under "Old-to-New Reference Tables," above.

Many sections of the temporary interim rule have been changed for one or more of the following reasons:

- The change is not substantive—in this category we include changes made merely to reflect the Coast Guard's transfer to the new Department of Homeland Security, conversion of English or metric measurements and elimination of imprecise equivalents for those measurements, and changes that provide updated information without imposing any new legal requirement;
- We amended the section to accommodate the legislative addition of natural gas deepwater ports; or
- We added the section in order to describe in detail requirements in the NPRM that were only incorporated by reference to the OCS Activities NPRM.

In these cases, we do not specifically discuss the section below, unless there is some additional reason for doing so.

One noticeable but nonsubstantive change from the 2002 NPRM is the temporary interim rule's omission of

Appendix A to part 148. In the 2002 NPRM, Appendix A contained updated environmental review criteria for deepwater ports. These provisions are regulatory in nature and we consider it more appropriate to designate them as such. Updated environmental review criteria, therefore, now appear as subpart G in part 148 (§ 148.700 *et seq.*).

We received comments from 9 commenters during the public comment period. A 10th commenter submitted comments largely concerned with natural gas issues, but not until several months after the close of the comment period. The 10th commenter's comments have been docketed (USCG-1998-3884-19), but they have not been considered in the drafting of this temporary interim rule.

General comments: Two commenters asked us to complete this rulemaking as quickly as possible. One commenter asked if we would "grandfather" this temporary interim rule so that existing deepwater ports would have time to comply with its requirements. Because we consider the sole existing deepwater port to be in compliance with this temporary interim rule, there is no need for grandfathering.

Specific comments: The following comments related to specific portions of the regulatory text.

§ 148.5. One commenter asked us to define "hydrographic survey" and to distinguish "engineering hydrographic survey" from "reconnaissance hydrographic survey." We have added or clarified these definitions. This commenter also asked us to reinstate the definition of "marine site," which we have done because it addresses information independent of, but complementary to, the definition of a deepwater port. A second commenter asked us to add a definition of "oil residue." In light of our removal of § 149.150, this request is no longer relevant.

Two commenters on the 1999 OCS Activities NPRM offered their views on the definition of "confined space" that now appears in this section. One commenter suggested that we reword the definition to make clear that a space "not designed for continuous occupancy" means a space "not designed for continuous routine occupancy." The commenter said that "continuous" implies that occupancy must be uninterrupted, while "continuous routine" suggests that occupancy can be interrupted. The commenter said that, therefore, spaces like closets or storerooms, which are routinely but not uninterruptedly occupied, could be treated as "confined spaces." We believe "continuous

occupancy" better expresses our intent and have not modified this definition. The second commenter offered a different definition of "confined space" based on the industry standard ANSI Z117.1-1995(1). Aside from recommending this industry standard as guidance for confined space entry requirements, this commenter did not explain why the ANSI definition is superior to the one we proposed. As we explain in "Applicable Standards," above, we are not ready at this time to adopt industry standards. We see no reason at this time to change our definition of "confined space."

We also made the following changes: We redefined "citizen of the United States" and "person" to more closely match definitions used in DWPA; we added definitions of "area to be avoided," "no anchoring area," "operator," and "routing measures"; and we deleted "PAD District" because the Department of Energy no longer requires deepwater port operators to furnish information associated with that term.

Finally, we added a definition of "Maritime Administration (or MARAD)" because our rule frequently refers to that agency. We considered using the term "licensing authority" instead, to avoid confusion between the Secretary of Transportation and the Maritime Administration (MARAD). DWPA vests deepwater port licensing authority in the Secretary. MARAD currently exercises that authority under a delegation from the Secretary. While it might be technically more correct to use a neutral term like "licensing authority," we have chosen to retain references to MARAD since they more directly describe the current procedure and can be easily changed should the Secretary ever change this delegation.

§ 148.10. We deleted this section (concerning incorporation of industry standards) that appeared in the NPRM. See the discussion under "Applicable Standards" above.

§ 148.105. Several commenters asked that we allow preliminary submission of an outline or concept of operations in lieu of a detailed draft operations manual. We have amended this section to allow submission of an operations manual outline. A detailed operations manual will still need Coast Guard approval before a deepwater port begins operations.

§ 148.105(a)(5). One commenter recommended that we narrow the information required by this paragraph so that outstanding litigation need be disclosed only if it is directly related to bankruptcy proceedings or violation of Federal or State laws. We agree and

have amended the paragraph accordingly.

§ 148.105 (b). One commenter said we should require information about affiliates and engineering firms only if they are involved in the design or construction of the port. We agree and have revised this paragraph accordingly.

§ 148.105(d). We have revised this paragraph extensively in order to clarify what is required to show United States citizenship under DWPA, and to reflect the popularity of new forms of business organization such as the limited liability company.

§ 148.105(g)(1). One commenter suggested a 3 percent threshold for affiliates. To reduce the regulatory burden on applicants, we revised this paragraph so that applicants need list only partners who have a substantial ownership interest, and affiliates who are contractually interested in the deepwater port. We added alternative compliance provisions relating to affiliate financial information.

§ 148.105(g)(2). One commenter said the application's overall site plan should address the decommissioning and removal of the facility. We think each applicant will have some plan for decommissioning and removal, in order to meet this paragraph's requirement for a detailed cost estimate for removal, and that this is sufficient for licensing purposes. An operator's final plan for decommissioning and removal would have to comply with legal requirements in effect at that time.

§ 148.105(g)(4). Three commenters recommended deleting the requirement that an applicant demonstrate the financial viability of its projects by submitting throughput and financial projections, arguing that the value of these projections would be outweighed by the competitive disadvantage at which an applicant could be put by publishing these projections. We have retained the requirement because this is essential information that is necessary and appropriate within the meaning of 33 U.S.C. 1504.

§ 148.105(g)(5). One commenter recommended eliminating the requirement for estimates of future refinery capacity, runs to the stills, and refinery product demand. We agree that much of the required data is no longer needed, because competition concerns envisioned when DWPA was originally enacted never materialized. We have revised this paragraph accordingly. Another commenter said certain requirements for data on onshore components were more financial than technical in nature and should either be eliminated or combined with other requirements for financial data. We have

retained the requirements but transferred them to this paragraph.

§ 148.105(h). One commenter asked us to align the information requirements for facility contractors with those for design firms. We agree that our need for information about contractors and designers is similar, so we have amended this paragraph accordingly. This commenter also said we should defer the required submission of a final contract, perhaps until after a license is issued. While some contracts may not be final when the application is submitted, generally licenses should be issued only after all information is provided. In extenuating circumstances, MARAD may grant a conditional license. Finally, this commenter asked us to restrict the "other studies" required by (h)(2)(ii) to "construction-related" studies, and we have revised that paragraph accordingly.

§ 148.105(i). One commenter asked us to align this paragraph, regarding compliance with the Federal Water Pollution Control Act, with 148.105(z), concerning the processing of an application for which complete National Pollution Discharge Elimination System information is unavailable. We have revised this paragraph accordingly.

§ 148.105(i)(2). One commenter said the applicant should include all requests for required certifications with its application, to further the DWPA goal of a coordinated Federal mechanism for all certifications. We have amended this paragraph to clarify that the applicant must include a copy of its request for certification, in cases where actual certification has not yet been granted. Where the appropriate coordinating agency does not issue an actual certificate, it will conduct a formal review and recommend action to the Coast Guard and MARAD. Applicants may wish to work directly with coordinating agencies in conjunction with the Coast Guard and MARAD.

§ 148.105(m). One commenter requested more guidance as to the scope and purpose of a "reconnaissance hydrographic survey," and another commenter asked us to limit the reconnaissance survey to basic information. We have revised this paragraph accordingly.

§ 148.105(n). One commenter suggested that collection of soil samples be restricted to areas seaward of the high water mark. We have declined to insert that restriction, because the National Environmental Policy Act requires the deepwater port environmental assessment to consider the onshore implications of actions "connected" to construction or

operation of the port itself. Two commenters asked us to allow the use of existing environmental studies in areas where the data sources are credible, reliable, and meet Coast Guard and Environmental Protection Agency (EPA) requirements for site-specific environmental analysis. We have amended this paragraph accordingly. We also define when existing surveys need to be supplemented by new data collection.

§ 148.105(o). One commenter said applicants should submit archeological data with their applications. We agree and added this paragraph accordingly. Applicants may wish to coordinate their work in this area with the EPA and the Minerals Management Service (MMS).

§ 148.105(r). One commenter said that site-specific, detailed information should not be required with the application, but only prior to deepwater port start-up. We have revised this paragraph to allow applicants to address the details of compliance in the operations manual. We permit minor modifications or deviation from the original design after submission of the application, but we will not permit revisions that potentially affect the project's environmental analysis or the status of the application.

§ 148.105(s). We revised this paragraph to delete the requirement to provide design and evaluation studies. We had previously deleted a similar requirement for floating components.

§ 148.105(t). One commenter said that the required data for onshore components could put applicants at a competitive disadvantage by requiring them to disclose their plans for securing transportation and storage. Another commenter said our requirements for throughput information were onerous and overbroad and arose from historical competition concerns that did not materialize. We have revised this paragraph, eliminating many requirements that appeared in the NPRM. These revisions should meet both commenters' objections.

§ 148.105(u). One commenter said we should eliminate the support vessel requirements of (u)(3) and (u)(4) because these requirements are already addressed in the operations manual. This is essential information and therefore we continue to require it to be addressed, briefly, in the application.

§ 148.105(w). One commenter said that the draft operations manual should be submitted at least one year prior to port start-up, but should not be required with the application because meaningful information is available only later. We believe a draft manual that demonstrates the applicant's ability

to operate its proposed port safely and effectively is an indispensable element of the application process and can be supplemented as information changes. We think this paragraph, as revised, furnishes adequate guidance so that preparation of the draft manual will be a meaningful exercise for the applicant. Another commenter said an applicant should be allowed to show sufficient competence and experience to manage a deepwater port by demonstrating knowledge of MMS regulations for OCS structures. We agree and have amended this paragraph accordingly.

§ 148.105(x). One commenter said that the environmental review criteria should consider air quality and incorporate relevant environmental statutes from adjacent coastal States. We think this paragraph and subpart G adequately reflect the applicant's need to describe how it will comply with all applicable environmental laws, including those related to air quality. The same commenter recommended a 10,000-year return period for evaluating the imposition of environmental loads, and requiring periodic reviews of assumptions used in the applicant's analysis. We think a 100-year return period conforms to international standards, and that 33 CFR part 148, subpart G provides the applicant with proper guidance for conducting its analysis. Two other commenters said we should allow the use of existing environmental studies in areas where the data sources are credible, reliable, and meet Coast Guard and Environmental Protection Agency (EPA) requirements for site-specific environmental analysis. We amended this paragraph accordingly. We define when existing surveys need to be supplemented by new data collection.

§ 148.107. Three commenters asked us to eliminate duplicative or obsolete antitrust-oriented language related to document filing, which we have done.

§ 148.108. One commenter asked us to consider costs and timing before complying with another agency's request for additional information. We have amended this section accordingly.

§ 148.110. One commenter said an applicant should be allowed to request advance environmental scoping meetings with relevant agencies. We have reworded this section to emphasize that anyone can consult with the Coast Guard about the requirements of this subchapter, including its environmental requirements; MARAD may also be available for such consultation. This commenter also recommended letting applicants coordinate the preparation and review of applications through memoranda of

understanding with relevant agencies or similar mechanisms. In this section, we encourage applicants to confer with the Coast Guard and MARAD. We do not think a more formal mechanism is needed.

§ 148.115. We have reduced, from 15 to 6, the initial required number of printed copies of the application. Applications now must be sent in electronic format as well. This eases the paperwork burden on applicants, and recognizes the modern availability of electronic media. Additional print copies must still be supplied upon the request of a relevant agency. Our current best guess is that as many as 30 print copies may be requested, but the regulation contains no upper limit on this figure.

§ 148.125. Two commenters objected to the increased application fee and asked for controls on the amount of additional costs that can be assessed. We explained the rationale for raising the fee in the 2002 NPRM. We have amended this section to provide that applicants will receive periodic information about the costs of processing their applications.

§ 148.207. One commenter said we should make the publicly available documents for any deepwater port application available to the public through the Department of Transportation's Docket Management Facility. That is our current practice, which we expect to continue, either through the Docket Management Facility or some similar service. Should such a service become unavailable, the Coast Guard would still maintain its official docket and make it available for public inspection in accordance with this section.

§ 148.209. We added language specifying the key Federal and State agencies that receive copies of the application.

§ 148.211. We revised this section in conformance with changes we made to 148.115 (initial filings).

§ 148.215. We added language requiring the applicant to estimate the economic impact on a connected port that may be planning to deepen its draft channels.

§§ 148.276 and 148.277. One commenter recommended referencing DWPA's timeline for processing license applications, in order to emphasize the need for prompt action. We have amended these sections accordingly.

§ 148.279. We revised this section to eliminate possible confusion with the statutory requirements for issuing a deepwater port license, which are found in 33 U.S.C. 1503.

§ 148.305. One commenter said that we should allow the COTP to interpret and approve adjustments to operations manuals. We have revised this section, which is informational in nature, to refer readers to DWPA, which governs licensing. The actual license is issued by MARAD, whose rules and procedures can be consulted for further information.

§ 148.307. We deleted a reference to the Administrator of MARAD because the Coast Guard cannot make a rule for that agency. This does not imply a change in MARAD's policy of consulting with applicants.

§ 148.415. One commenter expressed support for our decision to delete the preliminary report requirement from this section.

§ 148.610. A section with this designation appeared in the 2002 NPRM. It specified the limit of liability for the one existing deepwater port, the Louisiana Offshore Oil Platform (LOOP). One commenter asked us to explain how LOOP's financial liability cap was determined and how the liability cap for future oil deepwater ports will be determined. Determination of LOOP's cap is discussed in the **Federal Register** at 60 FR 39849 (August 4, 1995). The Secretary's authority under 33 U.S.C. 2704(d)(2) to modify the statutory \$350 million limit of liability for deepwater ports has been delegated to the Coast Guard. We have deleted this section from the temporary interim rule because it has no general applicability and was included only for informational purposes.

Subpart G (§ 148.700 *et seq.*). As explained earlier, this subpart contains material that formerly appeared as Appendix A to part 148. We believe the regulatory nature of much of this material is clarified by placing it in the textual body of part 148.

§ 148.702. One commenter asked for clarification of the criteria used in a Phase I determination under Appendix A. In this revised subpart, we no longer use the Phase I and Phase II terminology of former Appendix A.

§ 148.707. One commenter asked us to require tankers to use low-sulfur fuel, and also said we should take regional air quality into account. We think this section, which is informational in nature, correctly expresses the environmental criteria contained in DWPA and allows for a balanced assessment of a proposed port's environmental impact.

§ 148.720. One commenter recommended that construction be allowed even in areas with high pollutant or hazardous material levels, if the applicant shows some good cause

and demonstrates its ability to minimize adverse environmental impacts. This would not provide adequate protection against risks to the local ecosystem, so we continue to require applicants to identify viable alternative locations for proposed ports.

§ 148.730. One commenter said former Appendix A was overbroad in how it discouraged conflict with existing or planned land use, and said we should limit our scope to conflicts that adversely affect the environment. As revised, this section contains no absolutes, but evaluates proposals on how well they accord with existing or planned land use.

§ 149.1. One commenter said this part should require each deepwater port to be equipped with an Automatic Identification System (AIS). The commenter provided no rationale. At this time we see no need to mandate the use of AIS for deepwater ports.

§ 149.10. We revised this section to refer applicants to the Coast Guard Website for approved equipment and to refer to the Marine Safety Center's approval of engineering equipment.

§ 149.15. We added this section to inform applicants and licensees of their responsibilities when considering changes to a port.

§ 149.103. One commenter recommended removing requirements for discharge containment and removal equipment, since these are addressed in facility response plans. We agree and have amended this section accordingly.

§ 149.125. We expanded this section to account for natural gas facilities and provide further guidance.

§ 149.130. We added paragraph (c) to account for the possibility of an unmanned port.

§ 149.140. We added paragraph (b) to account for the possibility of an unmanned port.

§ 149.150. Two commenters addressed this section concerning receipt of vessel oil residues. One commenter recommended deleting the section or conforming it to former 33 CFR 149.321. The second commenter said a port should be capable of receiving oil residues from all vessels servicing it and that no waivers should be granted. We have removed this section because it is unnecessary in light of the promulgation of 33 CFR part 158 (Reception Facilities for Oil, Noxious Liquid Substances, and Garbage) in 1987. Waivers and alternatives are allowed under part 158; see 33 CFR 158.150.

Subpart C (§ 149.300 *et seq.*). As noted earlier, we revised this subpart by setting out in detail provisions, originally developed for the 1999 OCS

Activities NPRM, that were only cross-referenced in the 2002 Deepwater Ports NPRM.

§ 149.304. In the 2002 Deepwater Ports NPRM we authorized the use of lifefloats as survival craft for deepwater ports. After further review, we have removed reference to lifefloats from this temporary interim rule because we find them unsuitable in terms of seaworthiness and personnel protection from the elements to operate in an exposed offshore environment.

§ 149.310. One commenter on the 1999 OCS Activities NPRM said the forerunner to this section improperly regulated workers rather than operators. Our revision of this section to make it less prescriptive eliminated the objectionable language.

§ 149.313. We modified this section as it appeared in the 1999 OCS Activities NPRM, to clarify that survival craft must be adequate to accommodate all persons authorized to berth on the facility, and to require craft to be located near the berthing area.

§ 149.314. One commenter said rescue boats should not need to meet SOLAS standards. We do not agree. Rescue boats need Coast Guard approval under approval series 160.156, and such boats meet SOLAS requirements. Deepwater ports (oil or natural gas) are located in exposed offshore locations where open and/or non-motorized boats approved under approval series 160.056 are not suitable, under 46 CFR 160.056.

§ 149.330. One commenter on the 1999 OCS Activities NPRM said that the forerunner to this section required "consequential" revision of another section, and said that the forerunner language improperly regulated workers rather than operators. We have revised this section to clarify that it is the operator who is regulated. Other revisions intended to make the temporary interim rule less prescriptive have eliminated the need for the requested consequential action. Another commenter on the 1999 NPRM said that in some circumstances deck suits provide better protection than work vests. The revised section allows the use of deck suits.

Subpart D (§ 149.400 *et seq.*). As noted earlier, we revised this subpart by setting out in detail provisions, originally developed for the 1999 OCS Activities NPRM, that were only cross-referenced in the 2002 Deepwater Ports NPRM.

§ 149.402. One commenter said Coast Guard approval for optional firefighting and lifesaving equipment is unnecessary if the equipment complies with industry standards. As explained previously, we are not ready to incorporate industry

standards in this temporary interim rule. It is long-standing Coast Guard practice to inspect critical equipment designed to provide personnel safety, whether that equipment is optional or required. In an emergency, optional equipment may be used, in which case it must perform to the same standards as required equipment. We also restructured the section for better clarity.

§ 149.411. Two commenters on the 1999 OCS Activities NPRM referred to the forerunner of this section. One made no specific comment and the other said there is no need for firemen outfits since we do not require personnel to stay and fight fires. While there are some situations in which it will be inadvisable to stay and fight a fire, there will be other times when firefighting makes sense, and in those cases firefighters should be properly outfitted. We have revised the section, however, by eliminating details in favor of a cross reference to 46 CFR 108.497.

§ 149.412. One commenter on the 1999 OCS Activities NPRM referred to the forerunner of this section, and said that requiring fire axes makes sense only if we require personnel to stay and fight fires, which we do not. While there are some situations in which it will be inadvisable to stay and fight a fire, there will be other times when firefighting makes sense, and in those cases firefighters should be properly equipped.

§ 149.413. Two commenters on the 1999 OCS Activities NPRM referred to the forerunner of this section. One said we should not require systems to be approved, because the Coast Guard has no system approval process. This is not correct. Fire extinguishing equipment is approved by the Coast Guard under its "approval series" process, *e.g.* approval series 162.036 for fixed carbon dioxide fire extinguishing systems and approval series 162.162 for engineered inert gas fire extinguishing systems. This commenter also said that fixed systems to cover smaller galley ranges would be overkill and that we should set a minimum size in paragraph (b). We think ranges of any size pose a hazard that should be addressed by a fixed system and therefore we are retaining this requirement. The second commenter implied that we should include references to fire protection requirements for crude oil and flammable liquids with low flash points. We believe the section as revised provides adequate guidance, but applicants can consult with the Coast Guard if they need additional information about protection against specific hazards.

§ 149.415. We revised this section in keeping with our overall approach in this temporary interim rule, aligning manned deepwater port fire main system requirements with the 46 CFR part 108 requirements for such systems on mobile offshore drilling units.

§ 149.418. We revised this section in keeping with our overall approach in this temporary interim rule, removing several prescriptive elements contained in the 1999 OCS Activities NPRM.

§ 149.419. One commenter on the 1999 OCS Activities NPRM asked us to allow chemical firefighting systems in addition to water-based systems. We agree that chemical firefighting systems are important and have added this section, which mandates dry chemical systems.

§§ 149.420, 149.422. One commenter on the 1999 OCS Activities NPRM's forerunners to these sections asked us to grandfather their provisions. We do not address that request in this rulemaking because the only existing deepwater port is already considered to be in compliance with the temporary interim rule, and therefore grandfathering is not a relevant concern for deepwater ports.

Subpart E (§ 149.500 *et seq.*). One commenter noted that the Aids to Navigation (ATON) provisions contained in the 2002 NPRM may be unsuitable for future deepwater ports whose structures and platforms are not all located above the surface. We agree and have revised this subpart accordingly.

§§ 149.520 through 149.565. We have revised these sections, simplifying them wherever possible by referencing 33 CFR part 67 (Aids to Navigation on Artificial Islands and Fixed Structures) which we believe provides adequate guidance.

§ 149.535. Although other sections in this subpart have been eliminated or revised (*see* the general comment for Subpart E, above), we have retained this section's requirements for a rotating beacon to distinguish the deepwater port from other offshore facilities.

§ 149.540. One commenter recommended waiving ATON requirements for a simplified port structure consisting of submerged components. We have amended this section accordingly. We also added paragraph (c) and made other changes pertaining to submerged turret loading (STL) deepwater ports, which were not contemplated when we issued the 2002 NPRM.

§ 149.550. To aid in streamlining these rules, we revised this section to require compliance with the "Navigation Rules" that specifically address these lights.

§ 149.570. We revised this section to include requirements for identifying single point moorings and submerged turret loading buoys, which are potential features of future deepwater ports.

§ 149.580. Because future deepwater ports may not have pumping structures, we reworded this section so that the radar beacon is placed on the port's highest fixed structure.

§ 149.585. One commenter recommended requiring the sounding of a fog signal only when the visibility is considerably less than the present 5 nautical miles. This requirement, for a Class "A" structure such as a deepwater port, is set by 33 CFR 67.20-10(b); hence the comment is outside the scope of this rulemaking. We substituted "sound" signal for "fog" signal in this section to be consistent with international terminology.

§§ 149.615 and 149.620. One commenter suggested that initial design phase construction drawings and specifications be sent to the Marine Safety Center (MSC) rather than to the Commandant (G-M). For administrative reasons, these drawings and specifications should come to the Commandant (G-M). Upon receipt, a copy of the application and all attachments are sent to the Marine Safety Center. We have revised 149.620 to state that the Commandant (G-M) may engage or work cooperatively with MSC in evaluating technical matters.

