Appendices: Permitting for Port Infrastructure to Support Offshore Wind in California

Left: Proposed site for the Pier Wind Terminal Development Project, Port of Long Beach (Cheli 2025). Right: Proposed site for the Humboldt Bay Offshore Wind Heavy Lift Multipurpose Marine Terminal Project, Wigi (Humboldt Bay) (Jacobson 2025).

This report and appendices were prepared by Awbrey Yost and Arne Jacobson of the Schatz Energy Research Center. It was published by the Schatz Energy Research Center in May 2025.

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Schatz Energy Research Center at Cal Poly Humboldt
1 Harpst Street, Arcata, CA 95521
(707) 826-4345 | schatzenergy@humboldt.edu | schatzcenter.org/wind

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Appendix A: Summary of likely permitting processes

Port development projects to support offshore wind turbine staging and assembly will need to obtain permits, planning decisions, and meet other requirements from numerous federal, state, and local agencies. A summary of permits, planning decisions, and environmental review requirements that are likely to be required for these projects is depicted in the table below. Many of these permits have sequencing requirements, such as requiring that certain consultations are completed or other permits are issued before a particular permit can be issued. Significant sequencing requirements are identified in Appendix C. For a summary of laws relevant to permitting these types of projects, see Appendix B.

Federal Agencies

Agency	Law, Regulation, or Policy	Permit, Planning Decision, or Other Requirement
U.S. Army Corps of Engineers (USACE)	Clean Water Act of 1972, Section 404	Permit required for discharge of dredged or fill material into waters of the United States
	Rivers and Harbors Act of 1899, Section 10	Permit required for obstruction or alteration of navigable waters of the United States
	Rivers and Harbors Act of 1899, Section 14	Permit may be required if project involves possession or use of federal civil works projects, including federal navigation channels
	Marine Protection, Research and Sanctuaries Act of 1972 (MPRSA), Section 103	Permit may be required if project includes disposal of dredged material in ocean waters
	National Environmental Policy Act, Section 102	USACE may be the lead agency for NEPA environmental review for some projects, including the Port of Long Beach project
U.S. Department of Transportation Maritime Administration (MARAD)	National Environmental Policy Act, Section 102	MARAD may be the lead agency for NEPA environmental review for some projects it funds, such as the Humboldt Bay Harbor District project
U.S. Fish and Wildlife Service (USFWS) and/or National	Endangered Species Act of 1973, Section 7	Consultation and biological opinion from USFWS and/or NMFS if the project is likely to adversely

Marine Fisheries Service (NMFS, also known as NOAA Fisheries)		affect listed species or critical habitat
	Magnuson-Stevens Fishery Conservation and Management Act	Essential fish habitat (EFH) consultation with NMFS for actions like dredging that may affect EFH
	Marine Mammal Protection Act of 1972	Incidental take authorization may be needed from NMFS and/or USFWS for construction activities that result in an unintentional take of marine mammals
	Bald Eagle and Golden Eagle Protection Act	Incidental take permit may be needed from USFWS if project would result in the take of bald or golden eagles
U.S. Coast Guard (USCG)	United States Code, Title 14, Section 542 Code of Federal Regulations, Title 33, Part 66	Private aids to navigation (PATON) approval may be needed for private aids to navigation (e.g. lighting, reflectors) on floating platforms and navigation buoys
Federal Aviation Administration (FAA)	Code of Federal Regulations, Title 14, Part 77	Obstruction evaluation for project components (e.g. assembled wind turbines) that could obstruct air navigation
Acting federal agency (e.g. USACE or MARAD)	National Historic Preservation Act, Section 106	Section 106 consultation may be required for projects that affect historic property

State Agencies

Agency	Law, Regulation, or Policy	Permit, Planning Decision, or Other Requirement
California Coastal Commission (CCC)	California Coastal Act	Decision on certification of amendments to port master plans and, if necessary, local coastal programs Likely to process consolidated coastal development permits for projects governed by a certified local coastal program that would otherwise require a Coastal Commission coastal development permit
	Coastal Zone Management Act	Federal consistency review for projects undertaken by, permitted by, or funded by federal agencies if projects are neither consistent with an applicable certified port master plan nor authorized by a coastal development permit issued by the Coastal Commission
California State Lands Commission (CSLC)	Public Trust Doctrine Legislative grants of public trust lands California Public Resources Code, Section 6301 et seq.	Oversight authority of local grantees' management and regulation of granted public trust lands Lease required for development on ungranted public trust lands
	California Public Resources Code, Section 6707	Lease could potentially be required for certain types of dredging on granted public trust lands where mineral rights are reserved to the state
State Water Resources Control Board (SWRCB) North Coast Regional Water Quality Control Board (NCRWQCB)	Clean Water Act of 1972, Section 401	Section 401 certification of consistency with state water quality standards for discharge of dredged or fill material into waters of the United States NCRWQCB issues for Humboldt Bay Harbor District project;

Los Angeles Regional Water Quality Control Board (LARWQCB)		LARWQCB issues for Port of Long Beach project
	Porter-Cologne Water Quality Act Clean Water Act of 1972, Section 402	Water discharge requirement (WDR)/National Pollutant Discharge Elimination System (NPDES) permit may be required if there is effluent discharge
California Department of Fish and Wildlife (CDFW)	California Endangered Species Act, Section 2081	Incidental Take Permit (ITP) may be required if the project would result in the incidental take of a listed species
California Office of Historic Preservation	National Historic Preservation Act, Section 106	State Historic Preservation Officer (SHPO) Section 106 concurrence may be required for projects that affect historic property

Local Agencies

Wigi (Humboldt Bay)

Agency	Law, Regulation, or Policy	Permit, Planning Decision, or Other Requirement
Humboldt Bay Harbor, Recreation and Conservation District	California Environmental Quality Act	Lead agency for environmental review under CEQA
	Humboldt Bay Harbor, Recreation, and Conservation District Act	Development permit required
Humboldt County	General Plan and Humboldt County Code	Building permit and potentially other permits (e.g. conditional use permit, grading permit) may be required for the portions of the project in the County's land use jurisdiction
	California Coastal Act	Amendment to Humboldt Bay Area Plan (certified local coastal program)

Port of Long Beach

Agency	Law, Regulation, or Policy	Permit, Planning Decision, or Other Requirement
Port of Long Beach	City of Long Beach Charter	Building Permit (or combined Harbor Development Permit)
	California Coastal Act Certified Port Master Plan	Amendment to Port Master Plan to incorporate Pier Wind project Coastal development permit (or combined Harbor Development Permit)
City of Long Beach	City of Long Beach Municipal Code	Building, fire, electric, plumbing, and sanitation permits may be required

Appendix B: Summary of relevant laws

This section provides a summary of laws most relevant to the permitting of projects to develop port infrastructure for the staging and assembly of floating offshore wind turbines in California, and indicates how these laws are likely to apply to these types of projects. Other laws not summarized here may also be relevant to these projects, particularly during environmental review under NEPA and CEQA. The laws below are summarized by jurisdiction (federal, state, local) and alphabetically within each jurisdiction.

