UNITED STATES OF AMERICA
BFORE THE
DEPARTMENT OF TRANSPORTATION
UNITED STATES COAST GUARD

Deepwater Ports	**)**	**Docket Number: USCG-1998-3884**
	)	

COMMENTS OF WILLIAMS ENERGY SERVICES, LLC

By notice date May 30, 2002, 67 Fed.Reg. 37920 (2002), the United States Coast Guard ("Coast Guard") issued a notice of proposed rulemaking ("NPRM") to amend the regulations governing deepwater ports, 33 CFR Parts 148, 149, and 150. The regulations proposed by the Coast Guard in docket number USCG 1998-3884 are designed to improve the current Deepwater Port regulations at 33 Code of Federal Regulations, 148-150 and also to implement the intent of the U.S. Congress expressed in the Deepwater Port Modernization Act of 1996 (Public Law 104-324 Title V, Sect. 501-508, October 19, 1996). Currently, the U.S. Congress is considering legislation to include natural gas within the scope of the Deepwater Port Act of 1974. Williams Energy Services, LLC ("Williams") submits these comments within the context of pending legislation that would extend the Deepwater Port Act of 1974 to natural gas deepwater ports. However, in the event that the legislation is not enacted, consideration of these comments would continue to be in public interest.

Introduction

Williams Energy Services, LLC is a fully owned subsidiary of Williams Companies, Inc. Its businesses include liquids and petroleum products pipelines, gas gathering and processing, petroleum terminals and refineries and exploration and production.

The objectives of the Deepwater Port Modernization Act of 1996 include: update and improve the Deepwater Port Act of 1974 (33 U.S.C. 1501-1524); assure that the regulation of deepwater ports is not unnecessarily burdensome or stringent than necessary in comparison to the regulation of other modes of importing or transporting oil; promote the construction and operation of deepwater ports as a safe and effective means of importing oil into the United States; promote innovation, flexibility, and efficiency in the management and operation of deepwater ports by removing or reducing any unnecessary, or overly burdensome Federal regulations or license provisions; and eliminate Federal regulatory oversight or involvement in the port's business and economic decisions as long as the port remains subject to effective competition.

While the proposed amendments to the deepwater port regulations constitute significant progress in reducing the regulatory burden, Williams' comments attempt to identify additional opportunities to further reduce the regulatory burden on deepwater ports and to provide additional clarity to the existing regulations.

Communications

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Comments

A. Preamble, Collection of Information (FR, Vol 67, No. 104, pg 37931). The Coast Guard estimates that the information collection burden for an applicant is 221 hours for the deepwater Port license application and 12 hours for the notice and report of site evaluation and pre-construction testing. This appears to be a gross underestimation of the actual information collection burden for preparing a deepwater port license application and developing the site evaluation and pre-construction testing report. The process of developing this information includes detailed engineering analysis and planning to prepare: 1) a detailed environmental analysis, 2) an oil spill response plan, 3) a port operations manual, 4) a port security plan and related field examinations and surveys. The combination of all of these activities needed to develop a deepwater port license application is likely to take many more hundreds of hours from an experienced team of engineering, environmental, operations and legal professionals. The estimate of 221 hours should be reexamined.

B. Preamble, Energy Effects. (FR, Vol 67, No. 104, pg 37933) the Coast Guard asserts that the proposed rule is "not likely to have a significant adverse effect on the supply, distribution or use of energy." However, if the regulations were revised to substantially reduce the current regulatory burden, then the proposed rule would in fact promote the President's energy policy by having a positive impact on the supply, distribution and use of energy by streamlining the licensing process for a deepwater port.

C. 33 CFR 148.105(g)(4) and (5). *Financial Information*. These paragraphs appear inconsistent with one of the stated purposes of the Deepwater Port Modernization Act to largely remove Federal regulatory oversight of the ports' business and economic decisions. We recommend that these regulations be deleted or modified to substantially reduce the required information

D. 33 CFR 148.105(m)(3). *Site plans for marine components*. The scope of the "reconnaissance hydrographic survey" required by this regulation is not defined. Depending upon the interpretation of this term, complying with this regulation may require expensive field studies by a research vessel and may significantly exceed that required of a corresponding fixed or floating platform on the U.S. Outer Continental Shelf (OCS). This regulation should be modified to make it clear that only water depth, prevailing currents and other basic hydrographic information need be submitted in the "reconnaissance hydrographic survey". Finally, the applicant should be allowed to obtain this information from existing scientific and technical resources to the extent that this information is available from reputable scientific studies or publications.

E. 33 CFR 148.105(n). *Soil data*. The applicant should be allowed to use existing studies and scientific data to the extent that it is available and valid. Also, the regulation also requires characterization of the onshore soils along the pipeline route. Technically, the "deepwater port" ends at the high water mark according to the definition of the term. Therefore, it is not clear why the Coast Guard is requesting upland soil data. We recommend that requirement be eliminated.

F. 33 CFR 148.105(t)(3) & (4). *Data on miscellaneous components*. The information on bunkering and the type, size and number of vessels to be used in bunkering, mooring, and servicing of vessels using the deepwater port appears to fit more appropriately in the Operations Manual required by 33 CFR 150.10. This information will be redundant since it will also be included in the Operations Manual. Given the inclusion of this information in the Operations Manual, this requirement should be eliminated.

G. 33 CFR 148.107(b). *What additional information may be required?* The need for the information required by 33 CFR 148.107(b) is unclear given the elimination of the antitrust provisions of the Deepwater Port Act and the Congressional finding that deepwater ports are generally subject to effective competition by alternative transportation modes. If such information were deemed critical in the government's decision making process it could be requested separately under the provisions of 33 CFR 148.107(a). The need for this information

should be reevaluated in light of the Deepwater Port Modernization Act of 1996, and should be eliminated if it cannot be clearly show that the information is needed to process the deepwater port license application

H. 33 CFR 148.125(a) and (b). *What are the application fees*? A non-refundable license application fee of $350,000 appears to be unreasonably high. It stands to reason that if the proposed rules are designed to streamline the regulatory process and reduce the burden associated with the regulations that certain application processing efficiencies would be achieved. 33 CFR 148.125(a) should be revised to reduce the license application fee to a more reasonable level, but more importantly 33 CFR 148.125(b) should be revised to make it clear that only additional Federal Government costs that are "directly attributable" to processing the deepwater port license application may be charged to the applicant.

I. 33 CFR 148.305(d)(1). *What is included in a deepwater port license*? 33 CFR 148.150.30 now proposes that changes in the deepwater port operations manual may be submitted to the Coast Guard Captain of the Port ("COTP") for approval. Presumably, the COTP is authorized to approve changes in the operations manual of a non-substantial nature. To clarify this matter, we recommend that the authority of the COTP to approve changes in the operations manual be referenced in this regulation.

J. 33 CFR 149.620. *What happens when the Commandant reviews and evaluates the construction drawings and specifications*? We recommend that a provision be added to this subparagraph allowing most construction drawings to be submitted to the American Bureau of Shipping ("ABS"), or another classification society recognized by the U.S. Coast Guard, for review and approval, and compliance with the standards in 33 CFR Subchapter NN. We encourage the Coast Guard to adopt an approach to plan, review and approval similar to that specified in Navigation and Vessel Inspection Circular (NVIC)10-82 for new U.S. flag ships. Such an approach is already included in the proposed regulations at 33 CFR 149.650 for the review and approval of Single Point Moorings. Allowing ABS and other authorized classification societies to conduct

plan review and approval of deepwater port construction drawings is consistent with the Coast Guard's current approach on vessels. The Coast Guard could retain plan review and approval authority of critical safety drawings like the firefighting and lifesaving plans. The approach recommended above will allow the Coast Guard to better use limited Coast Guard technical staff in the review of the most critical construction drawings while ensuring that the deepwater port is designed and constructed to the required standards.

K. 33 CFR 149.625(c). *What are the design standards*? This proposed regulation requires that all electrical installations be designed to meet the U.S. Coast Guard shipboard electrical standards contained in 46 CFR Chapter I, Subchapter J. We recommend that this regulation also reference the offshore production standards of the American Petroleum Institute as appropriate electrical design standards for a deepwater port. Most designers of fixed offshore facilities use API RP 14F, API RP 14FZ, API RP 500 and/or API RP 505 as appropriate design standards for electrical components on offshore facilities. This regulation should be modified to either adopt the appropriate API standards as acceptable or provide deepwater port designers the opportunity to propose use of these standards as an acceptable alternative to the 46 CFR Subchapter J requirements.

L. 33 CFR 150.15(o). *What must the Operations Manual Include? (Environmental Monitoring)*. This requirement does not appear to be based upon any underlying statutory requirement of the Deepwater Port Act of 1974, as amended. The MMS has no corresponding requirement for the operators of fixed platforms and associated pipelines on the U.S. OCS. While it may be appropriate to document baseline environmental data, there appears to be little benefit achieved from an ongoing environmental monitoring program. In particular, this regulation should be modified to make it clear that an environmental monitoring program of "indefinite" length is not required. Environmental monitoring could be triggered in the event of an oil spill or other incident that has the potential to change the existing environmental conditions. This requirement should be eliminated or substantially modified.

M. To the extent possible, we recommend that existing industry standards be utilized in developing proposed requirements for deepwater ports handling natural gas. Since it is likely that offshore natural gas terminals will be proposed while amendments to the Deepwater Port regulations (33 CFR 148-150) are in process, we recommend that the U.S. Coast Guard issue interim policy guidance in the form of a Navigation and Vessel Inspection Circular to establish appropriate design and operational standards. For offshore liquefied natural gas (LNG) and Compressed Natural Gas (CNG) terminals the regulations at 33 CFR 127 could be adopted where appropriate for an offshore terminal. The Coast Guard should also consider whether appropriate classification society guidance (like ABS's recently published guidelines for offshore LNG facilities) could be included in interim policy guidance

Conclusion

Williams respectfully requests that its comments be considered in the course of this rulemaking. Williams generally supports the proposed changes in this NPRM as consistent with the objectives of the Deepwater Port Act of 1996; and, as an improvement in the procedural and technical requirements for deepwater port construction and operation. In the event the Maritime Transportation Antiterrorism Act of 2002 is enacted by Congress and natural gas is added to the Deepwater Port Act of 1974, we recommend that the Coast Guard issue a Supplemental Notice of Proposed Rulemaking to include proposed standards for deepwater ports handling natural gas.