§ 149.620. One commenter recommended that an applicant-selected classification society review and approve engineering and technical specifications for a deepwater port concept. The Coast Guard would review firefighting and lifesaving plans. Various classification societies have recently published guidelines for offshore LNG terminals. The Coast Guard will review and may accept class society guidelines as a basis for a particular port's design, but until we have completed a review and analysis of these guidelines, we are not prepared to accept them for approval standards. Once the guidelines have been reviewed the role of classification societies in the review or approval of deepwater port plans will be determined.

§ 149.625. Five commenters asked us to modify this section as it appeared in the 2002 NPRM, to allow the use of a greater range of standards. In keeping with the overall approach we have taken in the temporary interim rule, paragraph (a) now defines the performance we expect and allows each applicant to determine how best to achieve that performance. We neither prescribe nor

preclude the use of industry or other outside standards.

§ 149.630. We deleted this section as unnecessary. Its substance is incorporated in §§ 149.640 and 149.641.

§ 149.641. One commenter on the 1999 OCS Activities NPRM was confused by our use of the term "accommodation spaces" in a forerunner to this section. We think the distinction between accommodation modules and the spaces they contain is clear from the definitions included in § 149.5. The commenter said we should limit our requirements to the location of accommodation spaces and modules, avoiding requirements on design (such as providing protection from blast effects) that were detailed elsewhere in the 1999 NPRM. We have not carried over those detailed design requirements to this temporary interim rule, and think this section properly addresses design considerations for deepwater ports. The commenter said our reference to hazardous or toxic substances in the forerunner to (b)(2) was unduly vague. Hazardous or toxic substances are those that could harm the health of a person in an accommodation space or module. Specific substances vary depending on the nature of the facility. Ports can also comply with (b)(2) by satisfying the alternative provisions now provided in paragraph (c). The commenter suggested deleting a reference to "hydrogen sulfide" in the forerunner to (b)(2); we agree that this specific Minerals Management Service-derived requirement is only needed where gas is expected to be present, and made the deletion for this temporary interim rule.

§ 149.650. We have revised this section to address novel or innovative engineering design, one of DPMA's key objectives.

§ 149.660. We adjusted the length of the continuous period required in (a), from 8 hours to 18 hours. The longer period is consistent with the requirements for non-passenger vessels on international voyages that are defined in 46 CFR 112.05-5, which was first promulgated several years after the original deepwater port regulations were issued in 1975.

§§ 149.690 through 149.692. One commenter suggested decoupling the provisions for means of escape from the 1999 OCS Activities NPRM, and said we should retain the existing ("old") part 149 requirements. We have carefully reviewed the 1999 NPRM, adopting and adapting its proposals to the Deepwater Ports context. We believe that this approach is superior to continued reliance on our 1975 regulations.

One commenter on the 1999 OCS Activities NPRM said we should revise

the forerunner to 149.691 (d) so that unmanned facilities can substitute one or more secondary means of escape for a primary means of escape. Section 149.692 (e)(2) of this temporary interim rule accomplishes what the commenter requested. We also clarify that the secondary means of escape must be located in work areas.

§ 149.693. One commenter on the 1999 OCS Activities NPRM objected to NPRM's requirement that each deepwater port have at least two personnel landings. We agree that the requirement should be modified, and have revised this section so that it generally follows current 33 CFR 143.105.

§ 149.694. One commenter on the 1999 OCS Activities NPRM asked us to consider adding "horizontal work surfaces" to the "decks" covered by a forerunner to this section. As part of our overall updating of this section, we included a reference to 33 CFR 143.110 which covers "floors" as well as decks. We think this addresses the commenter's concern.

§ 149.696. We revised this section as it appeared in the 1999 OCS Activities NPRM by substituting a reference to 46 CFR 108.235 for the NPRM's more detailed specifications; we believe the referenced statute provides adequate guidance and that this approach is in keeping with our overall goal of updating deepwater port regulations.

§ 149.697. Five commenters addressed the forerunners to this section that appeared in the 1999 OCS Activities NPRM. Two made comments directed to the specific wording of those forerunners, which they believed affected substance; our general approach to industry standards, explained above, addresses one of these comments, and minor rewordings make the other comments irrelevant to this temporary interim rule. One commenter said the section should not apply to offshore supply vessels; OSVs are not covered by this temporary interim rule so we are not addressing that comment at this time. One commenter favored an 87 decibel threshold in order to screen out noises of little concern, and favored deleting the time weighted average. This commenter also said that a new survey should be triggered by the placement of equipment near, as well as in, an affected space. Triggering events for new surveys were detailed in the 1999 NPRM, but our performance-based temporary interim rule reserves this issue for treatment in each port's operations manual (*see* § 150.15(o)). Although the 1999 NPRM used an 87 decibel figure, we have lowered this to 85 decibels, for consistency with 46 CFR

58.01–50 and IMO Resolution A.468(XII). We also are retaining the time weighted average because that methodology is consistent with those authorities. The fifth commenter said we should require noise surveys only in marginal areas where it is not clear whether noise could be a problem, and favored simplifying signage requirements for high-noise areas. We have revised the requirements that appeared in the 1999 OCS so that the operator can specify the survey methodology it chooses. We believe the wording presently required for signage meets the commenter's desire for simplicity.

§ 150.10. One commenter asked us to protect certain critical information in the operations manual from disclosure under the Freedom of Information Act. Although the draft manual submitted with an application is placed in the public docket, where it is subject to the procedural protections afforded by part 148, subpart C, the detailed operations manual required before a port begins operations is reviewed exclusively within the Coast Guard and is not made public. Another commenter said the local COTP should approve the operations manual before it is reviewed by the Commandant (G–M). We believe consistency requires review to take place at the Commandant (G–M) level, but this section indicates that the Commandant (G–M) may consult with the local Officer in Charge, Marine Inspections (OCMI). One commenter asked whether we would allow a grace period for the operator of the one existing deepwater port to prepare an operations manual that conforms to this temporary interim rule. We consider the existing deepwater port to be in compliance with this rule, so that subsequent changes to that port's operations manual will be governed by paragraph (c) of this section.

§ 150.15. Several commenters recommended that we amend these rules to be less prescriptive and more performance-based, in the spirit of the Deepwater Port Modernization Act of 1996. They specifically requested that the NPRM's detailed requirements for personnel qualifications, port communications, vessel operations, cargo transfer operations, emergency procedures, *etc.*, be eliminated in favor of a general requirement that these topics be addressed by the applicant in the port operations manual required by this section. Now that deepwater ports may include natural gas facilities, we anticipate much greater variety in their operating requirements, and we think it is appropriate to give operators flexibility in planning for how they will

address those requirements.

Accordingly we have eliminated numerous specific provisions that appeared throughout part 150 in the NPRM. Now, the operations manual will be the vehicle for describing how a port will meet the standards set for each topic. In order to accommodate this change in approach, we have regrouped and expanded the language of this section; see for instance paragraphs (j), (k), (l), (o), (p), (q), (s), (t), (u), (v), (x), and (y).

§ 150.15(c). One commenter said we should clarify engineering and construction specifications that must be met prior to licensing, and indicate that certain specifications can be provided as post-licensing conditions. We believe the revised language of this section furnishes adequate guidance as to what needs to be in the operations manual. We added the second and third sentences because schematics are critical to our understanding of engineering and construction information.

§ 150.15(d). One commenter said we should require a deepwater port to maintain radio communications with helicopters transiting the safety zone. We agree that each port should describe its procedures for maintaining communication with nearby aircraft and have revised this paragraph accordingly.

§ 150.15(h). One commenter recommended that vessel squat be factored when determining certain net under-keel clearances (UKC). Although vessel squat is not explicitly mentioned in this paragraph, and it's likely to have negligible impact, we expect it to be included in figuring net UKC and to be shown in supporting documentation.

§ 150.15(i). One commenter said that, in addition to the tanker navigation procedures discussed in this paragraph, we should require a port to "vet" calling tankers for compliance with safety and environmental standards. We think this is a common practice in the energy industry, but decline to specify a vetting requirement here. Tank ships are already subject to U.S. and international regulations. A separate requirement for deepwater port vessels would be redundant of those regulations and also of part 150's provisions for ensuring personnel safety, professional proficiency, and environmental integrity.

§ 150.15(i)(7). Two commenters said the operations manual should define the deepwater port's weather limits. One said the manual needs to address the conditions for precautionary evacuation. We believe this paragraph meets these concerns.

§ 150.15(j). Three commenters supported moving various details of personnel titles and job descriptions to the operations manual. We believe this paragraph meets these concerns.

§ 150.15(l). One commenter recommended that a Person in Charge (PIC) be required for cargo transfer operations, to align with the Oil and Hazardous Materials in Bulk and OCS regulations. The operations manual now must discuss site-specific qualifications for a PIC.

§ 150.15(o). Four commenters addressed forerunners of this paragraph that appeared in the 1999 OCS Activities NPRM. One of these said the 1999 provisions impermissibly regulated workers rather than operators, and all four requested greater flexibility in our requirements for replacing worn personnel transfer nets. Because we have rewritten this section to provide deepwater port operators with flexibility in crafting their occupational health and safety training procedures, the specific language these commenters objected to does not appear in the temporary interim rule. One commenter asked us to use the term “personnel transfer devices” instead of “personnel transfer nets.” No reason was advanced in favor of the suggestion, though we note that another commenter on the 1999 NPRM remarked (also without explanation, and without referring to specific provisions of the 1999 NPRM) that the use of swing ropes as a means of transfer between vessels and platforms on the outer continental shelf deserves more standardization and study. Due to the unspecific nature of these comments and because at this time we think “nets” is sufficiently clear, we are retaining that terminology in the temporary interim rule.

§ 150.15(u). One commenter suggested that we require the operations manual to outline training requirements for emergency equipment operators. We have amended this paragraph accordingly.

§ 150.15(v). One commenter supported inclusion in the operations manual of a deepwater port security plan, developed in collaboration with the Coast Guard. This paragraph furnishes guidance for preparing a deepwater port security plan, and we encourage collaboration in its development.

§ 150.15(y). One commenter asked us not to require duplicative environmental monitoring in areas where monitoring already takes place in connection with other offshore activities. The operations manual can identify this sort of situation and prescribe only those monitoring

measures that exceed those in use by other offshore facilities. Two commenters expressed concern over the “open-ended” nature of our requirements for environmental monitoring. We think the ongoing environmental monitoring outlined in paragraph (y) is important, but by allowing operators to set details of that monitoring in their operations manuals, we provide flexibility to address the concerns of these commenters.

§ 150.20. We added the first sentence to eliminate possible confusion between the requirements for draft and final operations manuals.

§§ 150.25 through 150.45. We revised these sections because the OCMI, not the COTP, is the proper Coast Guard official for amendments to the operations manual.

§ 150.30. Two commenters supported this section’s approach in letting the COTP (now OCMI; *see* comment for §§ 150.25 through 150.45) approve amendments to the operations manual.

§ 150.50. We revised this section to address the addition of natural gas facilities. A natural gas deepwater port that also stores oil in quantity must develop an oil response plan as well as a natural gas facility emergency plan.

§ 150.100. One commenter said we should announce Coast Guard site inspections in advance and coordinate them with submission of the port’s annual self-inspection report. As a regulatory agency, the Coast Guard reserves the right to conduct random, unannounced inspections to ensure facility compliance. However, this section does not require inspections. We have clarified this section to make clear that the OCMI may coordinate inspections with a port’s annual self-inspection.

§ 150.105. One commenter pointed out the NPRM’s inadvertent omission of paragraph (b)’s requirement for an annual self-inspection report, and another commenter asked us to clarify how to report equipment failures. We have corrected the omission, and will develop a new form, CG-5432A, that can be used for reporting self-inspections.

§ 150.110. At a commenter’s suggestion, we added this section to reinstate requirements that appear in the 1975 regulations at 33 CFR 150.119 and 150.121. We wish to clarify that applicants can use a classification society other than the American Bureau of Shipping, and that we allow interim certification of innovative single-point moorings.

Subpart C (§ 150.200 *et seq.*). We streamlined this subpart by removing many detailed requirements that no

longer reflect the variety of deepwater ports that may be anticipated. We expect port-specific details to be included in a port’s operations manual. One commenter said this subpart should allow an applicant to work with the COTP in developing personnel requirements for the operations manual. Although we do not require such consultation, it is certainly appropriate and possible for an applicant to consult the COTP during this development.

Subpart D (§ 150.300 *et seq.*). We have complied with several requests to deal with matters such as radar surveillance, communications between port and vessels, and safety zone navigation restrictions in the operations manual rather than in regulations, because, in general, we think this is port-specific information best handled in the operations manual. However, we retain certain vessel navigation requirements in 33 CFR part 150, subpart D, because they pertain to all deepwater ports.

§ 150.305. We added this section because natural gas deepwater ports can be unmanned.

§§ 150.310, 150.320. We revised these sections to reflect the possibility of an unmanned natural gas deepwater port and to broaden their scope to include areas to be avoided in addition to safety zones, which are limited by international law to 500 meters.

§ 150.325. We revised this section to reflect changes in the advance notice of arrival reporting requirements found in 33 CFR part 160 and to include areas to be avoided in addition to safety zones, which are limited by international law to 500 meters.

§§ 150.330 through 150.350, 150.380. We revised these sections to include areas to be avoided in addition to safety zones, which are limited by international law to 500 meters.

§§ 150.365 through 150.375. We eliminated these three sections that appeared in the 2002 NPRM. Personnel titles and responsibilities now will be addressed by each operator in its operations manual.

§ 150.385. We revised this section because personnel titles and responsibilities now will be addressed by each operator in its operations manual.

§ 150.405. We reworded this section to reflect the addition of natural gas deepwater ports, and substituted the reference to 33 CFR 149.650 in paragraph (b) for references to industry standards.

§ 150.420. We revised this section in light of the addition of natural gas deepwater ports by referencing 33 CFR 127.405, and to reflect the treatment of

maintenance and repair provisions in each port's operations manual.

§ 150.425. Three commenters recommended transferring oil transfer procedures in this section to the operations manual. This is appropriate because these procedures are highly port-specific, and we have amended the section accordingly.

§§ 150.430, 150.435. One commenter said that the 2002 NPRM's 150.430, concerning connections to vessels, was too prescriptive. We deleted those provisions from this temporary interim rule. The current versions of 150.430 and 150.435 were revised in light of the addition of natural gas deepwater ports and the increased role of the operations manual in defining personnel titles and responsibilities.

§ 150.445. One commenter recommended deleting this section's requirement for displacing oil with water under certain conditions. We think it is important to retain the requirement, but a port may seek a waiver from the OCMI.

§ 150.500. We reworded this section to indicate that Subpart F's focus is on specific operational subsets rather than on operations generally.

§ 150.502. One commenter on the 2002 NPRM asked us to clarify whether repairs can be made without prior Coast Guard approval. Paragraph (f), which is based on the 1999 OCS Activities NPRM, explains that emergency repairs can be made without advance notification but that other repairs affecting the performance of lifesaving equipment must be preceded by notification. One commenter on the 1999 OCS Activities NPRM said that the forerunner to paragraph (e) should clarify that the operational lifeboats or rafts must be adequate to accommodate all persons on the deepwater port. We have retained the 1999 wording because we think it is sufficiently clear and that any revision risks greater confusion.

§ 150.503. Two commenters addressed the forerunner of this section that appeared in the 1999 OCS Activities NPRM. The first recommended a 4-year limit for survival craft falls under paragraph (c) instead of 5 years as provided for by the NPRM. This is consistent with Coast Guard rules for MODUs in 46 CFR 109.301 (j)(2), with IMO MODU Code 10.18.4, and with the requirements in SOLAS 74/83, chapter III, regulation 20.4.2, and we have revised the paragraph accordingly. The second commenter said we should lengthen inspection and replacement intervals because falls usually are located well above the wave zone. We think the 1999 NPRM intervals, as revised in (c), are required

for safety and reflect the constant exposure of this equipment to the elements regardless of height above the wave zone.

§ 150.505. One commenter on the 1999 OCS Activities NPRM said that service intervals should be not less than every 5 years. This section allows a port either to follow manufacturer recommendations for intervals, or to set its own intervals in its planned maintenance program. We expect ports to set appropriate intervals, with manufacturer recommendations in mind. Ports may, but need not, agree with the commenter's suggested interval.

§ 150.514. One commenter on the 1999 OCS Activities NPRM's forerunner to this section said it needed to clarify that batteries should be replaced if their marked expiration date has passed. We have revised this section to make that point clearer.

§ 150.515. One commenter on the 1999 OCS Activities NPRM, apparently in reference to the forerunner of this section, suggested that monthly testing is excessive. We will not address the substance of this comment at this time, because neither the 1999 NPRM nor the temporary interim rule explicitly calls for monthly testing.

§ 150.517. Two commenters addressed the forerunner of this section that appeared in the 1999 OCS Activities NPRM. The first said that the "person familiar" should be the manufacturer's representative. The second said we should omit the requirement for the test supervisor's attestation. Manufacturer's representatives can be qualified to supervise tests, but we see no need to limit the pool of test supervisors to those persons. However, we retain the attestation requirement because it helps ensure that tests are supervised by persons with a proper degree of familiarity.

§ 150.518. One commenter on the 1999 OCS Activities NPRM advocated removing the requirement that a work vest, if no longer serviceable, be destroyed in the presence of a Coast Guard inspector. We have revised this section accordingly. We also reworded paragraph (a) to clarify that inspection by the owner or operator is mandatory.

§ 150.519. One commenter on the 1999 OCS Activities NPRM said weekly testing under paragraph (a) is excessive and that monthly tests would suffice. We have retained the weekly requirement because it is similar to the requirements for MODUs and cargo vessels in 46 CFR 109.211 (a)(1) and 46 CFR 97.15-30 (a). Conditions on

deepwater ports are not sufficiently different to justify lesser frequency.

§ 150.520. One commenter on the 1999 OCS Activities NPRM said we should omit the requirement for testing fire extinguishers because the discharge needed for testing would destroy the device's usefulness pending recharging. We agree this is not the intended result, and have revised this section. It now cross references 46 CFR 31.10-18, which provides test methodologies adapted to the nature of different devices.

§ 150.555. One commenter said our rule should specify equipment standards for cranes. This new section ties the operation, maintenance, and testing of cranes to 46 CFR part 109.

§ 150.601. One commenter on the 1999 OCS Activities NPRM suggested we use "hazardous conditions" in place of "hazards," because an operator can control conditions without necessarily eliminating hazards. Although the NPRM defined "hazards" so that only "hazardous conditions" were meant, in the interest of clarity we have revised this section to use the commenter's desired language. Another commenter on the 1999 NPRM said that the forerunner to this section improperly placed an employment-related duty on a "holder of a lease or permit" rather than on the employer. In the context of deepwater ports, we believe the port operator is the proper person to regulate and have worded this section accordingly.

§ 150.602. Two commenters on the 2002 NPRM supported our proposal for allowing voluntary safety and environmental management programs (SEMP) as an alternative to certain regulations on workplace safety and health, and a third commenter said we should make SEMP mandatory. We continue to see SEMP as a voluntary alternative and have added the second paragraph accordingly. One commenter on the 1999 OCS Activities NPRM reiterated its comment to the forerunner of 150.601, concerning employment-related duties, and we have revised this section as we revised 150.601.

§ 150.603. Five commenters addressed the forerunner to this section that appeared in the 1999 OCS Activities NPRM. One said it should not apply to offshore supply vessels (OSVs). OSVs are not covered by this temporary interim rule so we do not address that comment at this time. The four other commenters all said training requirements should be limited to basic safety training, and whatever is needed for the safety of others and performance of assigned duties, or else requested similar limiting language. In keeping

with this rulemaking's general approach, this section now requires training to be addressed in each port's operations manual.

§ 150.607. We reworded paragraph (b) to clarify that machinery and equipment must be either kept in proper working order or removed from the port.

§ 150.608. One commenter on the 1999 OCS Activities NPRM said that the forerunner to this section improperly placed an employment-related duty on a "holder of a lease or permit" rather than on the employer. In the context of deepwater ports, we believe the port operator is the proper person to regulate and have worded this section accordingly.

§ 150.609. Four commenters on the 1999 OCS Activities NPRM addressed the forerunner to this section. Three of these criticized the requirement that eye and face protectors carry informational markings, because markings eventually wear out. The temporary interim rule aligns our requirements with those of the Occupational Safety and Health Administration (OSHA) which are widely used in industry; we consider them sufficient for the deepwater port context. One commenter said the forerunner version regulated workers rather than operators. We have reworded this section to clarify that it is the operator that is being regulated. One commenter suggested reference to latest available standards; instead, we now require compliance with 29 CFR 1910.133, which should furnish the commenter with ample current guidance.

§ 150.610. One commenter on the 1999 OCS Activities NPRM asked that we delete the requirement that emergency equipment be positioned near the drill floor and in mudrooms. The revised language of this section continues to require positioning "where there is a reasonable probability that eye injury may occur" but, due to the expected variation in deepwater port design, our rule neither prescribes nor precludes which areas will meet that standard.

§ 150.611. One commenter on the 1999 OCS Activities NPRM said the forerunner to this section regulated workers rather than operators. We have reworded the section to clarify that it is the operator that is being regulated. Another commenter on the 1999 NPRM recommended that we set a "reasonable probability" standard for applying this section. That standard is used in 150.610 and 150.612 and we have revised this section to use that standard as well.

§ 150.612. Four commenters addressed the forerunner of this section

that appeared in the 1999 OCS Activities NPRM. One said it regulated the worker rather than the operator. To prevent confusion on that count we have reworded the section. Three commenters criticized the requirement that footwear carry informational markings, because markings eventually wear out. The temporary interim rule aligns our requirements with OSHA's, which are widely used in industry; we consider them sufficient for the deepwater port context. Two commenters asked for other substantive changes in the requirement that are no longer relevant in light of the new OSHA-referenced language.

§ 150.613. Four commenters addressed the forerunner of this section that appeared in the 1999 OCS Activities NPRM. One said it regulated the worker rather than the operator while another joined the first commenter in pointing out that workers cannot tell if they are in a qualifying area unless it is posted; we reworded the section to prevent confusion as to who is regulated. The second commenter also said a reference to 46 CFR is needed to prevent confusion or conflict with rules affecting machinery spaces on inspected vessels. We do not think confusion or conflict is likely and have not referenced 46 CFR in this section. A third commenter favored lowering the 87-decibel limit provided in the NPRM to 83 decibels, while a fourth suggested removing references in the forerunner section to time weighted averages and specific industry standards. Our adoption of an 85-decibel limit and retention of time weighted averages is explained in the discussion of 149.697 above. We have adopted the OSHA standard for this section because of its widespread use in industry.

§ 150.614. Four commenters addressed the forerunner of this section that appeared in the 1999 OCS Activities NPRM. One said it regulated the worker rather than the operator; we reworded the section to prevent confusion as to who is regulated. Three commenters said that the 1999 NPRM improperly required protection for persons who may be in a hazardous area without actually being exposed to risk. A fourth commenter also objected to the 1999 language and asked that this section address only hazards routinely protected against by industry. We agree with all four commenters that, for deepwater ports, this section should address only persons who are actually exposed to risk, and we have reworded the section accordingly. We did not adopt the fourth commenter's suggestion because the section is meant

to reach risks beyond those that are routinely protected against by industry.

§ 150.615. Two commenters addressed the forerunner of this section that appeared in the 1999 OCS Activities NPRM. Both asked for clarifying language as to which lockout and tagging procedures must be observed; we agree that for deepwater ports conjunctive and not disjunctive language is appropriate and have made the necessary revision. One commenter said the 1999 NPRM regulated the worker rather than the operator; we reworded this section to prevent confusion as to who is regulated.