Federal Laws

Bald Eagle and Golden Eagle Protection Act

The Bald Eagle and Golden Eagle Protection Act (Eagle Act) prohibits the take, possession, transport, or commerce of bald and golden eagles, including their parts, nests, and eggs, unless certain exceptions apply.[1] "Take" is defined to mean pursue, shoot, shoot at, poison, wound, kill, capture, trap, collect, destroy, molest, or disturb.[2] The Secretary of the Interior can authorize the taking of bald and golden eagles for certain purposes, including when necessary for the protection of other interests in any particular locality, if the taking is compatible with the preservation of the eagle and consistent with agency regulations.[3] The U.S. Fish and Wildlife Service (USFWS) issues and maintains general and specific permits for the incidental take of eagles under the Eagle Act.[4] In 2024, USFWS amended its Eagle Act regulations, including by creating a general permit for qualifying wind energy generation projects, power line infrastructure projects, and projects that result in the disturbance of eagles.[5] Projects to develop port infrastructure for the staging and assembly of offshore wind turbines are unlikely to qualify for the wind energy generation project general permit process because they are not wind energy generation projects, but could potentially qualify for a general permit for the take by disturbance of eagles if the criteria are met.[6] If a project is not eligible for a general permit, the applicant can apply for a specific permit for the take of bald or golden eagles for other qualifying activities.[7] See the USFWS Eagle Management website for more information on Eagle Act permitting. Bald and golden eagles may have low likelihood of occurring at heavily developed port development project sites, but could potentially occur in some areas. For example, there is suitable foraging habitat for bald eagles located adjacent to the Humboldt Bay

[1] 16 U.S.C. § 668.
[2] 16 U.S.C. § 668c; 50 C.F.R. § 22.6. "Disturb" is further defined to mean "agitate or bother a bald or golden eagle to a degree that causes, or is likely to cause, based on the best scientific information available, (1) injury to an eagle, (2) a decrease in its productivity, by substantially interfering with normal breeding, feeding, or sheltering behavior, or (3) nest abandonment, by substantially interfering with normal breeding, feeding, or sheltering behavior" (50 C.F.R. § 22.6).
[3] 16 U.S.C. § 668a.
[4] 50 C.F.R. Part 22.
[5] USFWS. 2024. Permits for Incidental Take of Eagles and Eagle Nests, 89 FR 9920-01; USFWS. 2024. Permits for Incidental Take of Eagles and Eagle Nests, Correction and Technical Amendment, 89 FR 83629-01. *See* 50 C.F.R. Part 22.
[6] *See* 50 C.F.R. §§ 22.250, 22.280.
[7] 50 C.F.R. § 22.200.

Harbor District project site but with a low likelihood of occurrence of bald eagles.[8] Projects that would result in the take of a bald or golden eagle will be required to obtain a general or specific incidental take permit from USFWS.

Clean Air Act

The Clean Air Act (CAA) regulates air emissions from stationary and mobile sources, and requires states to develop plans to attain and meet federal air quality standards. It authorizes the US Environmental Protection Agency (USEPA) to set National Ambient Air Quality Standards (NAAQS) for major air pollutants and to regulate emissions of hazardous air pollutants.[9] The CAA delegates enforcement authority for NAAQS to the states. It requires areas that do not meet NAAQS to develop State Implementation Plans (SIPs) to achieve and maintain NAAQS within mandated timeframes.[10]

In California, the California Air Resources Board (CARB) is responsible for implementing air emission regulations designed to attain NAAQS. CARB also sets the California Ambient Air Quality Standards (CAAQS), which are often more stringent than NAAQS. In non-attainment areas where NAAQS are not met, the CAA prohibits federal funding, permitting, or assistance to any activity that does not conform to the SIP.[11] Any stationary source emitting regulated air pollutants above certain thresholds must comply with the SIP by applying for a state permit. California is divided into 35 air quality management districts, each of which has primary authority to regulate local air pollution from stationary sources to ensure the SIP is met. Regional air quality management districts develop Air Quality Management Plans (AQMP), which are incorporated into the SIP. Additionally, under the California Coastal Act, any new development in the coastal zone is required to be consistent with requirements imposed by an air pollution control district or CARB as to each particular development.[12]

In the Los Angeles area, the South Coast Air Quality Management District (SCAQMD) regulates air emissions within the South Coast Air Basin, which includes the Port of Long Beach. The SCAQMD AQMP predicts future emissions and determines control strategies to achieve attainment with the ambient air quality standards.[13] The South Coast Air Basin is currently in non-attainment for the ozone and two PM2.5 standards.[14] To align with the SCAQMD AQMP, the Ports of Long Beach and Los Angeles also adopted the San Pedro Bay Ports Clean Air Action Plan (CAAP).[15]

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[8] O'Brien, Gretchen (SHN as consultant for Humboldt Bay Harbor District). 2022. Preliminary Special-status Terrestrial Wildlife and Habitat Survey Results Report.
[9] 42 U.S.C. § 7401 et seq.
[10] 42 U.S.C. § 7410(a).
[11] 42 U.S.C. § 7506(c).
[12] Cal. Pub. Resources Code § 30253(c).
[13] SCAQMD. 2022. 2022 Air Quality Management Plan. https://www.aqmd.gov/home/air-quality/air-quality-management-plans/air-quality-mgt-plan.
[14] SCAQMD. Accessed February 14, 2025. Clean Air Plans website.
[15] Ports of Long Beach and Los Angeles. 2017. San Pedro Bay Ports Clean Air Action Plan 2017. https://cleanairactionplan.org/2017-clean-air-action-plan-update/.

In the Humboldt area, the North Coast Unified Air Quality Management District (NCUAQMD) regulates air emissions in the North Coast Air Basin, which includes the Wigi (Humboldt Bay) area.[16] The North Coast Air Basin is listed as attainment or unclassified for all federal and state ambient air quality standards with the exception of the state 24-hour particulate (PM10) standard in Humboldt County only.[17]

Clean Water Act

The Clean Water Act of 1972 (CWA) regulates discharges of pollutants into the waters of the United States and provides a framework for water quality standards.[18]

Section 404 of the CWA generally requires private and governmental entities to obtain a permit from the USACE for the discharge of dredged or fill material into navigable waters.[19] Section 404 permits issued by USACE must comply with U.S. Environmental Protection Agency (USEPA) Guidelines, which are intended to restore and maintain the chemical, physical, and biological integrity of waters of the United States through the control of discharges of dredged or fill material.[20] USACE and USEPA share enforcement authority for Section 404.[21] Staging and integration port infrastructure projects are likely to require Section 404 permits because these projects generally require dredging and the disposal of dredged material to create berths and, in some cases, to create sinking basins and wet storage areas or to alter navigation channels. In the Wigi (Humboldt Bay) area, the San Francisco Corps District of USACE processes these permits.[22] In the Long Beach area, the USACE Los Angeles District processes these permits.[23]

Under Section 401 of the CWA, applicants for a CWA permit authorizing resulting in a discharge to navigable waters, such as a Section 404 permit, must provide USACE with certification that the activity complies with the state's water quality plan and standards.[24] The California State Water Resources Control Board (SWRCB) and regional water quality control boards (RWQBCs) issue Section 401 certifications.[25] In the Wigi (Humboldt Bay) area, the North Coast Regional Water Quality Control Board (NCRWQCB) issues these certifications.[26] In the Long Beach area, the Los Angeles Regional Water Quality Control Board (LARWQCB) issues these certifications.[27]

[16] NCUAQMD. Planning and CEQA website.
[17] NCUAQMD. Accessed February 14, 2025. Planning and CEQA website.
[18] 33 U.S.C. § 1251 et seq.
[19] 33 U.S.C. § 1344; 33 C.F.R. parts 323 and 330.
[20] 33 U.S.C. § 1344(b); 40 C.F.R. part 230. For more information on USEPA Guidance, see the USEPA's website.
[21] 33 U.S.C. § 1344(n).
[22] USACE San Francisco District. Regulatory Program website.
[23] USACE Los Angeles District. Regulatory Program website.
[24] 33 U.S.C. § 1341; 40 C.F.R. § 230.10(b)(1).
[25] Cal. Water Code § 13160; Cal. Code Regs. tit. 23, § 3855.
[26] North Coast Regional Water Quality Control Board. 2023. Clean Water Act Section 401 Water Quality Certification Program.
[27] LARWQCB. 2025. 401 Water Quality Certification and Waste Discharge Requirements Program.

