BLOG

U.S. Deepwater Port Guidance Issued, MARAD Establishes Final Policy

MAY 11, 2015

On May 7, 2015, the U.S. Maritime Administration issued its final policy on the processing of applications for offshore or deepwater port facilities. A draft policy was published for comment in October 2014. In the policy, MARAD chose not to embellish upon the existing statutory and regulatory criteria for deepwater ports approvals.

MARAD is charged by the Deepwater Port Act of 1974, as amended, together with the U.S. Coast Guard, with issuing licenses for deepwater ports, including LNG export terminals, located beyond U.S. territorial waters. The Federal Energy Regulatory Commission (FERC) issues licenses for terminals located on land or near shore.

The U.S. currently has three active deepwater ports, with the Louisiana Offshore Oil Port (LOOP) probably being the most famous of the three. Another deepwater LNG facility has been licensed by MARAD for construction and a fifth, to be located in the northeastern United States, is under review.

The Deepwater Port Act sets out the conditions that applicants must satisfy including showing that the port will not unreasonably interfere with international navigation or other uses of the high seas, that the port will be constructed so as to minimize the impact on the marine environment, and the adjacent state has developed an approved coastal zone management plan. Every application must also be approved by the Governor of the adjacent coastal State.

MARAD received over 300 comments to the its draft policy including a comment that it maintain a preference for projects that utilize U.S.-flag vessels and U.S. crews. MARAD indicated that it would continue such efforts.

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