§ 150.616. One commenter said the forerunner of this section that appeared in the 1999 OCS Activities NPRM improperly regulated the worker rather than the operator; we reworded the section to prevent confusion as to who is regulated. Another commenter on the 1999 NPRM said we should merely supply a "general duty clause statement" and pointed out that the 1999 tagout provisions applied only to electrical equipment. We believe the performance based language of the temporary interim rule addresses this commenter's first comment, and we reworded §§ 150.616 and 150.617 to apply to electrical, hydraulic, mechanical, and pneumatic equipment.

§ 150.617. Three commenters addressed the forerunner of this section that appeared in the 1999 OCS Activities NPRM. One said that it improperly regulated workers rather than operators; we reworded the section to prevent confusion as to who is regulated. This commenter also suggested that we require tags to conform to a specific industry standard. As discussed earlier, we are not ready to specify industry standards in this temporary interim rule. The second commenter said that the person who places the tag and the person who authorizes it should be identical. While this is generally the case, for operational flexibility we retain language from the 1999 NPRM that allows a tag to be removed by the person who placed it, as well as by that person's supervisor or by a relief person. The third commenter said we should merely supply a "general duty clause statement" and pointed out that the 1999 tagout provisions applied only to electrical equipment. We believe the performance based language of the temporary interim rule addresses this commenter's first comment, and we reworded §§ 150.616 and 150.617 to apply to electrical, hydraulic, mechanical, and pneumatic equipment.

§ 150.618. Three commenters addressed the forerunners of this section

that appeared in the 1999 OCS Activities NPRM. One said that the 1999 language improperly regulated workers rather than operators; we reworded this section to prevent confusion as to who is regulated. This commenter also suggested that engineering controls be given precedence over other measures for keeping exposure within permissible limits. We decline to adopt that suggestion because this temporary interim rule gives the operator flexibility to determine how it will implement measures that this section requires. The other commenters said that the forerunner to paragraph (a) should be broadened to cite references, other than material safety data sheets, that define permissible exposure. Our revision of (a) provides a broader basis for determining permissible exposure.

§ 150.619. Six commenters addressed the forerunners of this section that appeared in the 1999 OCS Activities NPRM. Two commenters said they were inapplicable to offshore supply vessels (OSVs), and two commenters remarked on a possible conflict with other provisions affecting inspected vessels. This temporary interim rule does not pertain to OSVs or inspected vessels so we do not address these comments at this time. One commenter said the 1999 NPRM regulated the worker rather than the operator; we reworded this section to prevent confusion as to who is regulated. Two commenters said that the 1.8 meter limit provided by this section unjustifiably sets a more stringent standard than the present 10 foot limit in 33 CFR 142.42. We adopted the new limit for consistency with OSHA standards (*see* 29 CFR 1926.501(b)(1)). One commenter objected that the 1999 language required the use of fall arrests even when there is no hazard of falling. The revised section clearly targets “risks of falling.” Three commenters suggested changes in the 1999 provisions regarding the reuse of personal fall arrest systems. We have revised this section to remove conditions required for reuse. The operations manual discussion of maintenance procedures will need to show how a system is maintained in good working condition once it has been used. One commenter found our use of the phrase “irregular surfaces” to be vague. Due to the variation we expect in the design of deepwater ports, we have not attempted a more precise definition, but the degree to which a surface’s irregularity presents a risk can be estimated by comparing the likely impact of a fall onto such a surface with the likely impact of other falls mentioned in the section, *i.e.*, falls onto

exposed moving components, electrically energized cables or connectors, or water. One commenter said the Coast Guard cannot effectively regulate fall protection using the methods described in the 1999 NPRM, and favored substituting a “general duty clause” requiring employers to develop fall protection programs in keeping with applicable industry standards and specific deepwater port needs. We have revised the 1999 NPRM’s language so that the temporary interim rule is less prescriptive and gives operators more flexibility in determining how to protect personnel from falls. One commenter asked us to consider requiring protective measures to prevent slipping in any area that is frequently wet. As revised, the temporary interim rule requires operators to take measures to control the risk of falling, tripping, or slipping due to loose material or wet conditions, including spills.

§ 150.620. Two commenters addressed the forerunners of this section that appeared in the 1999 OCS Activities NPRM. One said that the 1999 language improperly regulated workers rather than operators; we reworded this section to prevent confusion as to who is regulated. The other said this section should exempt rotating drilling equipment because proper safety training is more effective than machine guards. For the deepwater port context, we believe the revised wording of this section gives operators sufficient flexibility in how they provide adequate protection.

§ 150.621. Four commenters addressed the forerunner of this section that appeared in the 1999 OCS Activities NPRM. Three commenters suggested referencing an industry standard; as explained earlier we are not ready to include industry standards in this temporary interim rule. Two commenters said the 1999 language required tagout of slings but did not detail instructions for tagout. As revised, this section now references 29 CFR 1910.184, which describes the information needed when tagging defective slings. Two commenters said that the size and grade information we called for in 1999 is irrelevant. We have revised this section accordingly. One commenter said our rule should merely provide a general duty statement, and that current industry standards allow slings to sustain some damage before they are replaced. This section as revised is general in its terms, and the regulation it references (29 CFR 1910.184) provides clear guidance as to the type of damage necessitating immediate removal of a sling from service.

§ 150.622. Two commenters addressed the forerunner of this section that appeared in the 1999 OCS Activities NPRM. Both commenters objected to referencing electrical tagout requirements in a way that implied broader applicability. For deepwater ports, we think our intention for warning signs is adequately met by referencing OSHA regulations at 29 CFR 1910.144 and 1910.145, and thus we have deleted the objectionable language. One commenter asked us to reference industry standards. As explained earlier, we are not ready to reference specific industry standards in this temporary interim rule. The second commenter asked us to grandfather existing signs. Because the only existing deepwater port is in compliance with this temporary interim rule, grandfathering is not pertinent in the deepwater port context.

§ 150.623. One commenter on the 2002 NPRM said that the incorporation by reference of 1999 OCS Activities NPRM provisions meant that operators had to insure the presence of intermediate level emergency medical technicians during confined space entry operations, and objected to that requirement. In keeping with our overall performance-based approach to this temporary interim rule, we now require that the operator address in its operations manual any personnel issues related to confined space entry operations.

Ten commenters addressed the forerunners of this section that appeared in the 1999 OCS Activities NPRM. Seven commenters said all or substantial portions of our confined space safety proposals were excessive or unnecessary and should be replaced with industry standards; one commenter said the 1999 proposals would significantly increase the regulatory burden on industry with no improvement in and possible degradation to safety performance. We disagree with these comments. As noted in the 1999 NPRM at 64 FR 68430, a National Offshore Safety Advisory Committee (NOSAC) working group recommended that OCS activities rules cover work in confined spaces, and be based on Occupational Safety and Health Administration (OSHA) rules in 29 CFR 1910.146, 29 CFR part 1915, and on 46 CFR subpart 91.50. We substantially consolidated and reworded the 1999 confined space provisions in the interest of providing deepwater port operators with increased flexibility. This eliminated the specific requirements that some of these commenters found objectionable. Nevertheless, we continue to follow the

NOSAC recommendation and require port operators to structure their confined space safety programs consistently with OSHA standards. One commenter said these provisions should be inapplicable to offshore supply vessels, while another said these provisions were inadequate to protect workers on OSVs. This temporary interim rule does not apply to OSVs so we do not address these comments at this time. Three commenters requested changes in specific requirements that have been eliminated from this temporary interim rule in keeping with our performance based approach for deepwater ports.

§ 150.624. Three commenters addressed the forerunner of this section that appeared in the 1999 OCS Activities NPRM. One said it was inapplicable to offshore supply vessels. This temporary interim rule does not apply to OSVs so we do not address that comment at this time. The second commenter asked us to clarify when protective measures must be taken so that training programs could be tailored accordingly, and the third commenter suggested we add more detailed guidelines and procedures. We have revised this section so that it references an OSHA rule, 29 CFR 1910.1030, which provides detailed guidance for making exposure determinations and for protective measures, and which should address these commenters' concerns.

§ 150.715(b). We amended this paragraph relative to single-point moorings, in order to avoid confusing the treatment appropriate for conventional (surface) single-point moorings with the treatment of submerged turret-loading system buoys.

§ 150.720. We reworded this section for clarity.

§ 150.805. We revised the point-of-contact from the Commandant (G-M) to the OCMI because any site inspection will take place at the local level.

§ 150.815. We revised the description of personal injuries that require filing a casualty report to better align the requirements for deepwater ports with those for reporting marine casualties on vessels under 46 CFR 4.05-1.

§ 150.820. We changed the time for filing a written report from 10 days to 5 days, better aligning this section with the requirements for vessel marine casualty reports in 46 CFR 4.05-10.

§ 150.845. We removed specific positions from this section because such port-specific information will now be specified in the operations manual.

Subpart J (§ 150.900 *et seq.*). We broadened these sections to include no-anchoring areas and areas to be avoided, because international law limits safety

zones to 500 meters. We anticipate that deepwater ports may want to establish larger zones in which traffic can be made safe, through advisory if not mandatory means.

Regulatory Evaluation

This temporary interim 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 Homeland Security (DHS). We expect the economic impact of this temporary interim rule to be so minimal that a full Regulatory Evaluation is unnecessary.

The Coast Guard is revising the regulations governing deepwater ports. They were written at a time when no deepwater ports existed on which to base regulations. Furthermore, the 1975 regulations applied only to deepwater ports that handle oil. This temporary interim rule is necessary to update the regulations with current technology, industry standards, and to incorporate recent statutory changes adding natural gas to the Deepwater Port Act. It will also align deepwater port regulations with relevant safety regulations that have been proposed for other fixed offshore facilities regulated under 33 CFR Subchapter N.

We expect the costs of this temporary interim rule to have a nominal effect on the owners and operators of deepwater ports. Currently, there is only one licensed and operating deepwater port, the Louisiana Offshore Oil Port (LOOP). We consider LOOP to be in compliance with the provisions of this rule. LOOP represents industry standards for deepwater ports, aside from some operating and firefighting differences relevant to natural gas deepwater ports and small unmanned deepwater ports.

Based upon discussion with industry, we anticipate fewer than 10 deepwater ports will be licensed and operating within the next 10 years. We expect that these new entrants will follow existing industry standards and, therefore, will incur at most the same costs as the existing compliant deepwater port. We assume that no deepwater port will be larger or more extensive than LOOP, and therefore none will incur any additional costs. We also assume that the design and construction of new deepwater ports (manned or, to the extent applicable, unmanned) will

follow the industry standard for manned deepwater ports.

The temporary interim rule is also consistent with the deepwater port industry's request to have its regulations aligned with the current industry standards and future OCS regulations. Hence, the benefits are the result of updating and removing any regulations that are obsolete or unnecessary.

We expect no new collection of information burden to be placed on the affected entities because industry is already compliant with safety and training reporting activities. The Coast Guard considers that the reporting requirements established by current industry practice will aid its ability to enforce regulations, thereby promoting the safety of life and property on deepwater ports. Furthermore, by recording training and safety inspection information, deepwater ports will increase their own safety level by improving accident readiness, noise level awareness, and lifesaving equipment preparation.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601-612), we have considered whether this temporary interim rule will 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 entity composed of large multinational corporate owners that operates the existing deepwater port, LOOP. The North American Industry Classification System (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 with large corporate ownership and, thus, will not be small businesses.

Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this temporary interim rule will 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 will 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 temporary interim rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule will 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.

Collection of Information

This temporary interim rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

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 temporary interim rule under that Order and have determined that it does not have implications for federalism. This rule 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 beyond State seaward boundaries, this rule will 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 temporary interim rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Indian Tribal Governments

This temporary interim rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does 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.

Energy Effects

We have analyzed this temporary interim 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. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Taking of Private Property

This temporary interim rule will not affect 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 temporary interim 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 temporary interim 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.

Environment

We have considered the environmental impact of this temporary interim rule and concluded that, under figure 2–1, paragraphs (34)(a), (c), (e), and (i), of Commandant Instruction M16475.ID, this rule is categorically excluded from further environmental documentation. The environmental impact associated with requiring additional equipment, training, safety inspections and recordkeeping under this rule will have an insignificant impact on the environment and will benefit the environment by requiring

safe operations of deepwater ports. The environmental impact of each deepwater port applicant 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, 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 revises 33 CFR chapter I, subchapter NN, as follows:

SUBCHAPTER NN—DEEPWATER PORTS

PART 148—DEEPWATER PORTS: GENERAL

Subpart A—General

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Authority: 33 U.S.C. 1504; Department of Homeland Security Delegation No. 0170.1 (75).

Subpart A—General

§ 148.1 What is the purpose of this subchapter?

This subchapter prescribes regulations for the licensing, construction, design, 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 delegations from the Secretary of Homeland Security and the Secretary of Transportation, the Coast Guard and the Maritime Administration (MARAD) coordinate with each other in processing applications for the issuance, transfer, or amendment of a license for the construction and operation of a deepwater port. MARAD is responsible for issuing, revoking, and reinstating deepwater port licenses. MARAD also has authority over the approval of fees charged by adjacent coastal States and certain matters relating to international policy, civil actions, and suspension or termination of licenses. The Secretary of Transportation has delegated authority over pipeline matters to the Research and Special Programs Administration (RSPA).

§ 148.5 How are terms used in this subchapter defined?

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 Administrator of the Maritime Administration 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://cgmix.uscg.mil/Equipment>.

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

Area to be avoided means a routing measure comprising an area within defined limits in which either navigation is particularly hazardous or it is exceptionally important to avoid casualties and which should be avoided by all ships or certain classes of ships. An area to be avoided may be either mandatory, where navigation is prohibited or subject to conditions imposed by competent authority, or recommendatory, in which ships should navigate with caution in light of the specially hazardous conditions presented. In either case, the nature of the area (whether mandatory or recommendatory) will be identified to mariners.

Barrel means 42 U.S. gallons (159 liters) at atmospheric pressure and 60° Fahrenheit (15.56° 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.

Certified Industrial Hygienist means an industrial hygienist who is certified by the American Board of Industrial Hygiene.

Certified Marine Chemist means a marine chemist who is certified by the National Fire Protection Association.

Citizen of the United States means:

- (1) Any person who is a United States citizen by law, birth, or naturalization;
- (2) Any state, any agency of a State or a group of States; or
- (3) Any corporation, partnership, or other association:

(i) That is organized under the laws of any State;

(ii) Whose president, and chairman of the board of directors, and general partners or their equivalents, are persons described in paragraph (1) of this definition; and

(iii) That has no more of its directors who are not persons described in paragraph (1) of this definition than constitute a minority of the number required for a quorum to conduct the business of the board of directors.

Coastal environment means the coastal 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, but is not limited to, transitional and intertidal areas, bays, lagoons, salt marshes, estuaries, and beaches; 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.

Confined space means a space that may contain a dangerous atmosphere, including a space that:

- (1) Has poor natural ventilation, such as a space with limited openings (e.g., cofferdam, double bottom tank); or
- (2) Is not designed for continuous occupancy by personnel.

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, fabrication, laying of pipe, pile driving and bulk heading 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.

Dangerous atmosphere means an atmosphere that may expose personnel to the risk of death, incapacitation, injury, or acute illness or may impair ability to escape from the atmosphere unaided.

Deepwater port means any fixed or floating manmade structures other than a vessel, or any group of structures, located beyond State seaward boundaries and that are used or intended for use as a port or terminal for the transportation, storage, or further handling of oil or natural gas for transportation to any State, except as otherwise provided in the Deepwater Port Act of 1974, as amended, and for other uses not inconsistent with the purposes of that Act, including transportation of oil or natural gas from the United States outer continental shelf. The term includes all components and equipment, including pipelines, pumping stations, service platforms, buoys, mooring lines, and similar facilities to the extent they are located seaward of the high water mark. In the case of natural gas, the term includes all components and equipment, including pipelines, pumping or compressor stations, service platforms, buoys, mooring lines, and similar facilities which are proposed and/or approved for construction and operation as part of the deepwater port, to the extent that they are located seaward of the high water mark and do not include interconnecting facilities. A deepwater port shall be considered a “new source” for purposes of the Clean Air Act, as amended (42 U.S.C. 7401 *et seq.*), and the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251 *et seq.*).

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

Emergency medical technician (EMT) means a person trained and certified to appraise and initiate the administration of emergency care for victims of trauma or acute illness before or during transportation of the victims to a health care facility via ambulance, aircraft or vessel.

Engineering hydrographic survey means a detailed geological analysis of seabed soil samples performed to determine the physical composition (e.g., mineral content, etc.) and structural integrity for the installation of offshore components and structures.

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 or natural gas 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".

Hot work means work that produces heat or fire, such as riveting, welding, burning, or other fire or spark producing operations.

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

Marine site means the area in which the deepwater port is located, and includes the safety zone, attendant ships' routes, anchorages and all areas seaward of the high water mark in which associated components and equipment of the deepwater port are located.

Maritime Administration (or *MARAD*) means the Administrator of the Maritime Administration or that person's designees.

Metering platform means a manned or unmanned platform consisting of either a fixed or floating structure that serves as an interchange site for controlling the rate of transfer of natural gas from vessel to pipeline.

Natural gas means either natural gas unmixed, or any mixture of natural or artificial gas, including compressed or liquefied natural gas.

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.

No anchoring area means a routing measure comprising an area within defined limits where anchoring is unsafe, unstable, or particularly hazardous or could result in unacceptable damage to the marine environment. Anchoring should be avoided by all ships or certain classes of ships in a no anchoring area.

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.

Offshore competent person means an individual trained and designated by his or her employer in matters relating to confined-space pre-entry testing and certification at a deepwater port, prior to entry. An offshore competent person should demonstrate proficiency in the following criteria—

- (1) Hazard description and recognition;
- (2) Hazard evaluation and measurement;
- (3) Hazard prevention;
- (4) Control and elimination; and
- (5) Practical application simulation.

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

Operator means the person who is licensed under 33 U.S.C. 1503 to own, construct, and operate a deepwater port, or that person's designee.

Person means an individual, a public or private corporation, a partnership or other association, or a government entity.

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.

Pumping platform complex means a "platform" or a series of interconnected

"platforms", exclusive of a deepwater port, consisting of one or more single point moorings (SPM) or submerged turret loading buoys (STL) that can pump oil or natural gas and that has one or more of the following features or capabilities:

- (1) Can handle the mooring and loading of small "vessels";
- (2) Has berthing and messing facilities; and
- (3) Has a landing area for helicopters.

Reconnaissance hydrographic survey means a scientific study of fresh and salt-water bodies, currents and water content, cultural resources and seabed soils. A visual representation of the survey findings is normally depicted on a chart of the examined area.

Routing measures means any system of one or more vessel routes or routing schemes aimed at reducing the risk of casualties. It includes traffic separation schemes, two-way routes, recommended tracks, areas to be avoided, inshore traffic zones, roundabouts, and deepwater routes.

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

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

Single point mooring-oil transfer system (SPM-OTS) or single point mooring-natural gas transfer system (SPM-NGTS) means the part of the oil or natural gas 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 vessel working for a licensee at a deepwater port or cleared by a licensee to service a tanker calling at a deepwater port, and includes a:

- (1) Tug;
- (2) Line-handling boat;
- (3) Crew boat;
- (4) Supply vessel;
- (5) Bunkering vessel;
- (6) Barge; or
- (7) Other similar vessel.

Survival craft means a craft capable of sustaining the lives of persons in distress after abandoning a deepwater port. The term includes lifeboats, life rafts, buoyant apparatus, and survival capsules. 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 or natural gas.

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.

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 information required by paragraphs (a) through (cc) of this section.

(a) For each applicant, affiliate, and consultant:

(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 applicant's and each affiliate's history for the last 5 years, including:

(i) Any bankruptcy filing, their dates, and statuses in the event the activity results in reorganization;

(ii) Any violations of State or Federal laws; and

(iii) Outstanding litigation that relates to, or could materially affect, information in the license application; and

(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) *United States citizenship.* (1) As used in this paragraph (d) the terms "president," "chairman," "directors," and "board of directors" (or "board") refer to those officers and boards or their equivalents by whatever means they may be known. References to "charters," "certificates," or other documents refer to legally sufficient documents by those names or their equivalents.

(2) If the applicant is an individual citizen of the United States by law, birth, or naturalization, or a group of such individuals, submit an affidavit of U.S. citizenship from each individual.

(3) If the applicant is a State agency of a State, or a group of states, submit the law or laws authorizing the applicant to undertake the operations detailed in the application.

(4) If the applicant is a private corporation, submit its current charter or certificate of incorporation; its current by-laws; and affidavits of citizenship (U.S. or foreign) from its president, chairman of the board of directors and each director.

(5) If the applicant is a partnership or association not formed or owned solely by individual citizens of the United States, submit its certificate of formation; its partnership agreement or articles of association; its current by-laws; the minutes of its first board meeting; and affidavits of citizenship (U.S. or foreign) from the president and each director.

(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 with an ownership interest in the applicant of greater than 3 percent, and affiliates which have a direct contractual relationship with the deepwater port:

(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; provided, however, that the Commandant (G-M), in coordination with MARAD, may waive this requirement upon finding that the affiliate does not in the normal course of business produce audited statements and is part of a larger corporate group whose audited statement provides sufficient information to support an adequate assessment of the affiliate's relationship with and impact on the applicant; and

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

(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 or natural gas 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; and

(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) 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 or natural gas, 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. If crude oil is the only product the port is designed to transport, the throughput report may be limited to reporting crude oil;

(ii) Gasoline;

(iii) Jet aviation fuel;

(iv) Distillate fuel oils;

(v) Other refinery products; and

(vi) Natural gas.

(h) *Construction contracts and construction-related 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 construction-related studies used by the applicant.

(3) The identity of each contractor, if known, that will construct or install the deepwater port or a portion of the port, including each firm's:

(i) Name;

(ii) Address;

(iii) Citizenship;

(iv) Telephone number; and

(v) Qualifications.

(i) *Compliance with Federal water pollution requirements.* (1) Evidence, to the extent available, 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. If complete information is not available by the time MARAD must either approve or deny the application under 33 U.S.C. 1504(i)(1), the license for the deepwater port is conditioned upon the applicant demonstrating 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, and pertinent information (e.g., plume modeling) related to the certification.

(j) *Coastal zone management.* A request for 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 must 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; and

(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.

(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 and associated components seaward of the high water mark only, if the proposal does not involve a connected action (i.e., installation of new pipeline extending in shore of the state boundary line);

(ii) Recommended ships' routing measures and proposed vessel traffic patterns in the port area, including aids to navigation;

(iii) Recommended anchorage areas and, for support vessels, mooring areas; and

(2) A reconnaissance hydrographic survey of the proposed marine site. This survey should provide data on the water depth, prevailing currents, cultural resources, and a general characterization of the sea bottom. A requirement to submit an engineering hydrographic survey of the final marine site will be imposed as a condition in the license. The latter survey will require more extensive analysis of the soil and detailed study to determine its physical composition (i.e., minerals), and if the sea bottom can support fixed components comprising a deepwater port. The applicant may submit existing data, gathered within the previous 2 years, but it must be supplemented by field data for the specific locations in which a high degree of variability exists.

(n) *Soil data.* An analysis of the general character and condition of the ocean bottom, sub-bottom, and upland soils throughout the marine site. The applicant may use existing data, so long as it was collected within the last 2 years and continues to provide accurate information about conditions throughout the site. If not, a new survey must be completed to provide supplemental data. 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; and

(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) *Archeological information.* An analysis of the information from the reconnaissance hydrographic survey by a qualified underwater archeologist to determine the historical or other significance of the area where the site evaluation and pre-construction testing activities were conducted. This analysis must meet standards established by the Mineral Management Service for activities on the Outer Continental Shelf and include the areas potentially affected by the deepwater port, other associated platforms, and its pipeline routes.

(p) *Vessel operational information.* Description of information, to be provided in the operations manual, pertaining to vessel operations, vessel characteristics and weather forecasting.

(q) *Information 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 this 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.

(r) *Information 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 this 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 of the following equipment to be installed:

- (i) Navigational lighting;
- (ii) Safety equipment;
- (iii) Lifesaving equipment;
- (iv) Firefighting equipment;
- (v) Pollution prevention equipment (response equipment will be outlined in the facility response plan); and
- (vi) Waste treatment equipment.

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

- (i) The cargo pumping equipment;
 - (ii) The cargo piping system;
 - (iii) The control and instrumentation system; and
 - (iv) Any associated equipment, including oil or natural gas-throughput-measuring equipment, leak-detection equipment, emergency-shutdown equipment, and the alarm system.
- (7) The personnel capacity of each deepwater port pumping platform complex.

(s) *Information on offshore pipelines.*

(1) A description and preliminary design drawing of the marine pipeline, including:

- (i) Size;
- (ii) Throughput capacity;
- (iii) Length;
- (iv) Depth of cover; 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.

(t) *Information on onshore components.* The information required by paragraphs (t)(1) through (t)(3) must be supplied to the extent known by the applicant.

(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. Crude oil or natural gas gathering lines and lines wholly within a

deepwater port must be included in data on onshore components only if specifically required. 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 facilities that will be served by the port, including:

- (i) Onshore pipelines;
- (ii) Storage facilities;
- (iii) Refineries;
- (iv) Petrochemical facilities; and
- (v) Transshipment facilities.

(3) A copy of all proposals or agreements with existing and proposed refineries that will receive oil transported through the deepwater port, the location and capacity of each such refinery and the anticipated volume of such oil to be refined by each such refinery to the extent known by the applicant.

(u) *Information on miscellaneous components.* (1) 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.

(2) A description of the radar navigation system to be used in operation of the deepwater port outlined in the operations manual.

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

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

(5) A description and location of shore-based support facilities, if any, to be provided for vessels described in paragraph (u)(4) of this section; or that serve as offices or facilities in support of the deepwater port operations.

(6) A copy of the actual radio station license, or if not available, the application sent to the Federal Communications Commission.

(v) *Construction procedures.* A description of the method and procedures to be used in constructing each component of the deepwater port (e.g., shore-side fabrication, assembly and support), including anticipated dates of completion for each specific component during each phase of construction.

(w) *Operations manual.* A draft of the operations manual for the proposed port containing the information under § 150.15 of this chapter must demonstrate the applicant's ability to operate the port safely and effectively. To the extent circumstances are similar, this demonstration can be in the form of evidence, appended to the draft operations manual, of the applicant's participation in the safe and effective

management or operation of other offshore facilities (for example, evidence of compliance with Mineral Management Service requirements for those facilities). If the information required for the manual is not available, state why it is not and when it will be available.

(x) *Environmental evaluation.* An analysis, sufficient to meet the requirements of the National Environmental Policy Act, and as outlined in subpart G of this part, of the potential for impacts on the natural and human environments, including sufficient information to comply with all applicable Federal, tribal, and state requirements for the protection of the environment.

(y) *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) Color;
- (ii) Characteristic;
- (iii) Effective intensity;
- (iv) Height above water; and
- (v) General description of illumination apparatus.

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

(4) For each proposed buoy:

- (i) Shape;
- (ii) Color;
- (iii) Number or letter;
- (iv) Depth of water in which located; and

(v) General description of any light or sound signal apparatus on the buoy.

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

(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 MARAD 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. The issuance of the permit demonstrates that all potential water discharges have been satisfactorily analyzed and water quality control measures implemented to mitigate discharges to meet NPDES.

(aa) *Placement of structures and the discharge of dredged or fill material.* The information required to obtain 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 MARAD, 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 Commandant (G–M) may require the applicant or the applicant's affiliates to make available for Coast Guard examination, under oath or for interview, persons having, or believed to have, necessary information.

(c) 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), in coordination with MARAD, 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 Commandant (G–M) may recommend to the Administrator of the Maritime Administration that the Administrator either not approve the application or suspend it indefinitely. The deadline for the Administrator'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 in the **Federal Register**. The request is considered before any final determination is made.

(d) Commandant (G–M) will consider whether:

(1) The information requested is essential for processing the license application; and

(2) The time and effort required by the applicant in gathering the information will result in an undue delay in the application process.

(e) Commandant (G–M) may consult with the applicant prior to issuing a determination on the request for additional information.

§ 148.110 How do I prepare my application?

(a) Any person may confer with the Commandant (G–M) concerning requirements contained in this rule for the preparation of an application or the requirements of this subchapter.

(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; or

(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 each copy 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 described in paragraphs (a) through (c).

(a) Six printed copies (and an electronic version), to the Commandant (G–MSO), 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/>.

(c) The Commandant (G–MSO) may require the applicant to supply additional printed copies for distribution to Federal, tribal, and state regulatory agencies involved in reviewing the application.

§ 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. Commandant (G–M) will periodically advise the applicant of the status of expenses incurred during the application process.

(c) Additional costs attributable to efforts to process a deepwater port license application will be paid by the applicant. These additional costs must be submitted to the Commandant (G–M) when they are assessed.

(d) 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. It includes the procedures for maintaining the docket, designating adjacent coastal States, holding informal and formal public hearings, and approving or denying an application.

§ 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 the 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 applicable NEPA documents 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 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

(2) 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:

(a) Each Federal agency with jurisdiction over any aspect of ownership, construction, or operation of deepwater ports. These include the Environmental Protection Agency, the Departments of Commerce, Defense, Energy, Interior and State, and relevant State environmental and natural resources protection agencies.

(b) 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 the changes or additional information in the manner set forth in 148.115 of this part.

§ 148.213 How do I withdraw my application?

The applicant may withdraw an application at any time before the proceeding is terminated by delivering or mailing notice of withdrawal to the Commandant (G–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 contain the information required in paragraphs (a) through (e) of this section.

(a) Signature of the highest official of the port submitting the request;

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

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

(d) 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;

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

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

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

§ 148.217 How can a State be designated as an adjacent coastal State?

(a) Adjacent coastal States are named in the notice of application published in the **Federal Register**. However, a State not named as an adjacent coastal State in the notice may request to be designated as one if the environmental risks to it are equal to or greater than the risks posed to a State directly connected by pipeline to the proposed deepwater port.

(b) The request must:

(1) Be submitted in writing to the Commandant (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 an amount 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, shall publish 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 meeting(s) 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 the information that the report must contain.

Formal Hearings

§ 148.228 What if a formal evidentiary hearing is necessary?

(a) After all public meetings under 148.222 are concluded, the Commandant (G–MSO), 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 will hold at least one formal evidentiary hearing under 5 U.S.C. 554 in the District of Columbia.

(c) The Commandant (G–MSO) files a request for assignment of an administrative law judge (ALJ) with the ALJ Docketing Center. The Chief Administrative Law Judge designates an 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 Administrator of the

Maritime Administration 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 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 10 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 may 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 do not use this form, the proposed subpoena must contain:

(1) The docket number of the proceedings;

(2) The captions "Department of Homeland Security," "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 (h) 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 to be placed into the docket.

(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?

(a) In 33 U.S.C. 1504, the Deepwater Port Act provides strict timelines for action on a license application, which if closely observed can lead to action in just under 1 year. The Coast Guard can recommend that MARAD suspend the process if an applicant fails to provide timely information or requests additional time to comply with a request.

(b) The Coast Guard must conduct public hearings in each adjacent Coastal State within 240 days of publication of the notice of receipt of a deepwater port application.

(c) An application must be approved or denied within 90 days after the close of the public hearing period specified in paragraph (b) of this section.

§ 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, comments from Federal agencies and adjacent coastal States must be received by the Commandant (G–M) within 45 days after the close of the public hearing period specified in § 148.276(b). Separate comment periods will apply to the review of documents created during the NEPA process. Both Commandant (G–M) and MARAD review the comments received.

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

§ 148.279 What are the criteria for approval or denial of an application?

The criteria for approving or denying a license application appear in 33 U.S.C. 1503.

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

(a) When more than one application is submitted for an oil deepwater port for the same application area under 33 U.S.C. 1504(d), only one application is approved. 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 that is:

(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; and then

(3) Any other applicant.

(b) MARAD may also approve one of the proposed deepwater ports if it determines that that port will best serve the national interest. In making this determination, MARAD considers:

(1) The degree to which each deepwater port will affect the environment, as determined under the review criteria in subpart G 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.

(c) This section does not apply to applications for natural gas deepwater ports.

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

The Commandant (G–M) recommends to MARAD that the application process be suspended before the application is approved or denied if:

(a) All applications are withdrawn before MARAD 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, as per § 148.107.

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 information about the licensee and the port, and conditions of operation that are set by MARAD. Licenses are issued in conformance with the Deepwater Ports Act of 1974, as amended, and with rules and policies of MARAD that implement that Act.

§ 148.307 Who may consult with the Commandant (G–M) 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) 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 MARAD; or

(b) It is surrendered by the owner.

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

(a) MARAD may amend, transfer, or reinstate a license if it 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?

MARAD 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.

§ 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; and

(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 magneto-metric 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; and

(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; and

(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; 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) will consult 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 or Adjustments to Requirements in This Subchapter

§ 148.500 What does this subpart do?

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

§ 148.505 How do I apply for an exemption?

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

(b) The petition must be submitted in writing to the Commandant (G–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) may recommend that MARAD allow an exemption if he or she determines that:

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

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

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

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

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

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

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

§ 148.600 What is the limit of financial liability?

The financial limit for liability for deepwater ports is set in accordance with section 1004 of the Oil Pollution Act of 1990 (33 U.S.C. 2704).

§ 148.605 How is the limit of liability determined?

(a) The Coast Guard may lower the \$350,000,000 limit of liability for deepwater ports set by 33 U.S.C. 2704(a)(4), pursuant to paragraph (d) of that section.

(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 that may take place concurrently with the processing of the deepwater port license application.

Subpart G—Environmental Review Criteria for Deepwater Ports

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

Nothing in this subpart supersedes any Federal, tribal, or State requirements for the protection of the environment. The applicant must prepare and submit applications to each respective agency that requires a permit or license to operate the port. A list of Federal and State agencies that require certification includes but is not limited to the Environmental Protection Agency (for clean air and clean water permits), the Research and Special Programs Administration (Office of Pipeline Safety) or the Mineral Management Service (or both) for pipeline approvals, and the appropriate state environmental agency.

§ 148.702 How were the environmental review criteria developed?

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

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

(b) Department of Transportation (DOT) Order 5610.10C (Procedures for Considering Environmental Impacts); and

(c) U.S. Coast Guard Instruction M16475.1D (National Environmental Policy Act Implementing Procedures and Policy for Considering Environmental Impacts).

§ 148.705 What is determined by the environmental evaluation?

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

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

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

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

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

(4) Shore based construction and fabrication sites;

(5) Shore side supporting facilities (if appropriate) for the proposed location; and

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

(c) The criteria are also applied in a manner that takes into account the cumulative effects of other reasonably foreseeable actions as outlined in § 148.708.

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

The license application will be reviewed for the deepwater port's effects on the environment and for the environment's effects on the port and any of its shore side support facilities. The environmental evaluation will be applied to the phases of construction, operation, and decommissioning of the proposed location and at least one alternative site. The evaluation will determine:

(a) The effect on the environment including but not limited to impacts on endangered species; essential fish habitat; marine sanctuaries; archaeological, cultural and historic sites; water; air; coastal zone management; coastal barrier resources; wetlands; and floodplains;

(b) The effect on oceanographic currents and wave patterns;

(c) The potential risks 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; and

(d) The effect on human health and welfare, including socioeconomic impacts, environmental justice and protection of children from environmental health and safety risks.

§ 148.708 Must the applicant's proposal reflect potential regulations?

Although a regulation is of no effect until it has been officially promulgated, to minimize the subsequent impact that potential regulations may have on a licensee, an applicant can and should reflect reasonably foreseeable environmental regulations in planning, operating, and decommissioning a deepwater port.

§ 148.709 How are these criteria reviewed and revised?

The Commandant (G–M) periodically reviews and may revise these criteria. Reviews and revisions are conducted in accordance with 148.700 of this subpart. The criteria established are consistent with the National Environmental Policy Act (42 U.S.C. 4321–4347).

§ 148.710 What environmental conditions must be satisfied?

(a) MARAD may issue a license to construct a deepwater port under the Act, with or without conditions, if certain specified conditions are met. The relevant environmental considerations include, but are not limited to the following:

(1) 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; and

(2) Under the environmental review criteria in § 148.707 of this subpart, the applicant has demonstrated that the deepwater port will be fabricated, constructed, operated, and decommissioned 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 or environmental assessment 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.

§ 148.715 How is an environmental review conducted?

The environmental review of a proposed deepwater port and reasonable alternatives consists of Federal, tribal, state, and public review of the following two parts:

- (a) An evaluation of the proposal's completeness of environmental information and quality of assessment, probable environmental impacts, and identification of procedures or technology that might prevent or minimize probable adverse environmental impacts; and
- (b) An evaluation of the effort made under the proposal to prevent or minimize its probable environmental impacts. This evaluation will assess the applicant's consideration of the criteria in §§ 148.720 through 148.740 of this subpart.

§ 148.720 What are the siting criteria?

In accordance with § 148.715(b), the proposed and alternative sites for the deepwater port will be evaluated on the basis of how well each:

- (a) Optimizes location to prevent or minimize detrimental environmental effects;
- (b) Minimizes the space needed for safe and efficient operation;
- (c) Locates offshore components in areas with stable sea-bottom characteristics;
- (d) Locates onshore components where stable foundations can be developed;
- (e) Minimizes the potential for interference with its safe operation from existing offshore structures and activities;
- (f) Minimizes the danger posed to safe navigation by surrounding water depths and currents;
- (g) Avoids extensive dredging or removal of natural obstacles such as reefs;
- (h) Minimizes the danger to the port, its components, and tankers calling at the port from storms, earthquakes, or other natural hazards;
- (i) Maximizes the permitted use of existing work areas, facilities, and access routes;
- (j) Minimizes the environmental impact of temporary work areas, facilities, and access routes;

(k) Maximizes the distance between the port and its components and critical habitats including commercial and sport fisheries, threatened or endangered species habitats, wetlands, floodplains, coastal resources, marine management areas, and essential fish habitats;

(l) Minimizes the displacement of existing or potential mining, oil or gas production or transportation uses;

(m) Takes advantage of areas already allocated for similar use, without overusing such areas;

(n) Avoids permanent interference with natural processes or features that are important to natural currents and wave patterns; and

(o) Avoids dredging in areas where sediments contain high levels of heavy metals, biocides, oil or other pollutants or hazardous materials and in areas designated wetlands or other protected coastal resources.

§ 148.722 Should the construction plan incorporate best available technology and recommended industry practices?

Each applicant must submit a proposed construction plan. It must incorporate best available technology and recommended industry practices as directed in 148.730.

§ 148.725 What are the design, construction and operational criteria?

In accordance with 148.720(b), the deepwater port proposal and reasonable alternatives will be evaluated on the basis of how well they:

- (a) Reflect the use of best available technology in design, construction procedures, operations, and decommissioning;
- (b) Include safeguards, backup systems, procedures, and response plans to minimize the possibility and consequences of pollution incidents such as spills and discharges, while permitting safe operation with appropriate safety margins under maximum operating loads and the most adverse operating conditions;
- (c) Provide for safe, legal, and environmentally sound waste disposal, resource recovery, affected area reclamation, and enhanced use of spoil and waste;
- (d) Avoid permanent interference with natural processes or features that are important to natural currents and wave patterns;
- (e) Avoid groundwater drawdown or saltwater intrusion, and minimizes mixing salt, fresh, and brackish waters;
- (f) Avoid disrupting natural sheet flow, water flow, and drainage patterns or systems;
- (g) Avoid interference with biotic populations, especially breeding habitats or migration routes;

(h) Maximize use of existing facilities;

(i) Provide personnel trained in oil spill prevention at critical locations identified in the accident analysis;

(j) Provide personnel trained in oil spill mitigation; and

(k) Plan for safe and effective removal of the deepwater port in the event of its decommissioning.

§ 148.730 What are the land use and coastal zone management criteria?

In accordance with § 148.715(b), the deepwater port proposal and reasonable alternatives will be evaluated on the basis of how well they:

- (a) Accord with existing and planned land use, including management of the coastal region, for which purpose the proposal must be accompanied by a consistency determination from appropriate state agencies;
- (b) Adhere to proposed local and State master plans;
- (c) Minimize the need for special exceptions, zoning variances, or non-conforming uses;
- (d) Plan floodplain uses in ways that will minimize wetlands loss, flood damage, the need for Federally-funded flood protection or flood relief, or any decrease in the public value of the floodplain as an environmental resource; and
- (e) Avoid permanent alteration or harm to wetlands and take positive steps to minimize adverse effects on wetlands.

§ 148.735 What are other critical criteria that must be evaluated?

In accordance with § 148.715(b), the deepwater port proposal and reasonable alternatives will be evaluated on the basis of how well they:

- (a) Avoid detrimental effects on human health and safety;
- (b) Pose no compromise to national security;
- (c) Account for the historic, archeological, and cultural significance of the area, including any potential requirements for historical preservation;
- (d) Minimize harmful impacts to minorities and children; and
- (e) Plan for serious consideration of the proposal that offers the least potential for environmental harm to the region or potential mitigation actions, when conflict exists between two or more proposed uses for a site.

§ 148.737 What environmental statutes must an applicant follow?

(a) In constructing and operating a deepwater port, the port must comply with all applicable Federal, State, and tribal environmental statutes. A list of the applicable Federal statutes includes but is not limited to: Abandoned

Shipwreck Act (ASA), 43 U.S.C. 2102, *et seq.*; American Indian Religious Freedom Act (AIRFA), 42 U.S.C. 1996, *et seq.*; Antiquities Act, 16 U.S.C. 433, *et seq.*; Archeological and Historic Preservation Act (AHPA), 16 U.S.C. 469; Archeological Resources Protection Act (AHPA), 16 U.S.C. 470 *aa-ll*, *et seq.*; Architectural Barriers Act, 42 U.S.C. 4151, *et seq.*; Clean Air Act (CAA), Pub.L. 95–95, 42 U.S.C. 7401, *et seq.*; Clean Water Act of 1977 (CWA), Pub.L. 95–217, 33 U.S.C. 1251, *et seq.*; Coastal Barrier Resources Act (CBRA), Pub.L. 97–348, 16 U.S.C. 3510, *et seq.*; Coastal Zone Management Act (CZMA), Pub.L. 92–583, 16 U.S.C. 1451, *et seq.*; Community Environmental Response Facilitation Act (CERFA), 42 U.S.C. 9620, *et seq.*; Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), also commonly referred to as SUPERFUND, Pub.L. 96–510, 26 U.S.C. 4611, *et seq.*; Consultation and Coordination With Indian Tribal Governments, E.O. 13175, 65 FR 67249; Coral Reef Protection, E.O. 13089, 63 FR 32701; Department of Transportation Act, Section 4(f), Pub.L. 89–670, 49 U.S.C. 303, Section 4(f), *et seq.*; Emergency Planning and Community Right-to-Know Act, 42 U.S.C. 11001–11050, *et seq.*; Endangered Species Act of 1973 (ESA), Pub.L. 93–205, 16 U.S.C. 1531, *et seq.*; Energy Efficiency and Water Conservation at Federal Facilities, E.O. 12902, 59 FR 11463; Environmental Effects Abroad of Major Federal Agencies, E.O. 12114, 44 FR 1957; Environmental Quality Improvement Act, Pub.L. 98–581, 42 U.S.C. 4371, *et seq.*; Farmlands Protection Policy Act, Pub.L. 97–98, 7 U.S.C. 4201, *et seq.*; Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, E.O. 12898, 59 FR 7629; Federal Compliance with Pollution Control Standards, E.O. 12088, 43 FR 47707; Federal Insecticide, Fungicide, and Rodenticide Act, Pub.L. 86–139, 7 U.S.C. 135, *et seq.*; Federal Records Act (FRA), 44 U.S.C. 2101–3324, *et seq.*; Federalism, E.O. 13083, Fish and Wildlife Act of 1956, Pub.L. 85–888, 16 U.S.C. 742, *et seq.*; Fish and Wildlife Coordination Act, Pub.L. 85–624, 16 U.S.C. 661, *et seq.*; Fisheries Conservation and Recovery Act of 1976, Pub.L. 94–265, 16 U.S.C. 1801, *et seq.*; Flood Disaster Protection Act, 42 U.S.C. 4001, *et seq.*; Floodplain Management and Protection, E.O. 11988, 42 FR 26951; Greening the Government Through Leadership in Environmental Management, E.O. 13148, 65 FR 24595; Greening the Government Through

Waste Prevention, Recycling, and Federal Acquisition, E.O. 13101, 63 FR 49643; Historic Sites Act, 16 U.S.C. 46, *et seq.*; Indian Sacred Sites, E.O. 13007, 61 FR 26771; Intergovernmental Review of Federal Programs, E.O. 12372, 47 FR 30959; Invasive Species, E.O. 13112, 64 FR 6183; Locating Federal Facilities on Historic Properties in our Nation's Central Cities, E.O. 13006, 61 FR 26071; Magnuson-Stevens Fishery Conservation and Management Act as amended through October 11, 1996, 16 U.S.C. 1801, *et seq.*; Marine Mammal Protection Act of 1972 (MMPA), Pub.L. 92–522, 16 U.S.C. 1361; Marine Protected Areas, E.O. 13158, 65 FR 24909; Marine Protection, Research, and Sanctuaries Act of 1972, Pub.L. 92–532, 16 U.S.C. 1431, *et seq.* and 33 U.S.C. 1401, *et seq.*; Migratory Bird Treaty Act, 16 U.S.C. 703–712, *et seq.*; National Environmental Policy Act of 1969 (NEPA), Pub.L. 91–190, 42 U.S.C. 4321, *et seq.*; National Historic Preservation Act of 1996 (NHPA), Pub.L. 89–665, 16 U.S.C. 470, *et seq.*; Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3001, *et seq.*; Noise Control Act of 1972, Pub.L. 92–574, 42 U.S.C. 4901, *et seq.*; Pollution Prevention Act of 1990 (PPA), 42 U.S.C. 13101–13109, *et seq.*; Protection and Enhancement of Cultural Environmental Quality, E.O. 11593, 36 FR 8921; Protection and Enhancement of Environmental Quality, E.O. 11514, 35 FR 4247; Protection of Children from Environmental Health and Safety Risks, E.O. 13045, 62 FR 19885; Protection of Wetlands, E.O. 11990, 42 FR 26961; Recreational Fisheries, E.O. 12962, 60 FR 307695; Requiring Agencies to Purchase Energy Efficient Computer Equipment, E.O. 12845, 58 FR 21887; Resource Conservation and Recovery Act of 1976 (RCRA), Pub.L. 94–580, 42 U.S.C. 6901, *et seq.*; Responsibilities of Federal Agencies to Protect Migratory Birds, E.O. 13186, 66 FR 3853; Safe Drinking Water Act (SDWA), Pub.L. 93–523, 42, U.S.C. 201, *et seq.*; Toxic Substances Control Act (TSCA), 7 U.S.C. 136, *et seq.*; and Wild and Scenic Rivers Act, Pub.L. 90–542, 16 U.S.C. 1271, *et seq.*

(b) In addition, the port must comply with the applicable NEPA requirements for preparation of a single, detailed environmental study.

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

Subpart A—General

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Authority: 33 U.S.C. 1504; Department of Homeland Security Delegation No. 0170.1 (75).

