

§ 148.730

(c) Provide for safe, legal, and environmentally sound waste disposal, resource recovery, affected area reclamation, and enhanced use of spoil and waste;

(d) Avoid permanent interference with natural processes or features that are important to natural currents and wave patterns;

(e) Avoid groundwater drawdown or saltwater intrusion, and minimizes mixing salt, fresh, and brackish waters;

(f) Avoid disrupting natural sheet flow, water flow, and drainage patterns or systems;

(g) Avoid interference with biotic populations, especially breeding habitats or migration routes;

(h) Maximize use of existing facilities;

(i) Provide personnel trained in oil spill prevention at critical locations identified in the accident analysis;

(j) Provide personnel trained in oil spill mitigation; and

(k) Plan for safe and effective removal of the deepwater port in the event of its decommissioning.

§ 148.730 What are the land use and coastal zone management criteria?

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

(a) Accord with existing and planned land use, including management of the coastal region, for which purpose the proposal must be accompanied by a consistency determination from appropriate State agencies for any designated adjacent coastal State;

(b) Adhere to proposed local and State master plans;

(c) Minimize the need for special exceptions, zoning variances, or non-conforming uses;

(d) Plan flood plain uses in ways that will minimize wetlands loss, flood damage, the need for federally-funded flood protection or flood relief, or any decrease in the public value of the flood plain as an environmental resource; and

(e) Avoid permanent alteration or harm to wetlands, and take positive steps to minimize adverse effects on wetlands.

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§ 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?

In constructing and operating a deepwater port, the port must comply with all applicable Federal, State, and tribal environmental statutes. For the purposes of information, a list of Federal environmental statutes and Executive Orders (E.O.s) that may apply 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.*; Flood Plain Management and Protection, E.O. 11988, 42 FR 26951; Greening the Government Through Leadership in Environmental Management, E.O. 13148, 65 FR 24595; 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; 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.*

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

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