The CWA also generally prohibits the discharge of pollutants into waters of the United States from point sources and certain non-point sources without a permit.[28] A point source is any "discernible, confined, and discrete conveyance," such as a pipe, ditch, channel, tunnel, conduit, or vessel.[29] Examples of pollutants requiring a discharge permit include rock, sand, dredged spoils, sewage, and biological materials.[30] Project proponents must obtain a National Pollution Discharge Elimination System (NPDES) permit for these types of discharges. In California, the SWRCB and RWQCBs implement the NPDES program and the RWQCBs generally issue NPDES permits.[31] NPDES permits are also referred to as waste discharge requirements (WDRs) in California. NPDES/WDRs may be required for port development projects, including construction activities, that result in discharges of pollutants from point sources into waters of the United States.

Coastal Zone Management Act

The federal Coastal Zone Management Act (CZMA) of 1972[32] is intended to preserve, protect, develop, and where possible, to restore or enhance, the resources of the nation's coastal zone for this and succeeding generations.[33] The CZMA requires federal agency activities, or activities needing a federal permit or license, to undergo review for consistency with a state's coastal management plan when they affect the state's coastal resources.[34] The standards of review and review processes differ for activities that are undertaken by federal agencies and activities by third parties that are approved or funded by federal agencies. Within California's coastal zone, the California Coastal Commission has authority to review federal actions subject to the CZMA. See Section 4.2 for additional information on the CZMA and review of federal actions by the California Coastal Commission. For port development projects to support offshore wind turbine staging and integration, the Coastal Commission's federal consistency review under the CZMA may be somewhat limited if project activities are authorized by a coastal development permit issued by the Coastal Commission or are consistent with a certified port master plan.

Endangered Species Act

The Endangered Species Act of 1973 (ESA) creates a framework to protect and conserve threatened and endangered species and their critical habitats.[35] The ESA requires each federal agency to ensure that any action they authorize, fund, or carry out is not likely to jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modification of habitat that the Secretary of Interior determines to be critical.[36] The ESA is implemented by both the U.S. Fish and Wildlife Service (USFWS) and the National Marine

[28] 33 U.S.C §§ 1311, 1342.
[29] 40 C.F.R. § 122.2.
[30] 40 C.F.R. § 122.2.
[31] See the SWRCB National Pollutant Discharge Elimination System website and the NCRWQCB NPDES Wastewater website for more information.
[32] 16 U.S.C. §§ 1451–1465.
[33] 16 U.S.C. § 1452, subd. (1), Section 303 of the CZMA.
[34] 16 U.S.C. § 1456, Section 307 of the CZMA.
[35] 16 U.S.C. § 1531 et seq.
[36] 16 U.S.C. § 1536(a)(2).

Fisheries Service (NMFS) of the National Oceanic and Atmospheric Administration.[37] USFWS has jurisdiction over most species, and NMFS has authority over marine species and anadromous fish such as salmon and steelhead. The ESA requires USFWS and NMFS to list species as endangered or threatened and to designate the critical habitat for these species. [38] The ESA prohibits the "take" of any listed species by any person.[39] Federal agencies are required to consult with USFWS and/or NMFS to ensure the actions that they authorize, fund, or carry out are not likely to jeopardize the continued existence of any listed species or result in the destruction or adverse modification of designated critical habitat of these listed species.[40] If listed species or critical habitat may be present in the area of the proposed action, the federal agency taking the action will typically prepare a biological assessment to determine whether the proposed action is likely to have an adverse effect on the species or critical habitat.[41] Consultation generally results in one of the following outcomes: (1) a determination that the proposed action is not likely to adversely affect a listed species or critical habitat with no further action required; (2) informal consultation and a determination that the proposed action is not likely to adversely affect listed species or critical habitat; or (3) formal consultation and a biological opinion by USFWS and/or NMFS on whether the action is likely to jeopardize the continued existence of a listed species or result in the destruction or adverse modification of critical habitat.[42] Actions not authorized, funded, or carried out by a federal agency may instead require an incidental take permit (ITP) and preparation of a habitat conservation plan (HCP) if a proposed action would result in the taking of a listed species or critical habitat and the taking of the species is incidental to, and not the purpose of, the carrying out of an otherwise lawful activity.[43]

Projects to develop port infrastructure for the staging and assembly of floating offshore wind turbines will require authorization from federal agencies. As a result, federal agencies authorizing these projects (such as USACE) will be required to consult with USFWS and/or NMFS if the proposed project may affect listed species or their critical habitat. [44] For example, the Humboldt Bay Harbor District project will likely require Section 7 consultation and potentially a biological opinion because it needs permits from the USACE, and several ESA-listed species (e.g., longfin smelt) are potentially present in the project area and could be affected by the project.[45]

[37] 16 U.S.C. § 1532(15); 50 C.F.R. § 402.01(b).
[38] 16 U.S.C. § 1533. For a catalog of listed endangered and threatened species, see 50 C.F.R. § 17.11.
[39] 16 U.S.C. § 1538.
[40] 16 U.S.C. § 1536.
[41] 16 U.S.C. § 1536(c)(1).
[42] 16 U.S.C. § 1536.
[43] 16 U.S.C. §§ 1536, 1539; 50 C.F.R. § 402.02
[44] *See* 16 U.S.C. § 1536.
[45] H.T. Harvey and Associates (commissioned by Humboldt Bay Harbor District). 2024. Impacts Assessment for Marine Resources at Humboldt Bay Offshore Wind Heavy Lift Multipurpose Marine Terminal Technical Memorandum, Sections 3.3, 4.2.

Federal Aviation Administration regulations

Federal Aviation Administration (FAA) regulations and the United State Code require the FAA to evaluate structures that may interfere with air or space navigation.[46] Applicants must file a notice with the FAA for any construction or alteration that is more than 200 feet above ground level at its site.[47] New structures that are more than 499 feet above ground level are considered an obstruction to air navigation.[48] These types of structures are presumed to be a hazard to air navigation, unless an aeronautical study concludes that the object is not a hazard.[49] After an aeronautical study, the FAA issues either a "hazard" or "no hazard" determination based on its findings of whether the structure would have a substantial aeronautical impact.[50] Applicants and commenters who provided a substantive aeronautical comment on a proposal in an aeronautical study, or who have a substantive aeronautical comment on the proposal but were not given an opportunity to state it, can petition the FAA for a discretionary review of its determination.[51] Floating offshore wind turbines that will be assembled and temporarily stored in ports in California may float approximately 1,100 feet above water (for 20-25 MW turbine systems),[52] and cranes for assembling and integrating wind turbine systems may be up to 800 feet tall.[53] Due to their height, fully assembled floating offshore wind turbines are likely to be considered an obstruction to air navigation and require notice and aeronautical study before authorization under FAA regulations.[54] Cranes for construction of infrastructure and/or cranes used in the assembly of wind turbines may also require notice and an FAA determination if they are more than 200 feet above ground level.

Fixing America's Surface Transportation Act (FAST-41)

The Fixing America's Surface Transportation Act (FAST-41) allows proponents of qualifying infrastructure projects to opt-in to a coordinated permitting program.[55] To be eligible for this process, a project must require environmental review or authorization from a federal agency and involve construction of infrastructure for renewable or conventional energy production, electricity transmission, surface transportation, aviation, ports and waterways, or certain other

[46] 49 U.S.C. § 44718; 14 C.F.R. Part 77.
[47] 14 C.F.R. § 77.9.
[48] 14 C.F.R. § 77.17(a)(1).
[49] 14 C.F.R. § 77.15(b)
[50] 14 C.F.R. §§ 77.15(b), 77.25, 77.29(a), 77.31.
[51] 14 C.F.R. § 77.37; *Backcountry Against Dumps v. Fed. Aviation Admin.*, 77 F.4th 1260 (9th Cir. 2023).
[52] Trowbridge, Matt, Jennifer Lim, Shane Phillips, Ashley Knipe (Moffatt & Nichol). 2023. California Floating Offshore Wind Regional Ports Assessment. BOEM, Report No. OCS Study BOEM 2023-010. Contract No. 140M0121D0008: 7. https://www.boem.gov/sites/default/files/documents/renewable-energy/studies/BOEM-2023-010.pdf. Trowbridge et al. recommend using the dimensions of 20-25 MW wind turbine systems when planning for a major port terminal on a 50-year time horizon to meet the anticipated needs of the continuously developing offshore wind industry (*Id.* At 10).
[53] *See* Humboldt Harbor District, Administrative Draft Project Description, A-6 (noting the approximate height of the boom tip of cranes used at the project will be 800-feet).
[54] The FAA has proposed regulations to specifically define wind energy systems and requirements for airborne wind energy systems (FAA. 2024. Requirements To File Notice for Meteorological Towers and Other Wind Energy Systems, 89 FR 90627-01).
[55] 42 U.S.C. § 4370m et seq.

categories of infrastructure.[56] Project sponsors initiate the process by submitting a notice to a facilitating federal agency.[57] Once a determination of eligibility is made, the facilitating federal agency identifies all federal and non-federal agencies and governmental entities likely to have financing, environmental review, authorization, or other responsibilities for the proposed project, and invites all federal agencies to become cooperating or facilitating agencies.[58] The facilitating agency or lead agency must work with coordinating and participating agencies to create a Coordinated Project Plan that includes a permit timetable for issuance of all authorizations and environmental review by federal agencies (and state agencies to the maximum extent practicable), among other information.[59] Eligible projects must also be posted to the FAST-41 Permitting Dashboard, which includes information on the status of projects, notices, and links to determinations that materially affect the status of projects, among other information.[60] FAST-41 also created the Federal Permitting Improvement Steering Council to inventory qualifying projects and develop performance schedules and recommendations for environmental reviews and authorizations most commonly required for categories of covered projects, among other responsibilities.[61] Although FAST-41 does not generally change the statutory deadlines associated with specific federal authorizations or environmental review,[62] it does create a permitting timeline with accountability measures and require interagency coordination, which can streamline the permitting process.

Projects to develop staging and integration infrastructure for offshore wind energy may be eligible for FAST-41 because they involve the construction of infrastructure for ports and waterways, generally require environmental review under NEPA and authorizations from federal agencies, and are likely to require an investment over $200 million. However, projects that qualify for abbreviated authorization or environmental review processes under any applicable law are not eligible for FAST-41.[63] Staging and integration projects may qualify for the CEC's Opt-In Certification Program, as discussed in Section 2 of the report. As a result, these projects may not be eligible for the FAST-41 process because the CEC's Opt-In Certification Program allows for expedited CEQA environmental review by the CEC, the replacement of local permits and some state permits, and abbreviated timelines for certain state permits like coastal development permits for qualified projects. Even if a project does not ultimately use the Opt-In Certification Program, its mere eligibility for that abbreviated process may be sufficient to disqualify it from FAST-41 coverage under the statutory exclusion for projects that "qualify" for streamlined review under any applicable law. [64]

[56] 42 U.S.C. § 4370m(6).
[57] 42 U.S.C. § 4370m-2(a)(1).
[58] 42 U.S.C. § 4370m-2(a).
[59] 42 U.S.C. § 4370m-2(c).
[60] 42 U.S.C. § 4370m-2(b).
[61] 42 U.S.C. § 4370m-1.
[62] FAST-41 does require federal agencies, to the maximum extent practicable, to issue a record of decision for covered projects within 90 days after a final environmental impact statement (EIS) is issued (42 U.S.C. § 4370m-4(f)).
[63] 42 U.S.C. § 4370m(6).
[64] *See* 42 U.S.C. § 4370m(6).

Magnuson-Stevens Fishery Conservation and Management Act

The Magnuson-Stevens Fishery Conservation and Management Act (MSA), as amended, requires the identification of essential fish habitat (EFH) for federally managed species and the implementation of measures to conserve and enhance this habitat.[65] EFH means "those waters and substrate necessary to fish for spawning, breeding, feeding or growth to maturity."[66] EFH are generally described and identified in fishery management plans (FMPs) by regional fisheries management councils (e.g. Pacific Fishery Management Council). The NMFS Essential Fish Habitat Mapper also displays maps of EFH, habitat areas of particular concern, and EFH areas protected from fishing.

Under the MSA, federal agencies are required to prepare an EFH assessment and consult with NMFS on projects they authorize, fund, or undertake that may adversely affect EFH.[67] When more than one federal agency is responsible for a federal action, the lead federal agency can meet consultation requirements for all participating agencies, provided that the lead agency has authority to implement measures necessary to address adverse effects of the action.[68] A federal agency may also designate a non-federal representative to conduct an EFH consultation.[69] EFH consultations can also be combined with other environmental review procedures, such as Section 7 ESA consultations, provided that the review procedures meet the requirements for EFH consultation compliance.[70] If NMFS determines that the proposed action would adversely affect EFH, it must recommend to the acting federal agency measures that the federal agency can take to conserve the EFH.[71] The acting federal agency must respond to the NMFS recommendations by identifying measures it will take to avoid, mitigate, or offset the impact of the proposed activity on EFH.[72] If the acting federal agency response is inconsistent with NMFS recommendations, the agency must explain its reasons for not following the recommendations.[73] For more information on EFH consultations under the MSA, see the NMFS Guide to EFH Consultations.

EFH may be present in or near ports and harbors where projects to develop infrastructure for the staging and assembly of floating offshore wind turbines are proposed, and could be affected by a variety of construction activities, new infrastructure, and port operations. For example, EFH could be impacted by dredging that temporarily increases turbidity or by development of wharves or berths that cause longer term changes to habitat, among other

[65] 16 U.S.C. § 1801 et seq.
[66] 16 U.S.C. § 1802(10).
[67] 16 U.S.C. § 1855(b); 50 C.F.R. § 600.920.
[68] 50 C.F.R. § 600.920(b).
[69] 50 C.F.R. § 600.920(c).
[70] 50 C.F.R. § 600.920(e). See also the NMFS Guidance for Combining Magnuson-Stevens Fishery Conservation and Management Act EFH Consultations with Endangered Species Act Section 7 Consultations for more information.
[71] 16 U.S.C. § 1855(b)(4)(A).
[72] 16 U.S.C. § 1855(b)(4)(B).
[73] 16 U.S.C. § 1855(b)(4)(B); 50 C.F.R. § 600.920(k).

actions.[74] Federal agencies, such as USACE, that authorize, fund, or undertake these types of port projects will be required to consult with NMFS if the project may adversely affect EFH. In many cases, this consultation may be able to be integrated into other environmental review processes such as ESA Section 7 consultations or NEPA environmental review.

Marine Mammal Protection Act

The Marine Mammal Protection Act of 1972 (MMPA) established a national policy to prevent marine mammal species and population stocks from declining beyond the point where they ceased to be significant functioning elements of the ecosystems of which they are a part.[75] The MMPA generally prohibits the taking[76] of marine mammals in U.S. waters or by persons and vessels subject to U.S. jurisdiction on the high seas, unless certain exceptions apply.[77] The MMPA is jointly administered by NMFS and USFWS, with independent oversight by the Marine Mammal Commission.[78] NMFS generally has jurisdiction over cetaceans (e.g., whales and dolphins) and pinnipeds (e.g., seals and sea lions) excluding walruses, while USFWS has jurisdiction over all other marine mammals.[79] NMFS and USFWS can issue incidental take authorization for certain types of activities, including construction activities, that are not directed at protected species but that might take small numbers of marine mammals within a specified geographical region.[80] Among other requirements, the agency must find that the taking will have a "negligible impact"[81] on the protected species or stock and will not have an unmitigable adverse impact on the availability of such species or stock for taking for subsistence uses.[82] There are two types of incidental take authorizations: incidental harassment authorizations (IHA) and letters of authorization (LOA).[83] Project applicants can obtain an IHA for activities that only result in "harassment"[84] of marine mammals.[85] IHAs are only effective for up to one year.[86] LOAs can be issued for activities that result in other types of taking of marine

[74] See the H.T. Harvey and Associates, Impacts Assessment for Marine Resources at Humboldt Bay Offshore Wind Heavy Lift Multipurpose Marine Terminal Technical Memorandum, Section 4.2.1 for an analysis of potential impacts to EFH from the proposed Humboldt Bay Harbor District project.
[75] 16 U.S.C. § 1361 et seq.
[76] "Take" means to harass, hunt, capture, or kill, or attempt to harass, hunt, capture, or kill any marine mammal (16 U.S.C. § 1362(13)).
[77] 16 U.S.C. §§ 1371, 1372.
[78] NMFS MMPA regulations for species within its jurisdiction are located at 50 C.F.R. Part 216, and USFWS MMPA regulations for species within its jurisdiction are located at 50 C.F.R. Part 18.
[79] 16 U.S.C. § 1362(12).
[80] 16 U.S.C. § 1371(a)(5); 50 C.F.R. §§ 216.101 - 216.108; 50 C.F.R. § 18.27.
[81] "Negligible impact" is defined to mean "an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival" (50 C.F.R. § 216.103; 50 C.F.R. § 18.27).
[82] 16 U.S.C. § 1371(a)(5).
[83] See the NMFS Incidental Take Authorizations Under the Marine Mammal Protection Act website and USFWS Incidental Take Authorizations – Applicant Instructions website for more information.
[84] "Harassment" generally means "any act of pursuit, torment, or annoyance which: (i) has the potential to injure a marine mammal or marine mammal stock in the wild; or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering" (16 U.S.C. § 1362(18)).
[85] 16 U.S.C. § 1371(a)(5)(D).
[86] 16 U.S.C. § 1371(a)(5)(D).

mammals, including serious injury and mortality, and require USFWS and/or NMFS to issue regulations for the authorized take.[87] LOAs can be effective for up to five years.[88]

Marine mammals protected by the MMPA, such as seals, sea lions, porpoises, and whales, may be present in or near ports with projects proposed to develop infrastructure for the staging and assembly of offshore wind turbines. For example, Steller sea lions (*Eumetopias jubatus*), Pacific harbor seals (*Phoca vitulina richardii*), California sea lions (*Zalophus californianus*), harbor porpoises (*Phocoena phocoena*), and killer whales (*Orcinus orca*) all could potentially be present in Wigi (Humboldt Bay).[89] Construction activities associated with port development projects that result in a take of marine mammals protected by the MMPA would require an incidental take authorization by NMFS and/or USFWS.

Marine Protection, Research and Sanctuaries Act

The Marine Protection, Research and Sanctuaries Act of 1972 (MPRSA or Ocean Dumping Act) regulates the dumping of material in ocean waters and the transportation of material for that purpose. [90] Section 103 of the MPRSA regulates the disposal and related transport of dredged material in ocean waters.[91] "Dredged material" means any material excavated or dredged from the navigable waters of the United States.[92] USACE has authority to issue dredged material permits for the transportation and disposal of dredged material in ocean waters, provided it will not unreasonably degrade or endanger human health, welfare, or amenities, or the marine environment, ecological systems, or economic potentialities.[93] When considering these permits, USACE relies on the USEPA's marine protection criteria.[94] These criteria consider, among other factors, the need for the activity, the environmental impacts, the effects on aesthetic, recreational, or economic values, and any adverse effects on other uses of the ocean.[95] Dredged material permits must identify and designate a specific site where materials may be released, subject to the conditions of the permit.[96] USEPA designates ocean sites for activities permitted under the MPRSA, including sites for the disposal of dredged material in ocean waters.[97] For example, in the Wigi (Humboldt Bay) area, USEPA designated the Humboldt Open Ocean Disposal Site (HOODS) approximately 3 nautical miles offshore of Wigi for disposal of dredged material.[98] USEPA and USACE must jointly develop site management plans for designated dredged material disposal sites.[99] If it is not feasible to use a designated site for

[87] 16 U.S.C. § 1371(a)(5)(A).
[88] 16 U.S.C. § 1371(a)(5)(A).
[89] H.T. Harvey and Associates, Impacts Assessment for Marine Resources at Humboldt Bay Offshore Wind Heavy Lift Multipurpose Marine Terminal Technical Memorandum, Section 3.3.
[90] 33 U.S.C. § 1401 et seq.
[91] 33 U.S.C. § 1413.
[92] 33 U.S.C. § 1402(i).
[93] 33 U.S.C. § 1413.
[94] 33 U.S.C. §§ 1412(a), 1413(b).
[95] 33 U.S.C. § 1412(a); 40 C.F.R. §§ 220-229.
[96] 33 U.S.C. §§ 1412(c)(3), 1413(b).
[97] 33 U.S.C. § 1412(c); 40 C.F.R. Part 230.
[98] USEPA. 2024. Humboldt Open Ocean Disposal Site (HOODS) website.
[99] 33 U.S.C. § 1412(c)(3).

disposal of dredged material, USACE can identify an alternative site for short term use.[100] USACE must consult with USEPA in identifying an alternative site and the USEPA must concur on use of the site before a permit can be issued.[101] Additionally, before USACE can issue any dredged material permit, USEPA must concur with USACE's determination.[102] Projects to develop port infrastructure for the staging and assembly of offshore wind turbines will require dredging for infrastructure such as berths, navigation channels, wet storage areas, and potentially sinking basins. Material that is dredged from staging and integration project sites and is disposed of in ocean waters will require an MPRSA dredged material permit from USACE.

National Environmental Policy Act

The National Environmental Policy Act (NEPA) NEPA requires federal agencies to consider the effects of proposed major federal actions on the human environment.[103] NEPA requires federal agencies to prepare an environmental impact statement (EIS) for proposed legislation and other major federal actions "significantly affecting the quality of the human environment."[104] If it is not clear whether an EIS is required, agencies can first prepare an environmental assessment (EA) to determine whether a proposed action will significantly affect the environment.[105] After preparation of an EA, the agency must issue: (1) a finding of no significant impact (FONSI) if it determines that an EIS is not required because the proposed activity will not have significant effects; (2) a mitigated FONSI if it determines that an EIS is not required because the proposed activity will not have significant effects due to mitigation; or (3) an EIS if it determines that the action will have significant effects.[106] Agencies can also adopt categorical exclusions for categories of actions that normally do not have a significant effect on the human environment, either individually or in the aggregate, and thus do not require an EIS or EA.[107]

The lead agency supervises the preparation of any necessary environmental review documents and must also develop a schedule for completion of any environmental review, permit, or authorization required to carry out the proposed agency action.[108] If more than two federal agencies are involved in a proposed action, the lead agency for NEPA environmental review is determined based on the magnitude of the agency's involvement, project approval or disapproval authority, expertise concerning the action's environmental effects, duration of the agency's involvement, and sequence of the agency's involvement.[109] State, Tribal, and local agencies can be appointed as joint lead agencies or cooperating agencies.[110]

[100] 33 U.S.C. § 1413(b).
[101] 33 U.S.C. § 1413(b).
[102] 33 U.S.C. § 1413(c).
[103] 42 U.S.C. §§ 4321 *et seq*.
[104] 42 U.S.C. §§ 4332(C), 4336.
[105] 42 U.S.C. § 4336(b)(2).
[106] 42 U.S.C. § 4336(b)(2); 40 C.F.R. § 1501.6 (as discussed in Section 5.1.2 of the report, the validity of CEQ regulations is currently unclear).
[107] 42 U.S.C. § 4336(a); 40 C.F.R. § 1501.4.
[108] 42 U.S.C. § 4336a(a)(2).
[109] 42 U.S.C. § 4336a(a).
[110] 42 U.S.C. § 4336a(a)(1)(B), (a)(3).

Projects to develop port infrastructure for the staging and assembly of floating offshore wind turbines are likely to be considered major federal actions that require preparation of an EIS. This is because these projects will require multiple authorizations from federal agencies, such as USACE, that consider major components of the project and these projects may receive significant federal funding. For example, USACE is the lead agency under NEPA and has issued a notice of intent (NOI) to prepare an EIS for the Port of Long Beach proposed project.[111]

National Historic Preservation Act

The National Historic Preservation Act (NHPA) is intended to contribute to the preservation of historic property and assist state, local, and Tribal governments in their historic preservation efforts.[112] Section 106 of the NHPA requires federal agencies that undertake, fund, or authorize a project to take into account the effect of the project on any historic property prior to the issuance of any authorization or the approval of any expenditure of funds.[113] Federal agencies are required to consult with the Advisory Council on Historic Preservation (ACHP), state historic preservation officers (SHPOs), Tribal historic preservation officers (THPOs), and local agencies. In California, the California State Office of Historic Preservation (OHP) is responsible for administering federal and state historic preservation programs, including as SHPO for Section 106 of NHPA. As an initial step for Section 106 consultation, federal agencies must identify the appropriate SHPO and/or THPO. [114] In consultation with SHPO and/or THPO, the federal agency must develop a plan to engage the public and identify other consulting parties, such as Tribal governments, that might attach religious and cultural significance to historic properties in the area of potential effects of the project.[115] The federal agency then must identify any historic properties within the area of potential effects of the project in consultation with the SHPO, THPO, and any Tribal governments that may attach religious and cultural significance to the historic properties.[116] If the federal agency finds that there are no historic properties present or that the project will have no effect on present historic properties, the agency must notify the SHPO/THPO and all consulting parties.[117] If the project may have an effect on historic properties, the federal agency must find either that the project will have no adverse effect on the historic properties or that the project may have an adverse effect.[118] If an adverse effect is found, the federal agency must continue to consult with the SHPO, THPO, and other consulting parties to develop and evaluate alternatives or modifications to the undertaking that could avoid, minimize, or mitigate adverse effects on historic properties.[119] This process typically concludes with a memorandum of agreement that governs the federal agency undertaking and that is signed by the federal agency, SHPO/THPO, and in certain cases the ACHP and other

[111] USACE. 2023. Notice of Intent To Prepare an Environmental Impact Statement and Conduct Scoping Meeting for the Pier Wind Terminal Development Project at the Port of Long Beach, City of Long Beach and County of Los Angeles, California (SPL-2023-00720), 88 FR 87758.
[112] 54 U.S.C. §§ 300101 et seq.; 36 C.F.R. § 800.1 et seq.
[113] 54 U.S.C. §§ 306108, 300320; 36 C.F.R. § 800.1.
[114] 36 C.F.R. § 800.3.
[115] 36 C.F.R. § 800.3.
[116] 36 C.F.R. § 800.4.
[117] 36 C.F.R. § 800.4. The SHPO, THPO, and ACHP can object to this finding (*Id*.)
[118] 36 C.F.R. § 800.5.
[119] 36 C.F.R. § 800.6.

Tribal governments.[120] NHPA regulations encourage federal agencies to coordinate Section 106 consultation with NEPA environmental review.[121] If the federal agency coordinate Section 106 consultation with NEPA environmental review and finds that there may be adverse effects from the project, Section 106 consultation may conclude with a signed memorandum of agreement or by incorporating measures to avoid, minimize, or mitigate impacts in the ROD if the measures were proposed in a DEIS or EIS.[122]

Projects to develop port infrastructure for the staging and assembly of offshore wind turbines will require federal permits and may be federally funded in part, making these projects subject to NHPA. Projects that may have an effect on historic properties will be required to undergo the Section 106 consultation process, which can be coordinated with NEPA environmental review processes.

U.S. Coast Guard aids to navigation approvals

The United States Code prohibits any person, public body, or instrumentality, except for the U.S. armed forces, from establishing or maintaining any aid to maritime navigation without first obtaining authorization from the U.S. Coast Guard (USCG).[123] An aid to navigation is any device external to a vessel or aircraft intended to assist a navigator to determine position or safe course, or to warn of dangers or obstructions to navigation, such as buoys and lights.[124] District 11 of the USCG is responsible for processing approvals for private aids to navigation in California.[125] Projects to develop infrastructure for the staging and assembly of floating offshore wind turbines will likely require lighting, buoys, and other aids to navigation to direct vessel traffic in and near the marine terminal and wet storage areas. USCG approval will be required for these types of private aids to navigation.

Rivers and Harbors Act

Section 10 of the Rivers and Harbors Act of 1899 (Rivers and Harbors Act), codified at 33 U.S.C. § 403, requires authorization from the U.S. Army Corps of Engineers (USACE) for any obstruction or alteration of any navigable waters of the United States, including for the placement of structures in, dredging of, or disposal of dredged material in navigable waters.[126]

Section 14 of the Rivers and Harbors Act, codified at 33 U.S.C. § 408, makes it unlawful to possess, use, build on, alter, deface, destroy, move, injure, obstruct, or in any manner whatever impair the usefulness of any work built by the United States.[127] However Section 14 allows

[120] 36 C.F.R. § 800.6(c). Under certain circumstances, acting federal agencies can instead negotiate a programmatic agreement to govern the implementation of a particular program or the resolution of adverse effects from certain complex project situations or multiple undertakings (36 C.F.R. § 800.14(b)).
[121] 36 C.F.R. § 800.8.
[122] 36 C.F.R. § 800.8.
[123] 14 U.S.C. § 542; 33 C.F.R. Part 66.
[124] 33 C.F.R. § 62.3(a).
[125] 33 C.F.R. § 66.01-5. See the USCG District 11 Prevention Private Aids webpage for more information.
[126] 33 U.S.C. § 403; 33 C.F.R. part 322.
[127] 33 U.S.C. § 408(a).

USACE to authorize temporary or permanent occupation or use of public works when it will not be injurious to the public interest and other criteria are met.[128] Authorization may be required under this section for projects in or near federal navigation channels, including the construction of wharves, piers, docks, and other facilities in these areas.[129] USACE review may include the development of setbacks from civil works projects like navigation channels.[130] For more information on the Section 14 (33 U.S.C. § 408) permitting process, see the USACE Section 408 Program website.

USACE reviews applications concurrently for Sections 14 and 10 of the Rivers and Harbors Act and/or Section 404 of the CWA authorizations, to the maximum extent practicable.[131] When the scope of analysis under Sections 10 and 14 is identical, the USACE may issue a single authorization covering both.[132] Section 14 Rivers and Harbors Act review should occur concurrently with any required NEPA review for the project, to the maximum extent feasible.[133] However, a Section 14 Rivers and Harbors Act authorization cannot be granted until after a CWA Section 401 water quality certification has been issued if one is needed for the proposed alterations.[134]

Several types of activities generally required for the development of staging and assembly port infrastructure may require authorization under Section 10 of the Rivers and Harbors Act, such as the construction of wharves and shoreline protection in navigable waters and the dredging and disposal of dredged material in navigable waters. Activities altering areas in or near federal navigation channels may also require Section 14 authorization from USACE. These reviews may be coordinated with NEPA review and/or CWA Section 404 authorization and Section 401 certification.

State Laws

California Clean Air Act

The California Clean Air Act (California CAA) allows the California Air Resources Board (CARB) to set California Ambient Air Quality Standards (CAAQS), which are often more stringent than National Ambient Air Quality Standards (NAAQS). Under the California CAA, CARB primarily regulates mobile and other non-stationary sources, while local air quality districts regulate stationary sources.[135] Local air districts must develop plans to maintain and attain both NAAQS

[128] 33 U.S.C. § 408(a).
[129] USACE. 2018. Policy and Procedural Guidance for Processing Requests to Alter US Army Corps of Engineers Civil Works Projects Pursuant to 33 USC 408, EC 1165-2-220, Appendix G.
[130] *Id*.
[131] 33 U.S.C. § 408(b)(2).
[132] USACE, Policy and Procedural Guidance for Processing Requests to Alter US Army Corps of Engineers Civil Works Projects Pursuant to 33 USC 408, Appendix G.
[133] 33 U.S.C. § 408(b).
[134] USACE, Policy and Procedural Guidance for Processing Requests to Alter US Army Corps of Engineers Civil Works Projects Pursuant to 33 USC 408, 20.
[135] Cal. Health & Safety Code § 40000.

and CAAQS.[136] The California CAA requires local air districts in designated nonattainment areas to prepare and update a district attainment plan (DAP) to show how the district will attain and maintain the CAAQS.[137] In the Humboldt area, the NCUAQMD regulates air emissions in the North Coast Air Basin, which includes the Wigi (Humboldt Bay) area.[138] In the Port of Long Beach area, SCAQMD regulates air emissions within the South Coast Air Basin. The California Coastal Act mandates that all new development within the coastal zone must be consistent with requirements imposed by an air pollution control district or CARB as to each particular development.[139]

California Coastal Act

The California Coastal Act regulates development in California's coastal zone.[140] Under the Coastal Act, any development in the coastal zone generally requires a coastal development permit.[141] Development is broadly defined to include (among other activities) the construction of buildings, public facilities, and roads; the grading, removal, or dredging of any material; and activities that change the intensity of use of land or water.[142] Accordingly, port development projects to support offshore wind will generally require coastal development permits. As discussed in Section 4 of the report, coastal development permits for port staging and assembly projects are likely to be issued by either the California Coastal Commission (CCC) or a port with a certified port master plan. Ports may be required to update their port master plans before processing a coastal development permit for these types of projects. Local governments may also prepare or update their local coastal programs to address port development projects, which may be used as guidance for coastal development permits issued by CCC.

California Endangered Species Act

The California Endangered Species Act (CESA) [143] prohibits the "take"[144] of any species of wildlife designated by the California Fish and Game Commission as endangered or threatened.[145] The California Department of Fish and Wildlife (CDFW) can authorize by permit the take of listed species if the take is incidental to an otherwise lawful activity and the impacts of the take are minimized and fully mitigated, among other requirements.[146] Unlike the federal ESA, the CESA does not require a consultation process between agencies for actions that may affect listed species. Some CESA listed species are also listed species under the federal ESA. Applicants who obtain a federal incidental take permit (ITP)[147] or incidental take statement

[136] Cal. Health & Safety Code § 40001.
[137] Cal. Health & Safety Code §§ 40910 - 40926.
[138] NCUAQMD. Planning and CEQA website.
[139] Cal. Pub. Resources Code § 30253(c).
[140] Cal. Pub. Resources Code § 30000 et seq.
[141] Cal. Pub. Resources Code § 30600.
[142] Cal. Pub. Resources Code § 30106.
[143] Cal. Fish & Game Code § 2050 et seq.
[144] "Take" is defined to mean to "hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill" (Cal. Fish & Game Code § 86)).
[145] Cal. Fish & Game Code § 2080.
[146] Cal. Fish & Game Code § 2081.
[147] Pursuant to ESA Section 7 (16 U.S.C. § 1536).

(ITS)[148] can request a consistency determination (CD) from CDFW that the federal document is consistent with the CESA.[149] No further authorization under the CESA is needed if CDFW issues a CD.[150] Projects to develop port infrastructure for the staging and assembly of floating offshore wind turbines that would result in the take of a CESA listed species will require an incidental take permit from CDFW and/or a CD for CESA listed species for which the applicant received a federal ITP or ITS.

California Energy Commission Opt-In Certification Program

Assembly Bill 205 (2022) created a certification program managed by the California Energy Commission (CEC), which allows certain types of clean energy projects to opt-in to a consolidated environmental review and permitting program with expedited deadlines.

Eligible facilities. Eligible facilities include:

(1) solar photovoltaic and terrestrial wind electrical generating power plants 50 megawatts (MW) or greater;
(2) energy storage systems capable of storing 200 megawatt-hours (MWh) or more;
(3) stationary power plants 50 MW or greater using thermal energy that is not sourced from fossil or nuclear fuels;
(4) certain electrical transmission lines carrying electricity from the facilities described in 1-3 above;
(5) certain hydrogen production facilities (that do not derive hydrogen from fossil fuel feedstock) and associated onsite storage and processing facilities; and
(6) *certain facilities that manufacture or assemble clean energy components or systems or energy storage technologies or components*[151]

The last type of eligible facility is most relevant to staging and integration port development projects to support offshore wind energy development. To be eligible, these types of manufacturing and assembly facilities must meet all of the following criteria:

- The project must be considered a discretionary project under the California Environmental Quality Act (CEQA), Public Resources Code Section 21080;
- The applicant must certify that a capital investment of at least $250 million will be made over a period of five years; and
- The project must be for either:
    - (A) the manufacture, production, or assembly of an energy storage system or component manufacturing, wind system or component manufacturing, and solar photovoltaic energy system or component manufacturing, or
    - (B) the manufacture, production, or assembly of specialized products, components, or systems that are integral to renewable energy or energy storage technologies."[152]

[148] Pursuant to ESA Section 10 (16 U.S.C. § 1539).
[149] Cal. Fish & Game Code § 2080.1.
[150] Cal. Fish & Game Code § 2080.1.
[151] Cal. Pub. Res. Code § 25545(b) (emphasis added).
[152] Cal. Pub. Res. Code § 25545(b)(4).

Although offshore wind energy generation projects are not eligible facilities, the development of staging and integration port infrastructure to support offshore wind farms are likely to be eligible. Staging and integration port development projects are likely to be considered discretionary projects under CEQA, in many cases will require a capital investment of at least $250 million,[153] and are for the purpose of assembling specialized components and systems—floating foundations and offshore wind turbine systems—that are integral to renewable energy.[154] Some staging and integration port development projects may also include eligible facilities for the manufacture of wind system components, such as blades.

Required project components. In addition to being an eligible facility type, to be covered by the Certification Program, the project must meet a variety of other conditions, including certain labor and workforce requirements;[155] the applicant has entered into one or more legally binding and enforceable agreements with, or that benefit, a coalition of one or more community-based organizations;[156] and the construction or operation of the facility will have an overall net positive economic benefit to the local government that would have had permitting authority over the site and related facility,[157] among other requirements.

Certification Program. After an eligible facility files an application with the CEC to opt-in to the Certification Program, the CEC has exclusive power to certify the site and related facility.[158] Applications for the Certification Program must be filed by June 30, 2029.[159] For projects covered by the Opt-In Certification Program, the CEC acts as the lead agency for CEQA environmental review and must meet certain Tribal consultation and public noticing and outreach requirements.[160]

Permits and authorizations from other agencies. The CEC certification is generally in lieu of any permit, certificate, or similar document required by any state, local, or regional agency, or federal agency to the extent permitted by federal law, for the use of the site and related

[153] *See* U.S. DOT. 2024. INFRA Awards FY 2023-2024 ($426 million grant from the U.S. DOT for construction of the proposed staging and integration port infrastructure by the Humboldt Bay Harbor District). See also the Humboldt Bay Harbor District's Humboldt Bay Minimum Viable Port Grant Application (estimating project cost as $853,439,620).

[154] The term "integral" is not defined in the Opt-In Certification statutes or regulations (*see generally* Cal. Pub. Res. Code §§ 25545 – 25545.13; Cal. Code Regs. tit. 20, §§ 1875 – 1882). Offshore wind turbine systems and components are likely to be considered "integral to renewable energy" in light of the offshore wind deployment goals set by the State of California to meet its SB 100 commitment to requiring 100% of retail sales of electricity be supplied by renewable energy and zero-carbon resources by 2045 (California Energy Commission. 2022. Offshore Wind Energy Development off the California Coast: Maximum Feasible Capacity and Megawatt Planning Goals for 2030 and 2045), and the fact that they are necessary for the operation of offshore wind energy farms.