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

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

§149.5 What definitions apply to this part?

Definitions applicable to this part appear in 33 CFR 148.5. In addition, the following terms are used in this part and have the indicated meanings:

Accommodation module means a module with one or more accommodation spaces that is individually contracted for and may be used on one or more facilities.

Major conversion means a conversion, as determined by the Commandant (G–M), that substantially changes the dimensions of a facility, substantially changes the water depth capability of a fixed facility, substantially changes the carrying capacity of a floating facility, changes the type of a facility, substantially prolongs the life of a facility, or otherwise so changes the facility that it is essentially a new facility.

Service space means a space used for a galley, pantry containing cooking appliances, storeroom, or workshop other than those in industrial areas and trunks to those spaces.

Sleeping space means a space provided with bunks for sleeping.

§149.10 Where can I obtain a list of Coast Guard approved equipment?

Where equipment in this subchapter must be of an approved type, the equipment must be specifically approved by the Commandant (G–M), and the Marine Safety Center for engineering equipment. A list of approved equipment, including all of the approval series, is available at: <http://cgmix.uscg.mil/Equipment>.

§149.15 What is the process for submitting alterations and modifications affecting the design and construction of a deepwater port?

(a) Alterations and modifications affecting the design and construction of a deepwater port must be submitted to Commandant (G–M) for review and approval if:

(1) A license has not yet been issued; or,

(2) A license has been issued but the port has not commenced operations; or,

(3) The alteration and modification are deemed a major conversion; or,

(4) The alteration or modification substantially changes the manner in which the port operates or is not in accordance with a condition of the license.

(b) All other alterations and modifications to the deepwater port must be submitted to the OCMI for review and approval.

(c) Approval for alterations and modifications proposed after a license has been issued will be contingent upon whether the proposed changes will affect the way the port operates or any conditions imposed in the license.

(d) The licensee is not authorized to proceed with alterations prior to approval by Commandant (G–M) for the conditions outlined in paragraph (a) and approval by the cognizant OCMI as required in paragraph (b) of this section.

(e) Commandant (G–M), during the review and approval process of a proposed alteration or modification, may consult with the Marine Safety Center and cooperating federal agencies possessing relevant technical expertise.

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 a facility response plan that meets the requirements outlined in subpart F of part 154 of this chapter and be approved by the cognizant COTP.

(b) The facility response plan must identify adequate spill containment and removal equipment for port-specific spill scenarios.

(c) Response equipment and material must be pre-positioned for ready access and use onboard the deepwater port.

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

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

(b) The transfer system overflow or relief valve must not allow a 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 and natural gas 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?

(a) Each oil and natural gas system, between a pumping platform complex and the shore, must have a system that can detect and locate leaks and other malfunctions, particularly in high-risk areas.

(b) The marine transfer area on an oil deepwater port must be equipped with a monitoring system in accordance with 154.525 of this chapter.

(c) A natural gas deepwater port must be equipped with gas detection equipment adequate for the type of transfer system (including storage and re-gasification) used. Commandant (G–M) will evaluate proposed leak detection systems for natural gas on an individual basis.

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

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

(b) The alarm must sound automatically in the control room and:

(1) Be capable of being activated at the pumping platform complex;

(2) Have a signal audible in all areas of the pumping platform complex, except in areas under paragraph (b)(3) of this section;

(3) Have a high intensity flashing light in areas of high ambient noise levels where hearing protection is required under 150.615 of this chapter; and

(4) Be distinguishable from the general alarm.

(c) Tankers calling on unmanned deepwater ports must be equipped with a transfer system alarm described in this section.

§149.135 What should be marked on the cargo 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" or "NATURAL GAS TRANSFER ALARM" in red letters at least 1 inch high on a yellow background.

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

(a) Each deepwater port must have the following communications equipment:

(1) 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;

(2) 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; and

(3) Equipment that, for each portable means of communication used to meet the requirements of this section, is:

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

(ii) Permanently marked with the certification required in paragraph (a)(3)(i) 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.

(b) The communication system of the tank ship mooring at an unmanned port will be deemed the primary means of communicating with support vessels, shore side, etc.

§ 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.

Subpart C—Lifesaving Equipment

§ 149.300 What does this subpart do?

This subpart provides requirements for lifesaving equipment on deepwater ports.

Manned Deepwater Port Requirements

§ 149.301 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 this subpart.

(b) Each deepwater port, not under paragraph (a) of this section, must comply with the requirements for lifesaving equipment for unmanned deepwater ports in this subpart.

§ 149.302 What are the requirements when lifesaving equipment is repaired or replaced?

When lifesaving equipment is replaced or when the deepwater port undergoes a repair, alteration, or modification that involves replacing or adding to the lifesaving equipment complement, the new lifesaving equipment must meet the requirements of this subpart.

§ 149.303 What survival craft and rescue boats may be used on a manned deepwater port?

(a) Each survival craft on a manned deepwater port must be one of the following:

(1) A lifeboat meeting the requirements of 149.306 to this subpart; or

(2) A liferaft meeting the requirements of 149.308 to this subpart.

(b) Each rescue boat on a manned deepwater port must be a rescue boat meeting the requirements of § 149.314 to this part.

§ 149.304 What type and how many survival craft and rescue boats must a manned deepwater port have?

(a) Except as specified under § 149.305 to this subpart, each manned deepwater port must have at least the type and number of survival craft and the number of rescue boats indicated for the deepwater port in paragraphs (a)(1) through (a)(5) of this section.

(1) For a deepwater port with 30 or fewer persons onboard:

(i) One or more lifeboats with a total capacity of 100 percent of the personnel onboard;

(ii) One or more liferafts with a total capacity of 100 percent of the personnel onboard; and

(iii) One rescue boat, except that the rescue boat is not required for deepwater ports with 8 or fewer persons onboard.

(2) For a deepwater port with 31 or more persons onboard:

(i) At least two lifeboats with a total capacity of 100 percent of the personnel onboard;

(ii) One or more liferafts with a total capacity so that, if the survival craft at any one location are rendered unusable, there will be craft remaining with 100 percent capacity; and

(iii) One rescue boat.

(3) Lifeboats may be substituted for liferafts.

(4) Capacity refers to the total number of persons on the deepwater port at any

one time, not including temporary personnel. Temporary personnel include: contract workers, official visitors, and any other persons who are not permanent employees. See § 149.305 in this subpart for additional survival craft requirements when temporary personnel are onboard.

(5) The required lifeboats may be used as rescue boats if the lifeboats also meet the requirements for rescue boats in § 149.314 to this subpart.

(b) Deepwater ports consisting of novel structures or a combination of fixed and/or floating structures may require additional survival craft as deemed necessary by Commandant (G–M). In these cases, the type and number of survival craft must be specified in the operations manual.

§ 149.305 What are the survival craft requirements for temporary personnel?

(a) When temporary personnel are onboard a manned deepwater port and the complement exceeds the capacity of the survival craft required under 149.304 to this subpart, the port must have additional liferafts to ensure that the total capacity of the survival craft is not less than 200 percent of the personnel on board at any time.

(b) The liferafts required in paragraph (a) of this section need not meet the launching requirements of paragraph (b) to § 149.308 of this subpart, but must comply with the stowage requirements of 46 CFR 108.530(c).

§ 149.306 What are the requirements for lifeboats?

(a) Lifeboats must be:

(1) Totally enclosed and Coast Guard-

approved fire-protected lifeboats; and

(2) If the hull or canopy is of aluminum, it must be protected in its stowage position by a water-spray system meeting 46 CFR 34.25.

(b) Each lifeboat must have at least the provisions and survival equipment required by 46 CFR 108.575(b).

(c) Except for boathooks, the equipment under paragraph (b) of this section must be securely stowed in the lifeboat.

(d) Each lifeboat must have a list of the equipment it is required to carry under paragraph (c) of this section. The list must be posted in the lifeboat.

(e) The manufacturer's instructions for maintenance and repair of the lifeboat, required under paragraph (a) to § 150.502 of this chapter, must be in the lifeboat or on a deepwater port.

§ 149.307 What are the requirements for free-fall lifeboats?

All free-fall lifeboats must be approved under approval series 46 CFR 160.135.

§ 149.308 What are the requirements for liferafts?

(a) All liferafts must be an inflatable liferaft—approved under approval series 46 CFR 160.151, or a rigid liferaft—approved under approval series 46 CFR 160.118.

(b) Except as under paragraph (b) to 149.305 of this subpart, each inflatable or rigid liferaft, boarded from a deck that is more than 14 feet 9 inches above the water, must be davit launched or served by a marine evacuation system complying with 149.309 to this subpart.

§ 149.309 What are the requirements for marine evacuation systems?

All marine evacuation systems must be Coast Guard-approved, and comply with the launching arrangement requirements for MODU in 46 CFR 108.545.

§ 149.310 What are the muster and embarkation requirements for survival craft?

Muster and embarkation arrangements for survival craft must comply with 46 CFR 108.540.

§ 149.311 What are the launching and recovery requirements for lifeboats?

(a) Each lifeboat launched by falls, must have a launching and recovery system that complies with 46 CFR 108.555.

(b) Each free-fall lifeboat must have a launching and recovery system that complies with 46 CFR 108.557.

§ 149.312 What are the launching equipment requirements for inflatable liferafts?

(a) Each inflatable liferaft, not intended for davit launching, must be capable of rapid deployment.

(b) Each davit-launchable liferaft must have the following launching equipment at each launching station:

(1) A launching device approved under approval series 46 CFR 160.163; and

(2) A mechanical disengaging apparatus approved under the approval series 46 CFR 160.170.

(c) The launching equipment must be operative, both from the liferaft and from the deepwater port.

(d) Winch controls must be located so that the operator can observe the liferaft launching.

(e) The launching equipment must be arranged so that a loaded liferaft does not have to be lifted before it is lowered.

(f) Not more than two liferafts may be launched from the same set of launching equipment.

§ 149.313 How must survival craft be arranged?

The operator must arrange survival craft so that they meet the requirements of 46 CFR 108.525 (a) and 108.530 and:

(a) Are readily accessible in an emergency;

(b) Are accessible for inspection, maintenance, and testing;

(c) Are in locations clear of overboard discharge piping (or openings) and obstructions below; and

(d) Have the aggregate capacity to accommodate the total number of persons authorized to be berthed and are located so as to provide ready access to the personnel berthing area.

§ 149.314 What are the approval and stowage requirements for rescue boats?

(a) Rescue boats must be approved under approval series 46 CFR 160.156. A lifeboat is acceptable as a rescue boat if it also meets the requirements for a rescue boat under approval series 46 CFR 160.156.

(b) The stowage of rescue boats must comply with 46 CFR 108.565.

§ 149.315 What embarkation, launching, and recovery arrangements must rescue boats meet?

(a) Each rescue boat must be capable of being launched in a current of up to 5 knots. A painter may be used to meet this requirement.

(b) Each rescue boat embarkation and launching arrangement must permit the rescue boat to be boarded and launched in the shortest possible time.

(c) If the rescue boat is one of the deepwater port's survival craft, the rescue boat must comply with the muster and embarkation arrangement requirements of 149.310.

(d) The rescue boat must comply with the embarkation arrangement requirements of 46 CFR 108.555.

(e) If the launching arrangement uses a single fall, the rescue boat may have an automatic disengaging apparatus, approved under approval series 46 CFR 160.170, instead of a lifeboat release mechanism.

(f) The rescue boat must be capable of being recovered rapidly when loaded with its full complement of persons and equipment. If a lifeboat is being used as a rescue boat, rapid recovery must be possible when loaded with its lifeboat equipment and a rescue boat's complement of at least six persons.

(g) Each rescue boat-launching appliance must be fitted with a powered winch motor.

(h) Each rescue boat-launching appliance must be capable of hoisting the rescue boat, when loaded with a rescue boat's full complement of

persons and equipment, at a rate of not less than 59 feet per minute.

(i) The operator may use an onboard crane to launch a rescue boat if the crane's launching system meets the requirements of this section.

§ 149.316 What are the requirements for lifejackets?

(a) Each lifejacket must be approved under approval series 46 CFR 160.002, 160.005, 160.055, 160.077, or 160.176.

(b) Each lifejacket must have a lifejacket light—approved under approval series 46 CFR 161.012. Each light must be securely attached to the front shoulder area of the lifejacket.

(c) Each lifejacket must have a whistle permanently attached to the lifejacket by a cord.

(d) Each lifejacket must be marked with Type I retro-reflective material—approved under approval series 46 CFR 164.018.

§ 149.317 How and where must lifejackets be stowed?

(a) The operator must ensure that lifejackets are stowed, in readily accessible places, in, or adjacent to, accommodation spaces.

(b) Lifejacket stowage containers, and the spaces housing the containers, must not be capable of being locked.

(c) The operator must mark each lifejacket container, or lifejacket stowage location, with the words "LIFEJACKETS" in block letters and the quantity, identity, and size of the lifejackets stowed inside the containers or stowed at the location.

§ 149.318 Must every person on the port have a lifejacket?

The operator must provide a lifejacket that complies with 149.316 to this subpart, for each person on a manned deepwater port.

§ 149.319 What additional lifejackets must I have?

For each person on duty in a location where the lifejacket required by 149.317 of this subpart is not readily accessible, an additional lifejacket must be stowed so as to be readily accessible to that location.

§ 149.320 What are the requirements for ring lifebuoys?

(a) Ring lifebuoys must be approved under approval series 46 CFR 160.050 or 160.150 (for SOLAS-approved equipment).

(b) Each ring lifebuoy must have a floating, electric water light—approved under approval series 46 CFR 161.010. The operator must ensure that the light to the ring lifebuoy is attached by a lanyard of 12-thread manila, or a

synthetic rope of equivalent strength, not less than 3 feet nor more than 6 feet in length. The light must be mounted on a bracket near the ring lifebuoy so that, when the ring lifebuoy is cast loose, the light will be pulled free of the bracket.

(c) To each ring lifebuoy, there must be attached a buoyant line of 100 feet in length, with a breaking strength of at least 5 KiloNewtons force. The end of the line must not be secured to the deepwater port.

(d) Each ring lifebuoy must be marked with Type II retro-reflective material—approved under approval series 46 CFR 164.018.

§ 149.321 How many ring lifebuoys must be on each deepwater port?

There must be at least four approved ring lifebuoys on each manned deepwater port.

§ 149.322 Where must ring lifebuoys be located and how must they be stowed?

(a) The operator must locate one ring lifebuoy on each side of the port and one near each external stairway leading to the water. One buoy may be used to satisfy both these requirements.

(b) Each ring lifebuoy must be stowed on or in a rack that is readily accessible in an emergency. The ring lifebuoy must not be permanently secured in any way to the rack or the deepwater port.

§ 149.323 What are the requirements for first aid kits?

(a) Each manned deepwater port must have an industrial first aid kit approved by an appropriate organization (*e.g.*, American Red Cross) for the maximum number of persons on the deepwater port.

(b) The first aid kit must be maintained in a space designated as a medical treatment room or, if there is no medical treatment room, under the custody of the person in charge.

(c) The operator must ensure that each first aid kit is accompanied by a copy of DHHS Publication No. (PHS) 84–2024: “The Ship’s Medicine Chest and Medical Aid at Sea”—available from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, or the “American Red Cross First Aid and Safety Handbook”—available from Little Brown and Company, 3 Center Plaza, Boston, MA 02018.

§ 149.324 What are the requirements for litters?

Each manned deepwater port must have at least one Stokes litter, or other suitable litter, capable of being safely hoisted with an injured person. The litter must be readily accessible in an emergency.

§ 149.325 What emergency communications equipment must be on a manned deepwater port?

Each manned deepwater port must have a radio, telephone, or other means of emergency communication with the shore, vessels, and facilities in the vicinity in the event the primary communications system outlined in § 149.140 fails. This communication equipment must have an emergency power source.

§ 149.326 What are the immersion suit requirements?

Each manned deepwater port, located North of 32 degrees North latitude, must comply with the immersion suit requirements in 46 CFR part 108.

§ 149.327 What are the approval requirements for work vests and anti-exposure suits?

All work vests and anti-exposure (deck) suits, on a manned deepwater port, must be of a buoyant type approved under:

(a) Approval series 46 CFR 160.053 as a work vest;

(b) Approval series 46 CFR 160.053 or 160.153 as an anti-exposure suit; or

(c) Approval series 46 CFR 160.077 as a commercial hybrid personal flotation device.

§ 149.328 How must work vests and anti-exposure (deck) suits be stowed?

All work vests and deck suits must be stowed separately from lifejackets and in a location that is not easily confused with a storage area for lifejackets.

§ 149.329 How must work vests and deck suits be marked?

All work vests and deck suits must be marked with Type II retro-reflective material—approved under approval series 46 CFR 164.018.

§ 149.330 When may a work vest or deck suit be substituted for a lifejacket?

(a) A work vest or deck suit meeting § 149.326 of this subpart may be used instead of a lifejacket, when personnel are working near or over water.

(b) Work vests or deck suits may not be substituted for any portion of the number of approved lifejackets required to be on the deepwater port or an attending vessel for use during drills and emergencies.

§ 149.331 What are the requirements for hybrid personal flotation devices?

(a) The operator must ensure use and stowage of all commercial hybrid personal flotation devices (PFDs) used as work vests under:

(1) The procedures in the manual required for these devices in 46 CFR 160.077–29; and

(2) All limitations, if any, marked on them.

(b) All commercial hybrid PFDs on the deepwater port must be of the same or similar design and must have the same method of operation.

§ 149.332 What are the requirements for inflatable lifejackets?

(a) Each inflatable lifejacket must be approved under approval series 46 CFR 160.176.

(b) All inflatable lifejackets on a deepwater port must:

(1) Be used and stowed under the procedures in the manual required for these lifejackets under 46 CFR 160.176–21;

(2) Be marked with all limitations, if any; and

(3) Be of the same or similar design and must have the same method of operation.

§ 149.333 What are the marking requirements for lifesaving equipment?

(a) Each lifeboat, rigid liferaft, and survival capsule must be marked on two opposite outboard sides with the name, number, or other inscription identifying the deepwater port on which placed and the number of persons permitted on the craft. Each paddle or oar for these crafts must be marked with an inscription identifying the deepwater port. The letters and numbers must be at least 100 millimeters (3.94 inches) high on a contrasting background.

(b) Each inflatable liferaft must be marked to meet 46 CFR 160.151–33, and after each servicing, 46 CFR 160.151–57(m).

(c) All lifejackets and ring lifebuoys must be conspicuously marked with the name, number, or other inscription identifying the deepwater port on which placed. The letters and numbers must be at least 1.5 inches high on a contrasting background. Lifejackets and ring lifebuoys that accompany mobile crews to unmanned deepwater ports may be marked with the operator’s name and field designation.

Unmanned Deepwater Port Requirements

§ 149.334 Who must ensure compliance with the requirements for unmanned deepwater ports?

The owner or operator of an unmanned deepwater port must ensure that applicable requirements are complied with on their deepwater port.

§ 149.335 When are people prohibited from being on a unmanned deepwater port?

No person may be on a unmanned deepwater port unless all requirements of this part are met.

§ 149.336 What are the requirements for lifejackets?

(a) Except as under paragraph (b) of this section, each unmanned deepwater port must have at least one lifejacket complying with 149.316 to this subpart, for each person on the deepwater port. The lifejackets need to be available for use on the port only when persons are onboard.

(b) During helicopter visits, personnel who have aircraft type lifejackets may use them as an alternative to the requirements of paragraph (a) of this section.

§ 149.337 What are the requirements for ring lifebuoys?

(a) Each unmanned deepwater port must have at least one ring lifebuoy complying with 149.320 to this subpart.

(b) If there is no space on the deepwater port for the ring lifebuoys, they must be on a manned vessel located alongside of the deepwater port while the persons are on the port.

§ 149.338 What are the requirements for immersion suits?

(a) Each unmanned deepwater port, located North of 32 degrees North latitude, must comply with the immersion suit requirements applicable to MODU under 46 CFR 108.580—approval series 46 CFR 160.171. Except as under paragraph (b) of this section, the immersion suits need be on the deepwater port only when persons are onboard.

(b) If an attending vessel is moored to the unmanned deepwater port, the suits may be stowed on the vessel, instead of on the deepwater port.

§ 149.339 What is the requirement for a previously approved lifesaving equipment on a deepwater port?

Lifesaving equipment (*e.g.*, lifeboats, life rafts, PFDs) on a deepwater port on January 1, 2004, need not meet the requirements in this subpart until the equipment needs replacing, provided it is periodically tested and maintained in good operational condition.

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

Each item of lifesaving equipment on a deepwater port that is not required by

this subchapter must be approved by the Commandant (G–M).

Subpart D—Firefighting and Fire-Protection Equipment

§ 149.400 What does this subpart apply to?

This subpart applies to all deepwater ports with the exception of an unmanned port consisting of a submerged turret loading (STL) or comparable configuration in which cargo transfer operations are conducted solely aboard the tank vessel by the vessel crew.

§ 149.401 What are the general requirements for firefighting and fire-protection equipment?

Each deepwater port must comply with the requirements for firefighting and fire-protection equipment in this subpart.

§ 149.402 What equipment must be approved by the Coast Guard?

Except as permitted under 149.403, 149.415 (c) or (d), 149.421 (a), or 149.422, all required firefighting and fire-protection equipment on a deepwater port must be approved by the Commandant (G–MSE). Firefighting and fire-protection equipment that supplements required equipment must also be approved by the Commandant (G–MSE) unless approval by the OCMI is requested and granted pursuant to 149.403 of this subpart.

§ 149.403 Use of alternate firefighting, fire prevention equipment, or procedures.

(a) The operator may request the use of alternate equipment or procedures for those required in this subchapter.

(b) Upon request, the OCMI may allow the use of alternate equipment or procedures if they will:

- (1) Accomplish the purposes for the requirement; and
- (2) Provide a degree of safety equivalent to, or greater than, that provided by the requirement.

(c) The OCMI may require that the requesting party:

- (1) Explain why applying the requirement would be unreasonable or impracticable; or
- (2) Submit engineering calculations, tests, or other data to demonstrate how the requested alternative would comply with paragraph (b) of this section.

(d) The OCMI may determine, on a case-by-case basis, that Commandant (G–MSE) must approve the use of the alternate equipment or procedure.

Firefighting Requirements

§ 149.404 Can I use firefighting equipment for which there is no Coast Guard standard?

A deepwater port may use firefighting equipment for which there is no Coast Guard standard, as excess equipment, if the equipment does not endanger the port or the persons aboard in any way. This equipment must be listed and labeled by a nationally recognized testing laboratory and it must be maintained in good working condition.

§ 149.405 How are fire extinguishers classified?

(a) Portable and semi-portable extinguishers on a manned deepwater port must be classified using the Coast Guard's marine rating system of combination letter and number symbol. The letter indicates the type of fire that the extinguisher is designed to extinguish, and the number indicates the relative size of the extinguisher.

(b) The letter designations are as follows:

- (1) "A" for fires in ordinary combustible materials where the quenching and cooling effects of quantities of water, or solutions containing large percentages of water, are of first importance;
- (2) "B" for fires in flammable liquids, greases, or other thick flammable substances, where a blanketing effect is essential; and
- (3) "C" for fires in electrical equipment where the use of a non-conducting extinguishing agent is of first importance.

(c) The number designations for size range from "I" for the smallest extinguisher to "V" for the largest. Sizes I and II are portable extinguishers. Sizes III, IV, and V are semi-portable extinguishers which must be fitted with suitable hose and nozzle or other practicable means so that all portions of the space concerned may be covered. Examples of size graduations for some of the typical portable and semi-portable extinguishers are set forth in table 149.405.

