

evaluation and pre-construction testing at potential locations for deep-water ports and that may:

- (1) Adversely affect the environment;
- (2) Interfere with authorized uses of the OCS; 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 (CG-5) 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 deep-water port must submit a written notice to the Commandant (CG-5) at least 30 days before the beginning of the evaluation or testing. The Commandant (CG-5) 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 historical and archeological significance of the area

where the proposed activities are to take place. The report must include contacts made with any appropriate State liaison officers for historic preservation; and

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

(c) For the following activities, the notice only needs 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, including:

- (1) Gravity and magneto-metric measurements;
  - (2) Bottom and sub-bottom acoustic profiling, within specified limits, without the use of explosives;
  - (3) Sediment sampling of a limited nature using either core or grab samplers, and the specified diameter and depth to which the sampling would penetrate 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 person may conduct site evaluation and pre-construction testing unless it complies 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

**§ 148.420**

**33 CFR Ch. I (7-1-11 Edition)**

by any means to the Commandant (CG-5):

(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 OCS;

(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 (CG-5) 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 when the activities were performed;

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

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

(6) Any additional information required by the Commandant (CG-5) on a case-by-case basis.

**§ 148.420 When may the Commandant (CG-5) suspend or prohibit site evaluation or pre-construction testing?**

(a) The Commandant (CG-5) may order, either in writing or orally, with written confirmation, the prohibition or immediate suspension of any activity related to site evaluation or pre-construction testing when the activity threatens to harm:

(1) Human life;

(2) Biota;

(3) Property;

(4) Cultural resources;

(5) Any valuable mineral deposits; or

(6) The environment.

(b) The Commandant (CG-5) will consult with the applicant on measures to remove the cause for suspension.

(c) The Commandant (CG-5) may lift a suspension after the applicant assures the Commandant (CG-5) that

the activity will no longer cause the threat on which the suspension was based.

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

**§ 148.500 What does this subpart do?**

This subpart provides procedures for requesting an exemption from a requirement in this subchapter. The Commandant (CG-5) 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 (CG-5) and the MARAD Administrator.

(c) The Commandant (CG-5) 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 (CG-5) forwards the petition to the Governor of the State for the Governor's recommendation.

**§ 148.515 When is an exemption allowed?**

The Commandant (CG-5) 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: