

§ 148.705

33 CFR Ch. I (7–1–14 Edition)

§ 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 construction, operation, and decommissioning phases of a deepwater port;

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

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

(4) Shore-based construction and fabrication sites;

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

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

(c) The criteria are also applied in a manner that takes into account the cumulative effects of other reasonably foreseeable actions as outlined in § 148.705.

[USCG–1998–3884, 71 FR 57651, Sept. 29, 2006, as amended by USCG–2013–0397, 78 FR 39178, July 1, 2013]

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

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

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

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

- (i) Impacts on endangered species;
- (ii) Essential fish habitat;
- (iii) Marine sanctuaries;

(iv) Archaeological, cultural and historic sites;

(v) Water and air;

(vi) Coastal zone management;

(vii) Coastal barrier resources; and

(viii) Wetlands and flood plains.

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

(3) 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

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

[USCG–1998–3884, 71 FR 57651, Sept. 29, 2006, as amended by USCG–2013–0397, 78 FR 39178, July 1, 2013]

§ 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 (CG–5P) periodically reviews and may revise these criteria. Reviews and revisions are conducted in accordance with § 148.705 of this subpart. The criteria established are consistent with the National Environmental Policy Act.

[USCG–1998–3884, 71 FR 57651, Sept. 29, 2006, as amended by USCG–2013–0397, 78 FR 39178, July 1, 2013]

§ 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 that will be in the national interest and consistent with national security and other national policy goals and objectives, including energy sufficiency, environmental quality, protection from the threat of terrorist attack and other subversive activity against persons and property on the deepwater port and the vessels and crews calling at the deepwater port; and

(2) Under the environmental review criteria in §148.707 of this subpart, the applicant has demonstrated that the deepwater port will be constructed, operated, and decommissioned using the best available technology to prevent or minimize adverse impacts on the marine environment (33 U.S.C. 1503(c)(3), 1504(f) and 1505(a)(1)).

(b) Under 33 U.S.C. 1504(f), these criteria in §148.707 of this part 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 for oil clearly best serves the national interest.

(c) In accordance with 40 CFR 1502.9, the Commandant (CG-5P) will prepare a supplement to a final environmental impact statement if there is significant new information or circumstances relevant to environmental concerns and bearing on the deepwater port and related activities affecting its location site, construction, operation or decommissioning.

[USCG-1998-3884, 71 FR 57651, Sept. 29, 2006, as amended by USCG-2013-0397, 78 FR 39178, July 1, 2013]

§ 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 infor-

mation and quality of assessment, probable environmental impacts, and identification of procedures or technology that might mitigate probable adverse environmental impacts through avoiding, minimizing, rectifying, reducing, eliminating, or compensating for those impacts; and

(b) An evaluation of the effort made under the proposal to mitigate 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 deepwater port, its components, and tankers calling at the deepwater 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 deepwater port, its components, and critical habitats including commercial and sport fisheries, threatened or endangered species habitats, wetlands, flood plains, coastal resources,