TABLE 149.405—PORTABLE AND SEMI-PORTABLE EXTINGUISHERS

Classification type-size	Foam liters (gallons)	Carbon dioxide kilograms (pounds)	Dry chemical kilograms (pounds)
A–II	9.5 (2.5) .....	.....	2.25(5) ¹
B–II	9.5 (2.5)	6.7 (15)	4.5 (10)
C–II .....	.....	6.7 (15)	4.5 (10)

TABLE 149.405—PORTABLE AND SEMI-PORTABLE EXTINGUISHERS—Continued

Classification type-size	Foam liters (gallons)	Carbon dioxide kilograms (pounds)	Dry chemical kilograms (pounds)
B-IV	7.6 (20)	22.5 (50)	13.5 (30)
B-V	15.2 (40)	45 (100) ²	22.5 (50) ²

Notes:

- ¹ Must be specifically approved as a type "A," "B," or "C" extinguisher.
- ² For outside use, double the quantity of agent that must be carried.

§ 149.406 What are the approval requirements for a fire extinguisher?

All portable and semi-portable fire extinguishers must be of an approved type under 46 CFR part 162, subparts 162.028 and 162.039, respectively.

§ 149.407 Must fire extinguishers be on the deepwater port at all times?

(a) On a manned deepwater port, the fire extinguishers required by 149.409 to

this subpart must be on the deepwater port at all times.

(b) On an unmanned deepwater port, the fire extinguishers required by 149.409 to this part need be on the deepwater port only when personnel are working on the deepwater port during cargo transfer operations or performing maintenance duties.

§ 149.408 What are the maintenance requirements for a fire extinguisher?

All fire extinguishers must be maintained in good working order and serviced annually in accordance with 46 CFR 107.235.

§ 149.409 How many fire extinguishers are needed?

Each particular location must have the number of fire extinguishers required by table 149.409.

TABLE 149.409—PORTABLE AND SEMI-PORTABLE EXTINGUISHERS, MINIMUM QUANTITY AND LOCATION

Space	Classification	Minimum quantity and location
(a) Safety Areas:		
(1) Communicating corridors	A-II	One in each main corridor or stairway not more than 150 feet apart.
(2) Radio room	C-II	One outside of or near each radio room exit.
(b) Accommodation Spaces: (1) Sleeping quarters	A-II	One in each sleeping space for more than four persons.
(c) Service Spaces:		
(1) Galleys	B-II or CII	One for each 2,500 square feet or fraction thereof for hazards involved.
(2) Storerooms	A-II	One for each 2,500 square feet or fraction thereof located near each exit, either inside or outside of the space.
(3) Paint room	B-II	One outside each paint room exit.
(d) Machinery Spaces:		
(1) Gas-fired boilers	B-II OR C-II	Two.
(2) Gas-fired boilers	B-V	One. ¹
(3) Oil-fired boilers	B-II	Two.
(4) Oil-fired boilers	B-V	Two. ¹
(5) Internal combustion or gas turbine engines ...	B-II	One for each engine. ²
(6) Electric motors and generators, both of the open type.	C-II	One for each two motors or generators. ³
(e) Helicopter Areas:		
(1) Helicopter landing decks	B-V	One at each access route.
(2) Helicopter fueling facility	B-V	One at each fuel transfer facility. ⁴

¹ Not required if a fixed system is installed.
² If the engine is installed on a weather deck or is open to the atmosphere at all times, one B-II may be used for every three engines.
³ Small electrical appliances, such as fans, are exempt.
⁴ Not required if a fixed foam system is installed in accordance with paragraph of this part.

§ 149.410 Where must a portable or semi-portable fire extinguisher be located?

All portable and semi-portable fire extinguishers under table 149.409 must be located in the open so as to be readily seen.

§ 149.411 What are the requirements for fireman's outfits?

(a) Each manned deepwater port with nine or more persons must have at least two fireman's outfits complying with 46 CFR 108.497.

(b) The person in charge of safety must ensure that:

(1) At least two people trained in the use of fireman's outfits are on the deepwater port at all times;

(2) Each fireman's outfit and its spare equipment are stowed together in a readily accessible container or locker; that no more than one outfit is stowed in the same container or locker and that the two containers or lockers are located in separate areas to ensure that at least

one is available at all times in the event of a fire; and

(3) Fireman's outfits are not used for any purpose other than firefighting.

§ 149.412 How many fire axes are needed?

Each manned deepwater port must have at least two fire axes per 46 CFR 108.499.

§ 149.413 On a manned deepwater port, what spaces require a fixed fire-extinguishing system?

The manned deepwater port spaces or systems listed in paragraphs (a) through (c) of this section must be protected by an approved fixed-gaseous, or other approved fixed-type, extinguishing system.

(a) Paint lockers of capacity in excess of 200 cubic feet and similar spaces containing flammable liquids.

(b) Galley range or deep fat fryer.

(c) Each enclosed space containing internal combustion or gas turbine machinery, with an aggregate power of more than 1,000 B.H.P., and any associated fuel oil units, purifiers, valves, or manifolds.

§ 149.414 What are the requirements for a fire-detection and alarm system?

(a) All accommodation and service spaces, on a manned deepwater port, and all spaces or systems of a deepwater port that process, store, transfer, and re-gasify liquefied natural gas, must have an automatic fire-detection and alarm system. The system must either comply with 46 CFR 108.405 or be designed and installed in compliance with a national consensus standard, as that term is defined in 29 CFR 1910.2, for fire-detection and fire alarm systems, and that complies with standards set by a nationally recognized testing laboratory, as that term is defined in 29 CFR 1910.7, for such systems or hardware.

(b) Sleeping quarters must be fitted with smoke detectors that have local alarms and that may, or may not, be connected to the central alarm panel.

(c) Each fire-detection and fire alarm system must have a visual alarm and an audible alarm at a normally manned area.

(d) Each fire-detection and fire alarm system must be divided into zones to limit the area covered by a particular alarm signal.

§ 149.415 What are the requirements for a fire-main system on a manned deepwater port?

(a) Each pumping platform complex must have a fixed fire-main system. The system must either:

(1) Comply with 46 CFR 108.415 through 108.429; or

(2) Comply with a national consensus standard, as that term is defined in 29 CFR 1910.2, for such systems and hardware and comply with the standards set by a nationally recognized testing laboratory, as that term is defined in 29 CFR 1910.7, for such systems and hardware.

(b) If the fire-main system meets the requirements outlined in paragraph

(a)(2) of this section, it must provide, at a minimum, protection to:

(1) Accommodation spaces;

(2) Accommodation modules;

(3) Control spaces; and

(4) Other areas frequented by port personnel. The hose system must be capable of reaching all parts of these spaces without difficulty.

(d) The fire-main system, under paragraph (a)(2) of this section, may be part of a firewater system in accordance with 30 CFR 250.803.

(e) A fire-main system for a natural gas deepwater port must also comply with 33 CFR 127.607.

§ 149.416 What are the requirements for fire pumps?

(a) Each manned deepwater port 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 50 p.s.i./345 k.p.a (75 p.s.i./520 k.p.a. for a natural gas deepwater port)—measured at the two most remote nozzles.

(b) Each fire pump must have:

(1) A relief valve on its discharge side that is set to relieve at 25 p.s.i./173 k.p.a 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 must be located in separate spaces and the arrangement of pumps, sea connections, controls, and sources of power must be such as to ensure that a fire, in any one space, will not put all of the fire pumps out of service.

(e) The fire pumps must be capable of being started and stopped from outside the spaces in which they are located.

§ 149.417 What are the requirements for fire hydrants?

(a) Fire hydrants must comply with 46 CFR 108.423.

(b) 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.

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

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

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

§ 149.418 What are the requirements for fire hoses and fire nozzles?

(a) Fire hoses must comply with 46 CFR 108.425 and be:

(1) Prominently marked in accordance with 46 CFR 97.37–15; and

(2) If in an exposed location, protected from freezing weather.

(b) Each fire hose and nozzle must comply with 46 CFR 108.425 or a national consensus standard, as that term is defined in 29 CFR 1910.2, for such hose and nozzle and the standards set by a nationally recognized testing laboratory, as that term is defined in 29 CFR 1910.7, for such hose.

§ 149.419 What are the requirements for a dry chemical fire-suppression system?

Each natural gas deepwater port must be equipped with a dry chemical system that meets the requirements of § 127.609 to this chapter.

§ 149.420 What firefighting equipment must a helicopter landing deck on a manned deepwater port have?

Each helicopter landing deck on a manned deepwater port must have the following:

(a) A fire hydrant and hose located near each stairway access to the landing deck. If the landing deck has more than two stairway accesses, only two stairway accesses need to have a fire hydrant and hose. The fire hydrants must be part of the fire-main system; and

(b) Portable fire extinguishers in the quantity and location as required in table 149.409.

§ 149.421 What fire-protection system must a helicopter fueling facility have?

In addition to the portable fire extinguishers required under table 149.409, each helicopter fueling facility must have a fire-protection system complying with 46 CFR 108.489.

§ 149.422 Can the water supply for the helicopter deck fire-protection system be part of a firewater system?

(a) The water supply for the helicopter deck fire-protection system required under §§ 149.420 or 149.421 may be part of:

(1) The firewater system (installed in accordance with MMS regulations under 30 CFR 250.803); or

(2) The fire-main system under § 149.415.

(b) If the water supply for the helicopter deck fire-protection system is part of an independent accommodation fire-main system, the piping design and hardware must be compatible with the system and must comply with the requirements for fire-mains in 46 CFR 108.415 through 108.429.

§ 149.423 What are the fire-protection requirements for escape routes?

At least one escape route from an accommodation space or module to a survival craft or other means of evacuation, must provide adequate protection, in accordance with 46 CFR 108.133, for escaping personnel from fires and explosions. Additional requirements for escape routes are in subpart F of this part.

§ 149.424 What is the requirement for a previously approved fire-detection and alarm system on a deepwater port?

An existing fire-detection and alarm system on a deepwater port need not meet the requirements in this subpart until the system needs replacing, provided it is periodically tested and maintained in good operational condition.

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; and

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

§ 149.510 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 cargo 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 are the general lighting requirements?**

All deepwater ports must meet the general requirements for obstruction lights in part 67 of this chapter.

Lights on Platforms**§ 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 distinguishes the deepwater port from other surrounding offshore structures. The beacon must:

(a) Have an effective intensity of at least 15,000 candela;

(b) Flash at least once every 20 seconds;

(c) Provide a white light signal;

(d) Operate 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) Have one or more leveling indicators permanently attached to the light, each with an accuracy of 0.25, or better; and

(f) Be located:

(1) At least 60 feet 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 (SPM)**§ 149.540 What are the requirements for obstruction lights on an SPM?**

(a) The lights for a single point mooring (SPM) must meet the requirements for obstruction lights in part 67 of this chapter, except that the lights must be located at least 10 feet above mean high water.

(b) A submerged turret loading (STL) deepwater port is not required to meet the requirements for obstruction lights, provided it maintains at least a five-foot clearance beneath the net under-keel clearance for all vessels, at the mean low water condition, transiting the area.

(c) An STL deepwater port that utilizes a marker buoy must be lighted in accordance with paragraph (a) of this section.

Lights on Floating Hose Strings**§ 149.550 What are the requirements for lights on a floating hose string?**

Hose strings that are floating or supported on trestles shall display the following lights at night and in periods of restricted visibility.

(a) One row of yellow lights. The lights must be:

(1) Flashing 50 to 70 times per minute;

(2) Visible all around the horizon;

(3) Visible for at least 2 miles on a clear, dark night;

(4) Not less than 1 and not more than 3.5 meters above the water;

(5) Approximately equally spaced; and

(6) Not more than 10 meters apart where the hose string crosses a navigable channel, and, also, where the hose string does not cross a navigable channel, the lights must be sufficient in number to clearly show the hose string's length and course.

(b) Two red lights at each end of the hose string, including the ends in a channel where the hose string is separated to allow vessels to pass, whether open or closed. The lights must be:

(1) Visible all around the horizon;

(2) Visible for at least 2 miles on a clear, dark night; and

(3) One meter apart in a vertical line with the lower light at the same height above the water as the flashing yellow light.

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 above the water.

(c) The buoy light must be located so that the structure of the buoy, or any other device mounted on the buoy, does 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, SPM, or STL identified?

(a) Each platform, SPM, or STL (protruding above the water/marked by a buoy) 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 high;
 - (2) In vertical block style; and
 - (3) Displayed against a contrasting background.
- (c) If a STL protrudes from the water, it must be properly illuminated in accordance with § 149.540.

§ 149.575 How must objects protruding from the water, other than platforms and SPMs, be marked?

(a) Each object protruding from the water that is within 100 yards 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 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 or other fixed structure of the deepwater port.

(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; and

(6) Be located at a minimum height of 15 feet 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 sound signals?

(a) Each pumping platform complex must have a sound signal, approved under subpart 67.10 of this chapter, that has a 2-mile (3-kilometer) range. A list of Coast Guard approved sound signals is available from any District Commander.

- (b) Each sound signal must be:
 - (1) Located at least 10 feet but not more than 150 feet 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. (b) Construction of a pipeline, platform, or SPM begins.	At least 30 days before construction begins. Within 24 hours, from the date construction begins, that the lights and sound signals are in use at the construction site.
(c) A light or sound signal is changed during construction. (d) Lights or sound 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 change. Within 24 hours of the replacement.
(e) The first cargo 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) may concurrently review and evaluate construction drawings and specifications with the Marine Safety Center and other federal agencies having technical expertise (such as RSPA and FERC) in order 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 100-year period. Component design must be appropriate for the protection of human life on the port or on vessels calling on or servicing the port from death or serious injury, and to protect the environment.

(b) Heliports on floating deepwater ports must be designed in compliance with the regulations at 46 CFR part 108.

Structural Fire-Protection

§ 149.640 What are the requirements for systems fire-protection?

Manned deepwater ports built after January 1, 2004 and manned deepwater ports that undergo major conversions must comply with the requirements for structural fire-protection outlined in this subpart.

§ 149.641 What are the requirements for structural fire-protection for deepwater ports in accommodation spaces and modules?

(a) Accommodations spaces and modules must be designed, located, and constructed so as to minimize the effects of flame, excess heat, or blast effects caused by fires and explosions; and to provide safe refuge from fires and explosions for personnel for the minimum time needed to evacuate the space.

(b) This requirement may be met by complying with the applicable portions of 46 CFR part 108, provided that:

(1) The exterior boundaries of superstructures and deckhouses enclosing these spaces and modules, including any overhanging deck that supports these spaces and modules, are constructed to the A-60 standard defined in 46 CFR 108.131(b)(2) for any portion that faces, and is within 100 feet of, the platform hydrocarbon source; and

(2) The ventilation system must have a means of shutting down the system and an alarm at a manned location that sounds when any hazardous or toxic substance enters the system.

(c) As an alternative to paragraph (b) of this section, the requirement imposed by this section may be met by complying with a national consensus standard, as that term is defined in 29 CFR 1910.2, for the structural fire-protection of accommodation spaces and modules, and that complies with the standards set by a nationally recognized testing laboratory, as that term is defined by 29 CFR 1910.7, for such protection, provided that:

(1) All such spaces and modules on manned ports are provided with automatic fire-detection and alarm systems. The alarm system must signal a normally manned area both visually and audibly, and be divided into zones to limit the area covered by a particular alarm signal;

(2) Sleeping quarters are fitted with smoke detectors that have local alarms that may, or may not, be connected with the central alarm panel; and

(3) Independent fire walls are constructed and installed so as to be of size and orientation sufficient to protect the exterior surfaces of the spaces or modules from extreme radiant heat flux levels and provide the A-60 standard defined in 46 CFR 108.131(b)(2).

Single Point Moorings

§ 149.650 What are the requirements for single point moorings and their attached hoses?

Each SPM and its attached hose must be designed appropriately for the

protection of the environment and for durability under combined wind, wave, and current forces of the most severe storm that can be expected to occur at the port in any 100-year period. The appropriateness of a design may be shown by its compliance with standards generally used within the offshore industry that are at least equivalent, in protecting the environment, to the standards in use on January 1, 2003, by the American Bureau of Shipping or another recognized classification society.

Helicopter Fueling Facilities

§ 149.655 What are the requirements for helicopter fueling facilities?

Helicopter fueling facilities must comply with 46 CFR 108.489 or an equivalent standard.

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 18 hours:

- (1) Emergency lighting circuits;
- (2) Aids to navigation equipment;
- (3) Communications equipment;
- (4) Radar equipment;
- (5) Alarm systems;
- (6) Electrically operated fire pumps;

and

(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 or natural gas 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;
- (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 § 150.613 of this chapter; and
- (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; and
- (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, 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 a medical treatment room be used for other purposes?

A medical treatment room may be used as a sleeping space if the room meets the requirements of this subpart for both medical treatment rooms and sleeping spaces. It may also be used as an office. However, when used for medical purposes, the room 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?

Each deepwater port must comply with the requirements for means of escape, personnel landings, guardrails and similar devices, and noise limits as outlined in §§ 149.691 through 149.699.

Means of Escape

§ 149.691 What means of escape are required?

(a) Each deepwater port must have the primary and secondary means of escape complying with 46 CFR 108.151 for use in evacuating the port.

(b) A primary means of escape consists of a fixed stairway, or a fixed ladder, constructed of steel.

(c) A secondary means of escape consists of a marine evacuation system, a portable flexible ladder, a knotted manrope, or a similar device determined by the OCMI to provide an equivalent or better means of escape.

(d) Where a secondary means of escape is required, a primary means of escape may be substituted.

§ 149.692 Where must they be located?

(a) Each means of escape must be easily accessible to personnel for rapidly evacuating the deepwater port.

(b) When two or more means of escape are installed, at least two must be located as nearly diagonally opposite each other as practicable.

(c) The following spaces, with a floor area of 300 square feet or more, must have at least two exits as widely spaced as possible:

- (1) Each accommodation space; and
- (2) Each space that is used on a regular basis, such as a control room, machinery room, storeroom, or other space where personnel could be trapped in an emergency.

(d) Structural appendages to the deepwater port that do not have living quarters, workshops, offices, or other manned spaces and that personnel do not occupy continuously (*i.e.*, pumping platform complex) must have at least one primary means of escape and, as determined necessary by the OCMI, one or more secondary means of escape.

(e) When personnel are on an unmanned deepwater port, the port must have, in addition to the one primary means of escape, either:

- (1) Another primary means of escape; or
- (2) One or more secondary means of escape for every 10 persons onboard at any one time—located in the work areas.

(f) Structural appendages to an unmanned deepwater port do not require a primary or a secondary means of escape, unless the OCMI determines that one or more are necessary.

(g) Each means of escape must extend from the deepwater port's uppermost working level, to each successively lower working level, and so on to the water surface.

Personnel Landings

§ 149.693 What are the requirements for personnel landings on manned deepwater ports?

(a) On manned deepwater ports, sufficient personnel landings must be provided to assure safe access and egress.

(b) The personnel landings must be provided with satisfactory illumination. The minimum is one foot candle of artificial illumination as measured at the landing floor and guards and rails.

Guardrails and Similar Devices

§ 149.694 What are the requirements for catwalks, floors, and openings?

(a) The configuration and installation of catwalks, floors, and openings must comply with 143.110 of this chapter.

(b) This section does not apply to catwalks, floor or deck areas, and openings:

- (1) In areas not normally occupied by personnel; or
- (2) On helicopter landing decks.

§ 149.695 What are the requirements for stairways?

Stairways must have at least two courses of rails. The top course must serve as a handrail and be at least 34 inches above the tread.

§ 149.696 What are the requirements for a helicopter landing deck safety net?

A helicopter landing deck safety net must comply with 46 CFR 108.235.

Noise Limits

§ 149.697 What are the requirements for a noise level survey?

(a) A survey to determine the maximum noise level during normal operations must be conducted in each accommodation space, working space, or other space routinely used by personnel. The recognized methodology used to conduct the survey must be specified in the survey results. Survey results must be kept on the deepwater port or, for an unmanned deepwater port, in the owner's principal office.

(b) The noise level must be measured over 12 hours to derive a time-weighted-average (TWA) using a sound level meter and an A-weighted filter or equivalent device.

(c) If the noise level throughout a space is determined to exceed 85 db(A), then signs must be posted with the legend: "NOISE HAZARD—HEARING PROTECTORS REQUIRED." Signs must be posted at eye level—at each entrance to the space.

(d) If the noise level is determined to exceed 85 db(A) only in a portion of a space, the sign described in paragraph (c) of this section must be posted within that portion in a location visible from each direction of access.

(e) Working spaces and other areas routinely used by personnel, other than accommodation spaces, must be designed to limit the noise level in those areas so that personnel wearing hearing protectors may hear warning and emergency alarms. If this is not practicable and warning and emergency alarms cannot be heard, visual alarms in addition to the audible alarms must be installed.

Portable Lights

§ 149.700 What kind of portable lights may be used on a deepwater port?

Each portable light and its supply cord on a deepwater port must be designed for the environment where it is used.

PART 150—DEEPWATER PORTS: OPERATIONS

Subpart A—General

Sec.

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Authority: 33 U.S.C. 1231, 1321(j)(1)(C), (j)(5), (j)(6), (m)(2); 33 U.S.C. 1509(a); E.O. 12777, sec. 2; E.O. 13286, sec. 34, 68 FR 10619; Department of Homeland Security Delegation No. 0170.1(70), (73), (75), (80).

Subpart A—General

§ 150.1 What does this part do?

This part provides requirements for the operation of deepwater ports.

§ 150.5 Definitions.

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 addresses policies and procedures for normal and emergency operations conducted at the port. The operations manual must, at a minimum, include the requirements outlined in § 150.15.

(b) The operations manual is reviewed and approved by the Commandant (G–M), who may consult with the local OCMI, 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.

(c) The OCMI may approve subsequent changes to the operations manual, provided Commandant (G–M)

is notified and consulted regarding any significant modifications.

(d) The manual must be readily available on the deepwater port for use by personnel.

(e) The licensee must ensure that all personnel are trained and 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 information required in this section.

(a) *General information.* A description of the geographic location of the deepwater port.

(b) A physical description of the port.

(c) Engineering and construction information, including all defined codes and standards used for the port structure and systems. The operator must also include schematics of all applicable systems. Schematics must show the location of valves, gauges, system working pressure, relief settings, monitoring systems, and other pertinent information.

(d) *Communications system.* A description of a comprehensive communications plan, including:

(1) Dedicated frequencies;

(2) Communication alerts/notices between deepwater port and arriving and departing vessels; and

(3) Mandatory time intervals (communication schedules) for maintaining a live radio watch and monitoring frequencies for communication with vessels and aircraft.

(e) *Facility plan.* A plan of the layout of the mooring areas, aids to navigation, cargo transfer locations, and control stations.

(f) The hours of operation.

(g) The size, type, number, and simultaneous operations of tankers that the port can handle.

(h) Calculations, with supporting data or other documentation, to show that the charted water depth at each proposed mooring location is sufficient to provide at least a net under-keel clearance of 5 feet, at the mean low water condition.

(i) *Tanker navigation procedures.* The procedures for the navigation of tankers, including the information required in paragraphs (i)(1) through (i)(9) of this section.

(1) The operating limits, maneuvering capability, draft, net under-keel clearance, tonnage and dimensions (*i.e.*, length, width and breadth) of the tanker to be accommodated at each designated mooring.

(2) The speed limits proposed for tankers in the safety zone and navigation area to be avoided around the port.

(3) Any special navigation or communication equipment that may be required for operating in the safety zone and area to be avoided.

