

§ 148.735 What are other critical criteria that must be evaluated?

In accordance with §148.715(b), the deepwater port proposal and reasonable alternatives will be evaluated on the basis of how well they:

- (a) Avoid detrimental effects on human health and safety;
- (b) Pose no compromise to national security;
- (c) Account for the historic, archeological, and cultural significance of the area, including any potential requirements for historical preservation;
- (d) Minimize harmful impacts to minorities and children; and
- (e) Plan for serious consideration of the proposal that offers the least potential for environmental harm to the region or potential mitigation actions, when conflict exists between two or more proposed uses for a site.

§ 148.737 What environmental statutes must an applicant follow?

(a) In constructing and operating a deepwater port, the port must comply with all applicable Federal, State, and tribal environmental statutes. A list of the applicable Federal statutes includes but is not limited to: Abandoned Shipwreck Act (ASA), 43 U.S.C. 2102, *et seq.*; American Indian Religious Freedom Act (AIRFA), 42 U.S.C. 1996, *et seq.*; Antiquities Act, 16 U.S.C. 433, *et seq.*; Archeological and Historic Preservation Act (AHPA), 16 U.S.C. 469; Archeological Resources Protection Act (AHPA), 16 U.S.C. 470 aa-ll, *et seq.*; Architectural Barriers Act, 42 U.S.C. 4151, *et seq.*; Clean Air Act (CAA), Pub.L. 95-95, 42 U.S.C. 7401, *et seq.*; Clean Water Act of 1977 (CWA), Pub.L. 95-217, 33 U.S.C. 1251, *et seq.*; Coastal Barrier Resources Act (CBRA), Pub.L. 97-348, 16 U.S.C. 3510, *et seq.*; Coastal Zone Management Act (CZMA), Pub.L. 92-583, 16 U.S.C. 1451, *et seq.*; Community Environmental Response Facilitation Act (CERFA), 42 U.S.C. 9620, *et seq.*; Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), also commonly referred to as SUPERFUND, Pub.L. 96-510, 26 U.S.C. 4611, *et seq.*; Consultation and Coordination With Indian Tribal Governments, E.O. 13175, 65 FR 67249; Coral Reef Protection, E.O. 13089, 63 FR 32701; Department of Transportation Act,

Section 4(f), Pub.L. 89-670, 49 U.S.C. 303, Section 4(f), *et seq.*; Emergency Planning and Community Right-to-Know Act, 42 U.S.C. 11001-11050, *et seq.*; Endangered Species Act of 1973 (ESA), Pub.L. 93-205, 16 U.S.C. 1531, *et seq.*; Energy Efficiency and Water Conservation at Federal Facilities, E.O. 12902, 59 FR 11463; Environmental Effects Abroad of Major Federal Agencies, E.O. 12114, 44 FR 1957; Environmental Quality Improvement Act, Pub.L. 98-581, 42 U.S.C. 4371, *et seq.*; Farmlands Protection Policy Act, Pub.L. 97-98, 7 U.S.C. 4201, *et seq.*; Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, E.O. 12898, 59 FR 7629; Federal Compliance with Pollution Control Standards, E.O. 12088, 43 FR 47707; Federal Insecticide, Fungicide, and Rodenticide Act, Pub.L. 86-139, 7 U.S.C. 135, *et seq.*; Federal Records Act (FRA), 44 U.S.C. 2101-3324, *et seq.*; Federalism, E.O. 13083, Fish and Wildlife Act of 1956, Pub.L. 85-888, 16 U.S.C. 742, *et seq.*; Fish and Wildlife Coordination Act, Pub.L. 85-624, 16 U.S.C. 661, *et seq.*; Fisheries Conservation and Recovery Act of 1976, Pub.L. 94-265, 16 U.S.C. 1801, *et seq.*; Flood Disaster Protection Act, 42 U.S.C. 4001, *et seq.*; Floodplain Management and Protection, E.O. 11988, 42 FR 26951; Greening the Government Through Leadership in Environmental Management, E.O. 13148, 65 FR 24595; Greening the Government Through Waste Prevention, Recycling, and Federal Acquisition, E.O. 13101, 63 FR 49643; Historic Sites Act, 16 U.S.C. 46, *et seq.*; Indian Sacred Sites, E.O. 13007, 61 FR 26771; Intergovernmental Review of Federal Programs, E.O. 12372, 47 FR 30959; Invasive Species, E.O. 13112, 64 FR 6183; Locating Federal Facilities on Historic Properties in our Nation's Central Cities, E.O. 13006, 61 FR 26071; Magnuson-Stevens Fishery Conservation and Management Act as amended through October 11, 1996, 16 U.S.C. 1801, *et seq.*; Marine Mammal Protection Act of 1972 (MMPA), Pub.L. 92-522, 16 U.S.C. 1361; Marine Protected Areas, E.O. 13158, 65 FR 24909; Marine Protection, Research, and Sanctuaries Act of 1972, Pub.L. 92-532, 16 U.S.C. 1431, *et seq.* and 33 U.S.C. 1401, *et seq.*; Migratory Bird Treaty Act, 16 U.S.C. 703-712, *et seq.*; National Environmental

Policy Act of 1969 (NEPA), Pub.L. 91-190, 42 U.S.C. 4321, *et seq.*; National Historic Preservation Act of 1996 (NHPA), Pub.L. 89-665, 16 U.S.C. 470, *et seq.*; Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3001, *et seq.*; Noise Control Act of 1972, Pub.L. 92-574, 42 U.S.C. 4901, *et seq.*; Pollution Prevention Act of 1990 (PPA), 42 U.S.C. 13101-13109, *et seq.*; Protection and Enhancement of Cultural Environmental Quality, E.O. 11593, 36 FR 8921; Protection and Enhancement of Environmental Quality, E.O. 11514, 35 FR 4247; Protection of Children from Environmental Health and Safety Risks, E.O. 13045, 62 FR 19885; Protection of Wetlands, E.O. 11990, 42 FR 26961; Recreational Fisheries, E.O. 12962, 60 FR 307695; Requiring Agencies to Purchase Energy Efficient Computer Equipment, E.O. 12845, 58 FR 21887; Resource Conservation and Recovery Act of 1976 (RCRA), Pub.L. 94-580, 42 U.S.C. 6901, *et seq.*; Responsibilities of Federal Agencies to Protect Migratory Birds, E.O. 13186, 66 FR 3853; Safe Drinking Water Act (SDWA), Pub.L. 93-523, 42, U.S.C. 201, *et seq.*; Toxic Substances Control Act (TSCA), 7 U.S.C. 136, *et seq.*; and Wild and Scenic Rivers Act, Pub.L. 90-542, 16 U.S.C. 1271, *et seq.*

(b) In addition, the port must comply with the applicable NEPA requirements for preparation of a single, detailed environmental study.

PART 149—DEEPWATER PORTS: DESIGN, CONSTRUCTION, AND EQUIPMENT

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