

TRANSPORTATION CODE

TITLE 4. NAVIGATION

SUBTITLE A. WATERWAYS AND PORTS

CHAPTER 52. TEXAS DEEPWATER PORT PROCEDURES ACT

Sec. 52.001. SHORT TITLE. This chapter may be cited as the Texas Deepwater Port Procedures Act.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 52.002. DEFINITIONS. In this chapter:

(1) "Adjacent coastal county" means a county bordering the Gulf of Mexico that has an onshore storage facility for a deepwater port for which an application has been filed.

(2) "Commissioner" means the commissioner of the General Land Office or the commissioner's designated representative.

(3) "Deepwater port" means a facility defined in Section 3(10), Deepwater Port Act of 1974 (33 U.S.C. Sec. 1502(10)), and includes an onshore storage tank facility and the pipelines located in this state that connect the onshore storage tank facility with an offshore facility of a deepwater port.

(4) "Person" means an individual, association, organization, trust, partnership, or corporation.

(5) "Secretary" means the United States secretary of transportation.

(6) "State or local agency" means a board, commission, department, office, agency, or political subdivision of the state or of a county or municipality, or another public body created by or under state law.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 52.003. GENERAL ADMINISTRATION. (a) The governor shall approve or disapprove an application made to the secretary under the Deepwater Port Act of 1974 (33 U.S.C. 1501 et seq.) to own, construct, or operate a deepwater port off the Texas Gulf Coast.

(b) The commissioner shall administer, implement, and

coordinate the provisions of this chapter regarding a determination by state and local agencies of the application's compliance with state and local laws regarding environmental protection, land and water use, and coastal zone management.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 52.004. APPLICATION: GOVERNOR'S DUTIES. (a) On receipt of a copy of an application from the secretary, the governor shall immediately send a copy to the attorney general and the commissioner.

(b) If the governor determines that the application is substantially similar to an application previously reviewed under this chapter, the governor may approve or disapprove the application without further action under this chapter and notify the secretary of the action taken.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 52.005. APPLICATION TO BE FILED; FEE FOR DUPLICATION AND MAILING. (a) A copy of the application shall be filed in the General Land Office and in the office of the county judge of the adjacent coastal county.

(b) The public may inspect or duplicate the application during normal business hours. A reasonable fee may be charged for duplicating and mailing the application.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 52.006. DUTIES OF ATTORNEY GENERAL AND COMMISSIONER; FEE FOR DUPLICATION AND MAILING. (a) Not later than the 30th day after the date of receiving a copy of the application from the governor, the attorney general shall send the governor and the commissioner a list of each state or local agency that the attorney general determines has jurisdiction to administer laws regarding environmental protection, land and water use, and coastal zone management in the area in which the deepwater port is located.

(b) On receipt of the list, the commissioner shall immediately send a copy of the application to each state and local agency.

(c) The applicant may be charged a reasonable fee to cover the cost of duplicating and mailing the application to the state and local agencies unless the applicant provides the necessary copies. Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 52.007. PUBLICATION OF NOTICE. Not later than the 15th day after the date of receiving a copy of the application from the governor, the commissioner shall publish notice of the application in:

- (1) the Texas Register;
- (2) the newspaper having the greatest general circulation in Travis County and in each of the five most populous counties in the state; and
- (3) a newspaper in the adjacent coastal county and in each county that adjoins the adjacent coastal county in which notice is not otherwise required to be published under this section.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 52.008. REPORT BY AGENCIES. (a) Not later than the 60th day after the date of receiving a copy of the application from the commissioner, a state or local agency notified under Section 52.006 shall report in writing to the commissioner the agency's determination of whether the application complies with laws, including rules and regulations, administered by the agency.

(b) If an agency determines that the application does not comply with laws administered by that agency, the agency shall include in the report:

- (1) a detailed description of the manner in which the application does not comply; and
- (2) recommended changes that would enable the application to comply with those laws.

(c) The commissioner shall send a copy of the agency's report to the applicant.

(d) An applicant is entitled to:

- (1) respond in writing to the agency that issued the report; and

(2) request and receive a public hearing before the commissioner on the provisions of the application that an agency has determined do not comply with laws administered by that agency.

(e) If an agency fails to file a report within the period prescribed by Subsection (a), the application is presumed to comply with the laws administered by that agency.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 52.009. HEARINGS. (a) The commissioner may hold a public hearing after receiving the reports required under Section 52.008.

(b) If the commissioner decides to hold a public hearing or if the applicant requests a hearing under Section 52.008(d)(2), the commissioner shall publish notice of the hearing in the publications described by Section 52.007.

(c) Notice of the hearing must:

- (1) describe the purpose of the hearing; and
- (2) provide the date, time, and place of the hearing.

(d) Notice of the hearing must be published and personal notice of the hearing, if any, must be given not later than the 10th day before the date set for the hearing.

(e) The commissioner may consolidate a hearing held under this section with the hearing that is required to be held in this state by the secretary under the Deepwater Port Act of 1974 (33 U.S.C. Sec. 1501 et seq.).

(f) A hearing held under this section must be concluded not later than the 120th day after the date the commissioner receives the application from the governor. The commissioner may hold a hearing after that date if:

- (1) the required federal hearing in this state has not been held; and
- (2) the commissioner decides to consolidate the hearings and gives notice of the decision.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 52.010. REPORT BY COMMISSIONER. (a) Notwithstanding Section 52.009(f), not later than the 150th day after the date of

receiving a copy of the application from the governor, the commissioner shall send the governor:

(1) a written report summarizing the reports submitted by state and local agencies under Section 52.008; and

(2) a transcript of the testimony from each public hearing the commissioner held on the application, including each consolidated hearing.

(b) If the commissioner's report contains a determination by a state or local agency that the application does not comply with a law relating to environmental protection, land and water use, or coastal zone management, the commissioner shall include in the report:

(1) the manner in which the application does not comply; and

(2) recommended changes that would enable the application to comply with the law.

(c) If the commissioner fails to report to the governor within the period prescribed by Subsection (a), the application is presumed to comply with state and local law.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 52.011. APPROVAL BY GOVERNOR. (a) On receipt of the commissioner's report and not later than 45 days after the last public hearing held by the secretary as required by Section 5(g) of the Deepwater Port Act of 1974 (33 U.S.C. Sec. 1504(g)), the governor shall notify the secretary whether the governor approves or disapproves an application.

(b) The governor may disapprove an application if the governor concludes the application does not comply with state law regarding environmental protection, land and water use, and coastal zone management.

(c) If the governor determines the application can be amended to comply with those state laws, the governor may approve the application and notify the secretary of:

(1) the manner in which the application does not comply; and

(2) recommended changes that would enable the

application to comply with those state laws.

(d) The governor shall send a copy of the notification to the secretary, the applicant, the commissioner, and each state and local agency that was notified under Section [52.006](#).

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 52.012. EFFECT ON OTHER LAWS. This chapter does not affect the power or activities of a state or local agency and does not change or repeal the statutes regarding those agencies.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.