(4) The measures for routing vessels, including a description of the radar navigation system to be used in operation of the deepwater port:

(i) Type of radar;

(ii) Characteristics of the radar;

(iii) Antenna location;

(iv) Procedures for surveillance of vessels approaching, departing, and transiting the safety zone and navigation area to be avoided;

(v) Advisories to each tanker underway in the safety zone regarding the vessel's position, port conditions, and status of adjacent vessel traffic;

(vi) Notices that must be made, as outlined in § 150.325, by the tanker master regarding the vessel's characteristics and status; and

(vii) Rules for navigating, mooring, and anchoring in a safety zone, area to be avoided, and anchorage area.

(5) Any mooring equipment needed to make up to the SPM.

(6) The procedures for clearing tankers, support vessels, and other vessels and aircraft during emergency and routine conditions.

(7) Weather limits for tankers, including a detailed description of the manner of forecasting the wind, wave, and current conditions for:

(i) Shutdown of cargo transfer operations;

(ii) Departure of the tanker from the mooring;

(iii) Prohibition on mooring at the DWP or SPM; and

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

(8) Any special illumination requirements for vessel arrival, discharge, and departure operations.

(9) Any special watch standing requirements for vessel transiting, mooring, or while at anchor.

(j) *Personnel.* The duties, title, qualifications, and training of all port personnel responsible for managing and carrying out the following port activities and functions:

(1) Vessel traffic management;

(2) Cargo transfer operations;

(3) Safety and fire-protection;

(4) Maintenance and repair

operations;

(5) Emergency procedures; and

(6) Port security.

(k) The personnel assigned to supervisory positions must be designated, in writing, by the licensee

and have the appropriate experience and training to satisfactorily perform their duties. Commandant (G–M) will review and approve the qualifications for all proposed supervisory positions.

(l) *Cargo transfer procedures.* The procedures for transferring cargo must comply with the applicable requirements of parts 154 and 156 for oil and subpart B to part 127 for natural gas, respectively, of this chapter including the requirements specified in paragraphs (l)(1) through (l)(10) of this section.

(1) The requirements for oil transfers in accordance with subpart A to part 156 of this chapter regarding:

- (i) Pre-transfer conference;
- (ii) Inspection of transfer site and equipment (*i.e.*, hoses, connectors, closure devices, monitoring devices, and containment);
- (iii) Connecting and disconnecting of transfer equipment, including to a floating hose string for a single-point mooring;
- (iv) Preparation of the Declaration of Inspection (DOI); and
- (v) Supervision by a Person in Charge (PIC).

(2) The requirements for natural gas transfers in accordance with subpart B to part 127 of this chapter regarding:

- (i) Pre-transfer conference;
- (ii) Inspection of transfer site and equipment (*i.e.*, hoses, connectors, closure devices, leak monitoring devices, and containment);
- (iii) Connecting and disconnecting of transfer equipment, including to a floating hose string for a SPM;
- (iv) Purging of line to test for leaks and in preparation for cool down or heat up phases as appropriate;
- (v) Preparation of the Declaration of Inspection (DOI); and
- (vi) Supervision by a port PIC.

(3) The shipping name of, and Material Safety Data Sheet on, the product(s) transferred.

(4) The duties, title, qualifications, and training of personnel of the port designated as the PIC and responsible for managing cargo transfers (including ballasting operations if applicable to the port), in accordance with subpart D of part 154 for oil and subpart B (Operations) of part 127 for natural gas, respectively of this chapter.

(5) Minimum requirements for watch personnel onboard the vessel during transfer operations (*i.e.*, personnel necessary for checking mooring gear, monitoring communications and having propulsion/steering on standby).

(6) The start-up and completion of pumping.

(7) Emergency shutdown.

(8) The maximum relief valve settings, the maximum available working

pressure and hydraulic shock to the system without relief valves, or both.

(9) Equipment necessary to discharge cargo to the port complex without harm to the environment or to persons involved in the cargo transfer, including piping, adapters, bolted flanges and quick disconnect coupling.

(10) Describing the method to be used to water and de-water the SPM hoses when required.

(m) 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 (*i.e.*, cool down requirements for transfer system components prior to transfer of LNG).

(n) *Maintenance procedures.* A maintenance program to document service and repair of:

- (1) Cargo transfer equipment;
- (2) Firefighting and Fire protection equipment;
- (3) Safety equipment; and
- (4) Cranes.

(o) *Occupational health and safety training procedures.* Policy and procedures to address occupational health and safety requirements outlined in §§ 150.600 to 150.632 of this subpart, including:

- (1) Employee training in safety and hazard awareness and proper use of personnel protective equipment;
- (2) Physical safety measures in the workplace (*i.e.*, housekeeping and illumination of walking and working areas);
- (3) Fall arrest;
- (4) Personnel transfer nets;
- (5) Hazard communication (Right to Know);
- (6) Permissible exposure limits (PEL);
- (7) Machine guarding;
- (8) Electrical safety;
- (9) Lockout/Tagout;
- (10) Crane safety;
- (11) Sling usage;
- (12) Hearing conservation;
- (13) Hot work;
- (14) Warning signs;
- (15) Confined space safety; and
- (16) Initial and periodic training and certification will be documented for each port employee and for visitors where appropriate (*e.g.*, safety orientation training).

(p) *Emergency procedures.* Emergency internal and external notification procedures:

- (1) Names and numbers of key port personnel; and

(2) Names and numbers of law enforcement and response agencies.

(q) Quantity, type, location, and use of safety and fire-protection equipment, including fire plan.

(r) Aerial operations (helicopter landing pad procedures).

(s) Port response procedures for:

- (1) Fire;
- (2) Reportable product spill;
- (3) Personnel injury (including confined space rescue); and
- (4) Terrorist activity (see Port Security Plan).

(t) Designation of and assignment of port personnel to response teams for specific contingencies.

(u) Individual and team training for incident response (in accordance with 46 CFR 109.213) as specified in paragraphs (u)(1) through (u)(3) of this section.

- (1) Care and use of equipment.
- (2) Emergency drills and response:
 - (i) Types;
 - (ii) Frequency (at least annually); and
 - (iii) Documentation (records, reports and dissemination of “lessons learned”).
- (3) Documentation of minimum training requirements for response team members:

(i) Marine firefighting training;

(ii) First Aid/CPR;

(iii) Water survival;

(iv) Spill response and clean-up;

(v) Identification of at least one employee trained and certified at the level of an Emergency Medical Technician-Basic; and

(vi) Identification of at least two employees trained and certified as offshore competent persons in prevention of inadvertent entry into hazardous confined spaces.

(v) *Deepwater port security procedures.* A deepwater port security plan that addresses security issues, including, but not limited to:

(1) Controlling access of personnel and the introduction of goods and material into the port;

(2) Monitoring and alerting vessels that approach or enter the port’s security zone;

(3) 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);

(4) Notification requirements (both internally and externally) and response requirements in the event of a perceived threat or an attack on the port;

(5) Designating the Port Security Officer, providing positive and

verifiable identification of personnel with access to the port;

(6) The training (including drills) required for all personnel regarding security issues; and

(7) The scalability of actions and procedures for the various levels of threat. Deepwater port operators should ensure that security plans address or are comparable to the key security plan elements provided in 33 CFR part 106.

(w) 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.

(x) Recordkeeping of maintenance procedures, tests, and emergency drills outlined elsewhere in the operations manual.

(y) *Environmental monitoring procedures.* 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.

(1) Routine 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. The examination process must include water and air monitoring in accordance with appropriate Federal and State statutes.

(2) A more detailed study may be required in the wake of an event such as an inadvertent release.

§ 150.20 How many copies of the operations manual must be given to the Coast Guard?

The draft operations manual will be included as part of the application submission. After a license has been issued and approval of the final operations manual is granted, the licensee must give the Commandant (G–M) at least five copies and five copies of each subsequent amendment to the manual.

§ 150.25 Amending the operations manual.

(a) Whenever the cognizant 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 proposed amendments to eliminate the inadequacies.

(c) The cognizant COTP reviews the amendments and 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), via the appropriate district office, 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 Proposing 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 cognizant 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 Deviating 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 Emergency deviation 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 a facility spill response plan?

(a) Each deepwater port, which meets the applicability requirements of part 154, subpart F, of this chapter must have a Facility Response Plan and be approved by the COTP.

(b) Each natural gas deepwater port must have a natural gas facility emergency plan that meets part 127, subpart B of this chapter.

(c) 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 COTP deems necessary, and may coincide with receipt of the annual self-inspection report from the operator to ensure stated conditions are accurate.

§ 150.105 What are the requirements for annual self-inspection?

(a) The owner or operator of each manned deepwater port must ensure that the port is inspected, at intervals of no more than 12 months, to determine whether the facility is in compliance with the requirements of this subchapter. The inspection may be conducted within 2 months after the date the inspection is due. However, the inspection is credited as of 12 months after the previous due date.

(b) The owner or operator must record and submit the results of the annual self-inspection to the COTP within 30 days after completion of the inspection. The report must include a description of any failure and scope of repairs made to components or equipment, in accordance with the requirements in Subpart I to this part, other than the primary lifesaving or firefighting or transfer equipment.

§ 150.110 What are the notification requirements upon receipt of classification society certifications?

The licensee must notify the COTP, in writing, upon receipt of a classification society certification, interim class certificate, or SPM classification certificate.

Subpart C—Personnel**§ 150.200 Who must ensure that port personnel are qualified?**

The licensee must ensure that the individual filling a position meets the qualifications for that position as outlined in the operations manual.

§ 150.205 What are the language requirements for port personnel?

Only persons who read, write, and speak English may occupy the essential management positions outlined in the operations manual.

§ 150.210 What are the restrictions on serving in more than one position?

No person may serve in more than one of the essential management positions outlined in the operations manual at any one time.

§ 150.225 What training and instruction are required?

Personnel must receive training and instruction commensurate with the position they hold. Procedures for documenting employee training must be outlined in the operations manual.

Subpart D—Vessel Navigation**§ 150.300 What does this subpart do?**

This subpart supplements the international navigation rules in

subchapter D of this chapter, and prescribes requirements that:

(a) Apply to the navigation of all vessels at or near a deepwater port; and

(b) Apply to all vessels while in a safety zone, area to be avoided, or no anchoring area.

§ 150.305 How does this subpart apply to unmanned deepwater ports?

The master of any tanker calling at an unmanned deepwater port is responsible for the safe navigation of the vessel to and from the port and for the required notifications in § 150.325. Once the tanker is connected to the unmanned deepwater port, the master must maintain radar surveillance in compliance with the requirements of § 150.310.

§ 150.310 When is radar surveillance required?

A manned deepwater port's person in charge of vessel operations must maintain radar surveillance of the safety zone or area to be avoided 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 area to be avoided;

(c) A vessel other than a tanker or support vessel is about to enter or is underway in the safety zone or area to be avoided; or

(d) As described in the port security plan.

§ 150.320 What advisories are given to tankers?

A manned deepwater port's person in charge of vessel operations must advise the master of each tanker underway in the safety zone or area to be avoided of the following:

(a) At intervals not exceeding 10 minutes, the vessel's position by range and bearing from the pumping platform complex; and

(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 or area to be avoided.

§ 150.325 What is the first notice required before a tanker enters the safety zone or area to be avoided?

(a) The owner, master, agent, or person in charge of a tanker bound for a manned deepwater port must comply with the notice of arrival (NOA) requirements in subpart C of part 160 of this chapter. The NOA will be submitted to the National Vessel Movement Center (NVMC) that was established in October 2001 to track arrival information from vessels entering U.S. waters.

(b) The owner, master, agent, or person in charge of a tanker bound for a manned deepwater port must report the pertinent information required in § 150.15(i)(4)(vi) for the vessel including:

(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 product discharge; and

(6) The operational condition of the equipment listed under § 164.35 of this chapter on the tanker.

(c) If the estimated time of arrival changes by more than 6 hours from the last reported time, the NVMC and the port's person in charge of vessel operations must be notified of the correction as soon as the change is known.

(d) If the information reported in paragraphs (b)(4) or (b)(5) of this section changes at any time before the tanker enters the safety zone or area to be avoided at the deepwater port, or while the tanker is in the safety zone or area to be avoided, the master of the tanker must report the changes to the NVMC and port's person in charge of vessel operations as soon as possible.

§ 150.330 What is the second notice required before a tanker enters the safety zone or area to be avoided?

When a tanker bound for a manned deepwater port is 20 miles from entering the port's safety zone or area to be avoided, the master of the tanker must notify the port's person in charge of vessel operations of the tanker's name and location.

§ 150.340 What are the rules of navigation for tankers in the safety zone or area to be avoided?

(a) A tanker must enter or depart the port's safety zone or area to be avoided in accordance with the navigation procedures in the port's approved operations manual as described in § 150.15(i).

(b) A tanker must not anchor in the safety zone or area to be avoided, except in a designated anchorage area.

(c) A tanker may not enter a safety zone or area to be avoided in which

another tanker is present, unless it has been cleared by the person in charge of the port and no other tankers are underway.

(d) A tanker must not operate, anchor, or moor in any area of the safety zone or area to be avoided in which the net under-keel clearance would be less than 5 feet.

§ 150.345 How are support vessels cleared to move within the safety zone or area to be avoided?

All movements of support vessels within a manned deepwater port's safety zone or area to be avoided must be cleared in advance by the port's person in charge of vessel operations.

§ 150.350 What are the rules of navigation for support vessels in the safety zone or area to be avoided?

A support vessel must not anchor in the safety zone or area to be avoided, except:

- (a) In an anchorage area; or
- (b) For vessel maintenance, which, in the case of a manned deepwater port, must be cleared by the port's person in charge of vessel operations.

§ 150.355 How are other vessels cleared to move within the safety zone?

(a) Clearance by a manned deepwater port's person in charge of vessel operations is required before a vessel, other than a tanker or support vessel, enters the safety zone.

(b) The port's person in charge of vessel operations 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) Be prohibited by regulation.

(c) At an unmanned deepwater port, such as a submerged turret landing (STL) system, paragraphs (a) and (b) of this section would apply once a tanker connects to the STL buoy.

§ 150.380 Under what circumstances may vessels operate within the safety zone or area to be avoided?

(a) Table 150.380(a) of this section lists the areas within a safety zone and area to be avoided where a vessel may operate and the clearance needed for that location.

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TABLE 150.380(a)—REGULATED ACTIVITIES OF VESSELS AT DEEPWATER PORTS

Regulated Activities	Area to be avoided		
	Safety Zone around each platform pumping complex and SPM ¹	Anchorage areas	No anchorage areas within safety zone and area to be avoided
Tankers calling at port	C	C	C
Support vessel movements	C	C	C
Transit by vessels other than tankers or support vessels	N	P	P
Mooring to SPM by vessels other than tankers or support vessels	F	.....
Anchoring by vessels other than tankers or support vessels	N	F	N
Fishing, including bottom trawl (shrimping)	N	P	N
Mobile drilling operations or erection of structures ²	N	N	N
Lightering/transshipment ³	N	N	N

Notes--

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 port's person in charge, vessel operations. P--Transit is permitted when the vessel is not in the immediate area of a tanker and when cleared by the person in charge, vessel operations. Communication with the port's person in charge, vessel operations is required. For transiting foreign-flag vessels, the requirement for clearance to navigate in the area to be avoided is mandatory.

(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 a manned deepwater port's person in charge of vessel operations if the master advises the port PIC of the reasons for the deviation at the earliest possible moment.

Subpart E—Cargo Transfer Operations

§ 150.400 What does this subpart do?

This subpart prescribes rules that apply to the transfer of oil or natural gas at a deepwater port.

§ 150.405 How must a Cargo Transfer System (CTS) be tested and inspected?

(a) No person may transfer oil or natural gas through a CTS at a deepwater port unless it has been inspected and tested according to this section.

(b) The SPM-CTS must be maintained as required by the design standards used to comply with § 149.650 of this chapter.

(c) If the manufacturer's maximum pressure rating for any cargo transfer hose in a SPM-CTS 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 for oil or 1.1 times its maximum working pressure for natural gas; 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 cargo transfer operations in a SPM-CTS 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 for oil or 15 months for natural gas; and

(e) Before resuming cargo transfer operations, each submarine hose in a SPM-CTS must be visually examined in place as described in paragraph (c)(3) of this section after cargo transfer operations are shut down due to sea conditions at the deepwater port.

§ 150.420 What actions must be taken when cargo transfer equipment is defective?

When any piece of equipment involved in cargo transfer operations (oil or natural gas) is defective:

(a) The piece of equipment must be replaced or repaired before making any further cargo transfers; and

(b) The repaired or replaced piece must meet or exceed its original specifications. Repairs must be conducted in accordance with the port-specific maintenance program outlined in the operations manual, and that program must provide for the repair of natural gas transfer hoses in accordance with § 127.405 of this chapter.

§ 150.425 What are the requirements for transferring cargo?

Cargo transfer procedures must be outlined in the port operations manual and must provide:

- (a) Oil transfer procedures that accord with § 156.120 of this chapter; and
- (b) Natural gas transfer procedures that accord with §§ 127.315, 127.317 and 127.319 of this chapter.

§ 150.430 What are the requirements for a declaration of inspection?

(a) No person may transfer cargo from a tanker to a manned deepwater port unless a declaration of inspection complying with § 156.150(c) (for oil) or § 127.317 (for natural gas) of this chapter has been filled out and signed by the vessel's officer in charge of cargo transfer and the person in charge of cargo transfer for the deepwater port.

(b) Before signing a declaration of inspection, the vessel's officer in charge of cargo transfer must inspect the tanker; the person in charge of cargo transfer for the deepwater port must inspect the deepwater port. They must indicate, by initialing each item on the declaration of inspection form, that the tanker and deepwater port comply with § 156.150 (for oil) or § 127.317 (for natural gas) of this chapter.

§ 150.435 When are cargo transfers not allowed?

No person may transfer cargo at a deepwater port:

- (a) When the person in charge of cargo transfer 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 person in charge of cargo transfer determines that a cargo transfer should be resumed as a safety measure;
- (d) When a leak develops of a sufficient quantity for product to

accumulate in the cargo containment underneath the manifold or piping;

(e) When there are not enough personnel and equipment at the port dedicated to contain and remove the discharges or perform the emergency response functions as required in the port's response plan under part 154 (for oil), or emergency plan under part 127 (for natural gas) of this chapter;

(f) Whenever the emergency shutdown system should have activated but failed to do;

(g) By lightering, except in bunkering operations, unless otherwise authorized by the COTP;

(h) When the weather at the port does not meet the minimum operating conditions for cargo transfers as defined in the port's operations manual; or

(i) When prescribed by the Port Security Plan under heightened security conditions at the port or its adjacent areas, or on vessels calling on or serving the port.

§ 150.440 How may the COTP order suspension of cargo transfers?

(a) In case of emergency, the COTP may order the suspension of cargo transfers at a port to prevent the discharge, or threat of discharge, of oil or natural gas 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.

§ 150.445 When is oil in an SPM-OTS displaced with water?

(a) 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:

(1) A storm warning is received forecasting weather conditions that will exceed the design operating criteria listed in the operations manual for the SPM-OTS;

(2) A vessel is about to depart the SPM because of storm conditions; or

(3) The SPM is not scheduled for use in an oil transfer operation within the next 7 days.

(b) The Port Engineer will not be required to perform this requirement, provided it can be demonstrated to the OCMI, that a satisfactory alternative means of safely securing all cargo transfer hoses can be implemented in the event of severe weather conditions.

Subpart F—Emergency and Specialty Equipment

§ 150.500 What does this subpart do?

This subpart concerns requirements for maintenance, repair, and operational testing of emergency and specialty equipment at a deepwater port.

Maintenance and Repair

§ 150.501 How must emergency equipment be maintained and repaired?

All lifesaving, firefighting, and other emergency equipment at a deepwater port, including additional equipment not required to be onboard the deepwater port, must be maintained in good working order and repaired according to the port's planned maintenance program and the requirements outlined in this subpart.

Lifesaving Equipment (General)

§ 150.502 What are the maintenance and repair requirements for lifesaving equipment?

(a) Each deepwater port must have onboard, or in the operator's principal office in the case of an unmanned port, the manufacturer's instructions for performing onboard maintenance and repair of the port's lifesaving equipment. The instructions must include the following for each item of equipment, as applicable:

- (1) Instructions for maintenance and repair;
- (2) A checklist for use when carrying out the monthly inspections required under § 150.513;
- (3) A schedule of periodic maintenance;
- (4) A diagram of lubrication points with the recommended lubricants;
- (5) A list of replaceable parts;
- (6) A list of sources of spare parts; and
- (7) A log for records of inspections and maintenance.

(b) In lieu of the manufacturer's instructions required under paragraph (a) of this section, the deepwater port may have its own onboard planned maintenance program for maintenance and repair that is equivalent to the procedures recommended by the equipment manufacturer.

(c) The deepwater port must have designated a person in charge of ensuring that maintenance and repair is carried out in accordance with the instructions required in paragraph (a) of this section.

(d) If deficiencies in the maintenance or condition of lifesaving equipment are identified, the OCMI may review the instructions under paragraph (a) of this section and require appropriate changes to the instructions or operations to

provide for adequate maintenance and readiness of the equipment.

(e) When lifeboats, rescue boats, and liferafts are not fully operational because of ongoing maintenance or repairs, there must be a sufficient number of fully operational lifeboats and liferafts available for use to accommodate all persons on the deepwater port.

(f) Except in an emergency, repairs or alterations affecting the performance of lifesaving equipment must not be made without notifying the OCMI in advance. The person in charge must report emergency repairs or alterations to lifesaving equipment to the OCMI, as soon as practicable.

(g) The person in charge must ensure that spare parts and repair equipment are provided for each lifesaving appliance and component subject to excessive wear or consumption.

Launching Appliances

§ 150.503 What are the time interval requirements for maintenance on survival craft falls?

(a) Each fall used in a launching device for survival craft or rescue boats must be turned end-for-end at intervals of not more than 30 months.

(b) Each fall must be replaced by a new fall when deteriorated or at intervals of not more than 5 years, whichever is earlier.

(c) A fall that cannot be turned end-for-end under paragraph (a) of this section must be carefully inspected between 24 and 30 months after its installation. If the inspection shows that the fall is faultless, the fall may be continued in service up to 4 years after its installation. It must be replaced by a new fall 4 years after installation.

§ 150.504 When must the operator service and examine lifeboat and rescue boat launching appliances?

(a) The operator must service launching appliances for lifeboats and rescue boats at intervals recommended in the manufacturer's instructions under § 150.502(a), or deepwater port's planned maintenance program under § 150.502(b).

(b) The operator must thoroughly examine launching appliances for lifeboats and rescue boats at intervals not to exceed 5 years. Upon completion of the examination, the operator must subject the winch brakes of the launching appliance to a dynamic test.

§ 150.505 When must the operator service and examine lifeboat and rescue boat release gear?

(a) The operator must service lifeboat and rescue boat release gear at intervals

recommended in the manufacturer's instructions under § 150.502(a), or deepwater port's planned maintenance program under § 150.502(b).

(b) The operator must subject lifeboat and rescue boat release gear to a thorough examination at each inspection for certification by personnel trained in examining the gear.

Inflatable Lifesaving Appliances

§ 150.506 When must the operator service inflatable lifesaving appliances and marine evacuation systems?

(a) The operator must service each inflatable lifejacket, hybrid inflatable lifejacket, and marine evacuation system at intervals of 1-year after its initial packing. The operator may delay the servicing up to 5 months to meet the next scheduled inspection of the deepwater port.

(b) The operator must service each inflatable liferaft no later than the month and year on its servicing sticker under 46 CFR 160.151–57(m)(3)(ii), except that the operator may delay servicing up to 5 months to meet the next scheduled inspection of the deepwater port. The operator must also service each inflatable liferaft:

- (1) Whenever the container of the raft is damaged; or
- (2) Whenever the container straps or seals are broken.

§ 150.507 How must the operator service inflatable lifesaving appliances?

(a) The operator must service each inflatable life raft according to 46 CFR part 160, subpart 160.151.

(b) The operator must service each inflatable lifejacket according to 46 CFR part 160, subpart 160.176.

(c) The operator must service each hybrid inflatable lifejacket according to the owner's manual and the procedures in 46 CFR part 160, subpart 160.077.

§ 150.508 What are the maintenance and repair requirements for inflatable rescue boats?

The operator must perform the maintenance and repair of inflatable rescue boats according to the manufacturer's instructions.

Operational Tests and Inspections (General)

§ 150.509 How must emergency equipment be tested and inspected?

All lifesaving, firefighting, and other emergency equipment at a deepwater port must be tested and inspected per this subpart.

§ 150.510 How must emergency equipment being tested be operated?

The equipment must be operated under the operating instructions of the

equipment's manufacturer when tests or inspections include operational testing of emergency equipment.

§ 150.511 What are the operational testing requirements for lifeboat and rescue boat release gear?

(a) Lifeboat and rescue boat release gear must be operationally tested under a load of 1.1 times the total mass of the lifeboat or rescue boat when loaded with its full complement of persons and equipment.

(b) The test must be conducted whenever the lifeboat, rescue boat, or their release gear is overhauled or at least once every 5 years.

(c) The OCMI may consider alternate operational test procedures to those under paragraph (a) of this section.

Frequency of Tests and Inspections

§ 150.512 What are the weekly tests and inspections?

The required weekly tests and inspections of lifesaving equipment are as follows:

(a) The operator must visually inspect each survival craft, rescue boat, and launching device to ensure its readiness for use;

(b) The operator must test the general alarm system; and

(c) The operator must test for readiness of the engine, starting device, and communications equipment of each lifeboat and rescue boat according to the manufacturer's instructions.

§ 150.513 What are the monthly tests and inspections?

(a) The operator must inspect monthly each item of lifesaving equipment under § 150.502(b) to this subpart, to ensure that the equipment is complete and in good order. The operator must keep on the deepwater port (or in the operator's principal office, in the case of an unmanned deepwater port) a report of the inspection that includes a statement as to the condition of the equipment, and make the report available for review by the Coast Guard.

(b) The operator must test monthly each Emergency Position Indicating Radio Beacon (EPIRB) and each Search and Rescue Transponder (SART), other than an EPIRB or SART in an inflatable liferaft. The operator must test the EPIRB using the integrated test circuit and output indicator to determine whether the EPIRB is operational.

§ 150.514 What are the annual tests and inspections?

At least annually the operator must:

(a) Strip, clean, thoroughly inspect, and, if needed, repair each lifeboat, rescue boat, and liferaft. At that time,

the operator must empty, clean, and refill with fresh fuel each fuel tank;

(b) Thoroughly inspect and, if needed, repair each davit, winch, fall, and other launching device;

(c) Check each item of lifesaving equipment and replace any item that is marked with an expiration date that has passed;

(d) Check each battery used in an item of lifesaving equipment and replace any battery that is marked with an expiration date that has passed; and

(e) Replace any battery that is not marked with an expiration date if that battery is used in an item of lifesaving equipment, except for a storage battery used in a lifeboat or rescue boat.

(f) The requirements in this section do not relieve the person in charge of the requirement to keep the equipment ready for immediate use.

Weight-Testing

§ 150.515 What are the requirements for weight-testing of newly installed or relocated craft?

(a) The operator must perform installation weight-testing according to 46 CFR 199.45(a)(1) on each new lifeboat, rescue boat, and davit-launched liferaft system.

(b) The operator must conduct installation weight-tests, according to paragraph (a) of this section, when survival crafts are relocated to another deepwater port.

§ 150.516 What are the periodic requirements for weight-testing?

The operator must weight-test, according to 46 CFR 199.45(a)(1), each lifeboat, davit-launched liferaft, and rescue boat every time a fall is replaced or turned end-for-end.

§ 150.517 How are weight tests supervised?

(a) The installation and periodic tests required by 150.515 and 150.516 of this subpart must be supervised by a person familiar with lifeboats, davit-launched liferafts, rescue boats, and with the test procedures under those sections.

(b) The person supervising the tests must attest, in writing, that the tests have been performed according to Coast Guard regulations. The operator must keep a copy of the supervisor's attesting statement onboard the deepwater port (or in the operator's principal office, in the case of an unmanned deepwater port) and make it available to the OCMI.

Personal Safety Gear

§ 150.518 What are the inspection requirements for work vests and immersion suits?

(a) All work vests and immersion suits must be inspected by the owner or

operator pursuant to § 150.105 of this part, to determine whether they are in serviceable condition.

(b) If a work vest or immersion suit is inspected and is in serviceable condition, then it may be continued in service. If not, then it must be removed from the deepwater port.

Emergency Lighting and Power Systems

§ 150.519 What are the requirements for emergency lighting and power systems?

(a) The operator must test and inspect the emergency lighting and power systems at least once each week to determine if they are in proper operating condition. If they are not in proper operating condition, then the operator must repair or replace their defective parts.

(b) The operator must test under load each emergency generator driven by an internal combustion engine that is used for an emergency lighting and power system at least once in each month for a minimum of 2 hours.

(c) The operator must test each storage battery for the emergency lighting and power systems, at least once in each 6 months, to demonstrate the ability of the batteries to supply the emergency loads for an 8-hour period. The operator must follow the manufacturer's instructions in performing the battery test to ensure the batteries are not damaged during testing.

Fire Extinguishing Equipment

§ 150.520 When must fire extinguishing equipment be tested and inspected?

The operations manual must specify how and when the operator will test and inspect each hand-portable fire extinguisher, semi-portable fire extinguisher, and fixed fire-extinguishing system. These specifications must accord with 46 CFR 31.10-18.

§ 150.521 What records are required?

(a) The operator must maintain a record of each test and inspection under § 150.520 on the deepwater port (or in the operator's principal office, in the case of an unmanned deepwater port) for at least 2 years.

(b) The record must show:

(1) The date of each test and inspection;

(2) The number or other identification of each fire extinguisher or system tested or inspected; and

(3) The name of the person who conducted the test or inspection and the name of the company that person represents.

Miscellaneous Operations**§ 150.530 What may the fire-main system be used for?**

The fire-main system may be used only for firefighting and for deck washing, unless it is capable of being isolated and can provide the applicable minimum pressures required outlined in § 149.416 of this chapter.

§ 150.531 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.

§ 150.532 What are the requirements for connection and stowage of fire hoses?

(a) At least one length of fire-hose, with a combination nozzle, must be connected to each fire hydrant at all times. If in a location exposed to the weather, the fire-hose may be removed from the hydrant during freezing weather.

(b) When not in use, fire-hose connected to a fire hydrant must be stowed on a hose rack.

(c) The hydrant nearest the edge of a deck must have enough lengths of fire-hose connected to it to allow 10 feet of hose, when pressurized, to curve over the edge.

§ 150.540 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.

§ 150.550 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.

§ 150.555 How must cranes be maintained?

Cranes must be operated, maintained, and tested in accordance with subpart F to 46 CFR part 109.

Subpart G—Workplace Safety and Health**§ 150.600 What does this subpart do?**

This subpart concerns requirements for workplace safety and health on a deepwater port.

Safety and Health (General)**§ 150.601 What are the requirements for workplace safety and health on a deepwater port?**

(a) Each operator of a deepwater port must ensure compliance, on that port, with the requirements of this subpart, and must ensure that all places of employment within the port are:

(1) Maintained in compliance with workplace safety and health regulations of this subpart; and

(2) Free from recognized hazardous conditions.

(b) Persons responsible for actual operations, including owners, operators, contractors, and subcontractors must ensure that those operations subject to their control are:

(1) Conducted in compliance with workplace safety and health regulations of this subpart; and

(2) Free from recognized hazardous conditions.

(c) The term "recognized hazardous conditions," as used in this subpart, means conditions that are:

(1) Generally known among persons in the affected industry as causing, or likely to cause, death or serious physical harm to persons exposed to those conditions; and

(2) Routinely controlled in the affected industry.

§ 150.602 What occupational awareness training is required?

(a) Each deepwater port operator must ensure that all port personnel are provided with information and training on recognized hazardous conditions in their workplace, including, but not limited to, electrical, mechanical, and chemical hazards. Specific required training topics are outlined in § 150.15(u).

(b) As an alternative to compliance with the specific provisions of this subpart, an operator may provide, for workplace safety and health, the implementation of an approved, port-specific safety and environmental management program (SEMP). Operators should consult with the Commandant (G-M) in preparing a SEMP. Five copies of a proposed SEMP must be submitted to the Commandant for evaluation. The Commandant may consult with the local OCMI, and will approve the SEMP if he or she finds that the SEMP provides at least as much

protection of workplace safety and health as do the specific provisions of this subpart.

§ 150.603 What emergency response training is required?

The requirements for emergency response training must be outlined in the port operations manual.

§ 150.604 Who controls access to medical monitoring and exposure records?

If medical monitoring is performed or exposure records are maintained by an employer, the owner, operator, or person in charge must establish procedures for access to these records by personnel.

§ 150.605 What are the procedures for reporting a possible workplace safety or health violation at a deepwater port?

Any person may notify the OCMI verbally or in writing of:

(a) A possible violation of a regulation in this part; or

(b) A hazardous or unsafe working condition on any deepwater port.

§ 150.606 After learning of a possible violation, what does the OCMI do?

After reviewing the information received under § 150.605 to this part and conducting any necessary investigation, the OCMI notifies the owner or operator of any deficiency or hazard and initiates enforcement measures as the circumstances warrant. The identity of any person making a report of a violation will remain confidential, except to the extent necessary for the performance of official duties or as agreed to by the person.

General Workplace Conditions**§ 150.607 What are the general safe working requirements?**

(a) All equipment, including machinery, cranes, derricks, portable power tools, and most importantly safety gear must be used in a safe manner and in accordance with the manufacturer's recommended practice, unless otherwise stated in this subchapter.

(b) All machinery and equipment must be maintained in proper working order or removed.

Personal Protective Equipment**§ 150.608 Who is responsible for ensuring that personnel use or wear protective equipment and are trained in its use?**

(a) Each deepwater port operator must ensure that all personnel who are required by this subpart to use or wear personal protective equipment do so when within designated work areas at the port.

(b) Each deepwater port operator must ensure that:

(1) All personnel engaged in the operation are trained in the proper use, limitations, and maintenance of the personal protective equipment specified by this subpart;

(2) The equipment is maintained and used or worn as required by this subpart; and

(3) The equipment is made available and on hand for all personnel engaged in the operation.

Eyes and Face

§ 150.609 When is eye and face protection required?

The operator must provide eye and face protectors for the use of persons engaged in or observing activities where damage to the eye is possible, such as welding, grinding, machining, chipping, handling hazardous materials, or acetylene burning or cutting. These eye and face protectors must be:

(a) Properly marked and in compliance with the requirements of 29 CFR 1910.133; and

(b) Maintained in good condition or replaced when necessary.

§ 150.610 Where must eyewash equipment be located?

Portable or fixed eyewash equipment providing emergency relief must be immediately available near any area where there is a reasonable probability that eye injury may occur.

Head

§ 150.611 What head protection is required?

The deepwater port operator must ensure that where there is a reasonable probability of injury from falling objects or contact with electrical conductors, personnel working or visiting such an area wear head protectors designed to protect them against such injury and complying with 29 CFR 1910.151.

Feet

§ 150.612 What footwear is required?

The deepwater port operator must ensure that while personnel are working in an area, or engaged in activities, where there is a reasonable probability for foot injury to occur, they wear footwear that complies with 29 CFR 1910.136, except when environmental conditions exist that present a hazard greater than that against which the footwear is designed to protect.

Noise and Hearing Protection

§ 150.613 What are the requirements for a noise monitoring and hearing protection survey?

(a) The deepwater port operator must measure noise and provide hearing protection in accordance with 29 CFR 1910.95.

(b) The initial noise survey for a deepwater port must be completed no later than January 1, 2005, or within one year of beginning operations, whichever is later.

Clothing

§ 150.614 When is protective clothing required?

The deepwater port operator must ensure that personnel exposed to flying particles, radiant energy, heavy dust, or hazardous materials wear clothing and gloves that protect against the hazard involved.

Electrical

§ 150.615 What safe practices are required?

(a) The deepwater port operator must ensure that before personnel begin work that might expose them to an electrical charge, they turn off the electricity, unless doing so is not feasible.

(b) The deepwater port operator must ensure that personnel turning off equipment pursuant to paragraph (a) of this section follow the lockout or tagging procedures specified in 29 CFR 1910.147, and in §§ 150.616 and 150.617.

(c) The deepwater port operator must ensure that, to prevent electrical shock, personnel receive training in electrical, safety-related work practices in the area of the work they perform, including the use of electrical personal protective equipment appropriate to protect against potential electrical hazards.

Lockout/Tagout

§ 150.616 What are the requirements for lockout?

The deepwater port operator must ensure that, if equipment (electrical, hydraulic, mechanical, and pneumatic) does not need to be powered during the work described in § 150.615(a), and has a lockout or other device to prevent the equipment from being turned on unintentionally, that lockout or other device is activated.

§ 150.617 What are the requirements for tagout?

(a) The deepwater port operator must ensure that, before work takes place on equipment that is disconnected from the power source, a tag complying with this section is placed at the location where

the power is disconnected. The operator must ensure that, if there is a control panel for the equipment in line between the equipment and the location where the power is disconnected, a tag complying with this section is also placed on the control panel.

(b) Each tag or sign must have words stating:

(1) That equipment is being worked on;

(2) That power must not be restored or the equipment activated; and

(3) The name of the person who placed the tag.

(c) Only the person who placed the tag, that person's immediate supervisor, or the relief person of either, is authorized to remove the tag.

Respiratory Protection

§ 150.618 What are the requirements for respiratory protection?

(a) The deepwater port operator must ensure that respiratory protection measures are taken in compliance with 29 CFR 1910.134 including establishment of a formal respiratory protection program.

(b) The deepwater port operator must ensure that measures for protection from exposure to asbestos are taken in compliance with 29 CFR 1910.1001.

(c) The deepwater port operator must ensure that measures for protection from exposure to inorganic lead are taken in compliance with 29 CFR 1910.1025.

Fall Arrest

§ 150.619 What are the fall arrest system requirements?

The deepwater port operator must ensure that all personnel who are exposed to the risk of falling more than 6 feet, or who are at risk of falling any distance onto equipment with irregular surfaces, exposed moving components, electrically energized cables or connectors, or water, are protected against such a fall either by guardrails or other measures that comply with 29 CFR 1910.23 or 1910.28, or by the use of suitable lifesaving equipment that complies with 46 CFR part 160. In addition, the operator must take measures to control the risk of falling, tripping, or slipping in work areas and walkways due to the presence of loose material or wet conditions including spills.

Machine Guards

§ 150.620 What are the requirements for protecting personnel from machinery?

The deepwater port operator must ensure that all personnel are protected from the risks created by operating machinery through the use of guard

devices or other measures that comply with 29 CFR 1910.212, or through the use of conspicuously posted warning signs that comply with 150.626 of this part.

Slings

§ 150.621 What are the requirements for slings?

The use of slings for material handling must comply with the requirements of 29 CFR 1910.184.

Warning Signs

§ 150.622 What are the warning sign requirements?

The construction and use of warning signs must be in compliance with 29 CFR 1910.144 and 1910.145.

Confined Space Safety

§ 150.623 What are the requirements for protecting personnel from hazards associated with confined spaces?

(a) All personnel must be protected by suitable measures from inadvertently entering a confined space containing a hazardous atmosphere that can cause death or serious injury.

(b) Each deepwater port operator shall evaluate the port-specific hazards associated with confined space entry and develop a confined space safe entry program that complies with:

(1) 29 CFR 1910.146 for permit-required confined spaces, where applicable; and

(2) A national consensus standard, as that term is defined in 29 CFR 1910.2, or that is set by a nationally recognized testing laboratory as defined in 29 CFR 1910.7 and that provides levels of personnel protection at least equivalent to those provided for shipyard personnel by 29 CFR part 1915, subpart B.

(c) To implement the confined space safe entry program, the deepwater port operator must determine the education, training and experience needed by the designated competent persons to safely conduct their duties, including:

(1) Identification, testing, and certification of confined spaces; and
(2) Training of personnel regarding dangers, etc.

(d) These measures must be specified in the port operations manual, along with a list of all confined spaces on the port, describing the specific hazards associated with each such space.

Blood-Borne Pathogens

§ 150.624 What are the requirements for protecting personnel from blood-borne pathogens?

Measures for protection from the dangers of blood-borne pathogens must

be taken in compliance with 29 CFR 1910.1030.

Hazard Communication Program

§ 150.625 What must the hazard communication program contain?

(a) Each deepwater port must have a hazard communication program (HCP) available for the training of, and review by, all personnel on the deepwater port.

(b) The program must be in writing and describe or include:

(1) An inventory of each hazardous material on the deepwater port;

(2) The potential hazards of the material;

(3) The material's intended use on the deepwater port;

(4) The methods for handling and storing the material;

(5) The protective measures and equipment to be used to avoid hazardous exposure;

(6) The labeling, marking, or tagging of the material;

(7) The special precautions, such as lockout and tagout under §§ 150.616–150.617, that should be emphasized when working around the material;

(8) Information and training required for personnel onboard the deepwater port; and

(9) A material safety data sheet (MSDS) for the material.

(c) The information on a material safety data sheet on the material may be used as a substitute for items in paragraph (b) of this section that are addressed in the sheet.

(d) The program must be supplemented as necessary to address each hazardous material newly introduced on the deepwater port.

§ 150.626 What is the hazard communication program used for?

(a) The hazard communication program must ensure that all deepwater port employees, when required by their duties, work safely and responsibly with hazardous materials.

(b) The person in charge for safety must ensure that, before a person is allowed to work at the deepwater port:

(1) A copy of the hazard communication program is made available to the person; and

(2) The person is trained in the information contained in the program.

(c) The training must be supplemented to address each hazardous material newly introduced on the deepwater port.

§ 150.627 Must material safety data sheets be available to all personnel?

(a) The person in charge must ensure that a material safety data sheet (MSDS) for each hazardous material on the fixed

or floating deepwater port is made available to all personnel on the port.

(b) Each MSDS must contain at least information on the use, proper storage, potential hazards, and appropriate protective and response measures to be taken when exposed to or handling the material.

§ 150.628 How must the operator label, tag, and mark a container of hazardous material?

The operator must label, tag, or mark each container of hazardous material with the identity of the hazardous material and the appropriate physical, health, reactivity and other special condition hazard warnings. The only exception is for portable containers for transferring a hazardous material from a labeled container to the work site for immediate use by the person who performs the transfer.

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 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 (if positioned on the surface or within the net under-keel depth for tankers transiting within the safety zone) 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; or

(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 sound signals?

The sound signal on each pumping platform complex must be operated whenever the visibility in any horizontal direction from the structure is less than 5 miles. If the platform is under construction, this requirement may be met by the use of a 2-second whistle blast, made every 20 seconds by a vessel moored at the platform.

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 be sent both to a classification society and to the Coast Guard?

A copy of each report submitted to an authorized classification society, as defined in 46 CFR 8.100 for maintenance of an SPM's class under the rules of that society, must also be submitted to the OCMI.

§ 150.810 Reporting 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 must casualties be reported?

(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) Loss of life;
- (2) An injury that requires professional medical treatment (treatment beyond first aid) and, if the person is engaged or employed on the deepwater port, that renders the individual unfit to perform his or her routine duties;

(3) Impairment to the operation of any of the port's primary lifesaving or fire-fighting equipment; or

(4) 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, dry-docking, 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; and
- (4) The nature and extent of the injury and damage resulting from the event.

§ 150.820 When must a written report of casualty be submitted 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 OCMI within 5 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 OCMI.

(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 Reporting 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 Reporting a pollution incident.

Oil pollution incidents involving a deepwater port are reported according to § 135.305 and 135.307 of this chapter.

§ 150.835 Reporting 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 be kept?

(a) The licensee must keep copies at the deepwater port of the reports, records, test results, and operating data required by this part. In the case of unmanned deepwater ports, these copies must be kept at the operator's principal office rather than on the port.

(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 Personnel records.

The licensee must keep documentation on the designation and qualification of the supervisory positions, outlined in the port operations manual, that are responsible for the management of the deepwater port. These records must be kept for the life of the deepwater port.

§ 150.850 How long must a declaration of inspection form be kept?

The licensee must keep signed copies of the declaration of inspection forms required by § 150.430 for one month from the date of signature.

Subpart J—Safety Zones, No Anchoring Areas, and Areas To Be Avoided

§ 150.900 What does this subpart do?

(a) This subpart provides requirements for the establishment, restrictions, and location of safety zones, no anchoring areas, and areas to be avoided around deepwater ports.

(b) Subpart D of this part, concerning vessel navigation and activities permitted and prohibited at deepwater ports, applies within safety zones, no anchoring areas, and areas to be avoided and their adjacent waters and supplements the International Regulations for Preventing Collisions at Sea.

(c) Recommended shipping safety fairways, associated with deepwater ports, are described in part 166 of this chapter.

§ 150.905 Why are safety zones, no anchoring areas, and areas to be avoided established?

Safety zones, no anchoring areas, and areas to be avoided 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, no anchoring areas, and areas to be avoided

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 and area to be avoided?

No installations, structures, or activities that are incompatible with port operations are allowed in the safety zone and area to be avoided of a deepwater port.

§ 150.915 How are safety zones, no anchoring areas, and areas to be avoided established and modified?

(a) Safety zones, no anchoring areas, and areas to be avoided are 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, no anchoring area, and area to be avoided 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) Commandant (G-M) shall establish safety zones and develop no anchoring areas and areas to be avoided for presentation to the International Maritime Organization (IMO) for approval. Commandant (G-M) may consult with the District Commander prior to establishing safety zones. Once established, the District Commander may request that Commandant (G-M)

modify an existing safety zone. The Commandant (G-M) may then publish a final rule modifying the zone and area in its regulations. Routing measures requiring approval by the International Maritime Organization in order to be effective will be effective only after such approval is granted and such approval is announced by subsequent notice in the **Federal Register**.

(d) When there is an imminent threat to the safety of life and property within the zone and area, the District Commander may modify the safety zone and its regulations in an interim rule without first requesting that Commandant (G-M) publish a notice of proposed rulemaking. The interim rule makes the safety zone, no anchoring area, and area to be avoided and the regulations thereto effective on publication in the **Federal Register**, provided those routing measures requiring approval at the International Maritime Organization have received that approval, and requests public comments. After considering the comments received, the Commandant (G-M), after consulting with the District Commander, shall publish a final rule, which may adopt the interim rule with or without changes or remove it.

(e) If required by circumstances, safety zones and areas to be avoided may be placed into effect immediately but must be followed promptly by the procedures in paragraph (d) of this section.

§ 150.920 How is notice given of new or proposed safety zones, no anchoring areas, and areas to be avoided?

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, no anchoring areas, and areas to be avoided by Broadcast Notices to Mariners, Notices to Mariners, Local Notices to Mariners, newspapers, broadcast stations, or other means.

§ 150.925 How long may a safety zone, no anchoring area, and area to be avoided last?

A safety zone, no anchoring area, and area to be avoided and applicable regulations may go into effect as early as when equipment and materials for construction of the deepwater port arrive at the site 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.

Dated: December 16, 2003.

T.H. Gilmour,

Rear Admiral, Coast Guard, Assistant Commandant for Marine Safety, Security and Environmental Protection.

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