[155] Cal. Pub. Res. Code §§ 25545.3.3, 25545.3.5,

[156] Cal. Pub. Res. Code § 25545.10.

[157] Cal. Pub. Res. Code § 25545.9.

[158] Cal. Pub. Res. Code § 25545.1(a). However, the California Public Utilities Commission still retains its jurisdiction, including to issue certificates of public convenience and necessity for utilities within its jurisdiction (*Id.*).

[159] Cal. Pub. Res. Code § 25545.1(a).

[160] Cal. Pub. Res. Code §§ 25545.7, 25545.7.2, 25545.7.4.

facilities.[161] The certification also generally supersedes any applicable statute, ordinance, or regulation of any state, local, or regional agency, or federal agency to the extent permitted by federal law.[162] This means that eligible projects do not need to obtain many state, federal, or local permits, like local building permits, for example.

Certain permits and authorizations are still required, though. The Certification Program does not supersede the authority of the California State Lands Commission to require leases and receive lease revenues, or the authority of the California Coastal Commission, the San Francisco Bay Conservation and Development Commission, the State Water Resources Control Board, or the applicable regional water quality control boards.[163] Additionally, for facilities that are eligible because they manufacture or assemble clean energy components or systems or energy storage technologies or components, including staging and integration port development projects, the Certification Program does not supersede the authority of local air quality management districts or the Department of Toxic Substances Control.[164] Meaning, authorizations that would have otherwise been required from the California Coastal Commission, California State Lands Commission, State Water Resources Control Board or the applicable regional water quality control boards, San Francisco Bay Conservation and Development Commission, local air quality management districts, or the Department of Toxic Substances Control are still required.

It is unclear whether coastal development permits that would otherwise be processed by port governing bodies instead of the Coastal Commission would be required for projects that opt-in to the Certification Program. Under the Opt-In Certification Program, the CEC certification is in lieu of any permit, but it does not supersede "the authority of the California Coastal Commission."[165] Additionally, "in areas of the coastal zone covered by a certified local coastal program, the California Coastal Commission shall assume coastal development review authority, using the certified local coastal program as guidance."[166] The statutes governing the Opt-In Certification Program do not identify what happens when a port is responsible for issuing a coastal development permit, rather than the Coastal Commission or a local government. As discussed in Section 4 of the report, port governing bodies are likely to issue coastal development permits for staging and integration projects governed by their certified port master plan.[167] One could argue that the Opt-In Certification Program supersedes the requirement to obtain a coastal development permit from a port because the Program's statutes only require applicants to obtain coastal development permits issued by local

[161] Cal. Pub. Res. Code § 25545.1(b)(1).
[162] Cal. Pub. Res. Code § 25545.1(b)(1).
[163] Cal. Pub. Res. Code § 25545.1(b)(2).
[164] Cal. Pub. Res. Code § 25545.1(b)(3).
[165] Cal. Pub. Res. Code § 25545.1(b)(2).
[166] Cal. Pub. Res. Code § 25545.5(d)(1).
[167] *See* Cal. Pub. Res. Code §§ 30601.4, 30715.

governments or the Coastal Commission.[168] However, the authority of a port governing body to issue a coastal development permit is contingent on the Coastal Commission's certification of the port master plan as consistent with the Coastal Act.[169] Additionally, the Coastal Commission has authority to hear appeals of certain coastal development permits issued by port governing bodies.[170] Although unclear, coastal development permits could potentially still be required by port governing bodies with certified port master plans for projects covered by the CEC Opt-In Certification Program.

For more information on the Certification Program, see the CEC's Opt-In Certification Program webpage and the statute and regulations (Cal. Pub. Res. Code §§ 25545 – 25545.13; Cal. Code Regs. tit. 20, §§ 1875 – 1882).

California Environmental Quality Act

The California Environmental Quality Act (CEQA) requires state and local agencies to evaluate, mitigate, and publicly disclose the environmental effects of discretionary projects that they carry out or approve.[171] An activity is only a "project" subject to CEQA if it may cause either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment, and if it is an activity: (1) directly undertaken by a public agency, (2) undertaken by a person which is supported, in whole or in part, through contracts, grants, subsidies, loans, or other forms of assistance from one or more public agencies, or (3) that involves the issuance to a person of a lease, permit, license, certificate, or other entitlement for use by one or more public agencies.[172] Certain projects are exempt from CEQA through statutory exemptions, categorical exemptions, and the "common sense" exemption.[173]

If an activity is a project subject to CEQA and no exemptions apply, the lead agency generally prepares an initial study to determine whether the project will have a significant impact on the environment.[174] If there is no substantial evidence that the project or any of its aspects may cause a significant effect on the environment, the agency can prepare a negative declaration.[175] The lead agency must prepare, or cause to be prepared by contract and certify the completion

[168] *See* Cal. Civ. Proc. Code § 1858 ("In the construction of a statute or instrument, the office of the Judge is simply to ascertain and declare what is in terms or in substance contained therein, not to insert what has been omitted, or to omit what has been inserted….").
[169] Cal. Pub. Resources Code § 30715. *Cf. Charles A. Pratt Constr. Co. v. California Coastal Com.*, 162 Cal. App. 4th 1068, 1075 (2008) ("Although local governments have the authority to issue coastal development permits, that authority is delegated by the Commission. The Commission has the ultimate authority to ensure that coastal development conforms to the policies embodied in the state's Coastal Act.").
[170] Cal. Pub. Resources Code § 30715.
[171] Cal. Pub. Res. Code § 21000 et seq.
[172] Cal. Pub. Res. Code § 21065; Cal. Code Regs. tit. 14, § 15378.
[173] Cal. Code Regs. tit. 14, §§ 15260 – 15285 (statutory exemptions), 15300 – 15333 (categorical exemptions), 15061(b)(3) (common sense exemption).
[174] Cal. Code Regs. tit. 14, § 15063.
[175] Cal. Pub. Res. Code § 21064; Cal. Code Regs. tit. 14, § 15063(b)(2).

of an environmental impact report (EIR) for any project that may have a significant effect on the environment.[176]

The lead agency is the agency with the principal responsibility for carrying out or approving a project subject to CEQA.[177] Responsible agencies must generally consider the lead agency's EIR or negative declaration before acting on a project.[178] If a project will be carried out by a public agency, that agency must generally be the lead agency even if the project would be located within the jurisdiction of another public agency.[179] The Coastal Act, as recently amended, requires the California State Lands Commission to be the lead agency for "offshore wind energy projects," with an exception for those undertaken pursuant to Chapter 8 of the Coastal Act, which governs development in the Ports of Hueneme, Long Beach, Los Angeles, and San Diego Unified Port District.[180] As discussed in Sections 3.1.2 and 5.3.2 of the report, the term "offshore wind energy projects" is not defined in the Coastal Act but is unlikely to include staging and integration projects exclusively for the development of port infrastructure for the staging and assembly of floating offshore wind turbines. However, port development projects could potentially be considered "offshore wind energy projects" if other components of the proposed project qualify it as such. As a result, the California State Lands Commission should generally be consulted regarding the lead agency designation for port development projects undertaken by public agencies and/or located on granted public trust lands.

The environmental review requirements of CEQA mirror NEPA in many ways, but with a few significant differences, such as the CEQA requirement that state and local agencies must avoid or mitigate significant environmental impacts when feasible.[181] Lead agencies are required to integrate CEQA review with other environmental review and consultation requirements, including NEPA review, to the fullest extent possible.[182]

Regulatory programs of state agencies that require submission of a plan or other written documentation containing environmental information in support of an activity can be certified by the California Natural Resources Agency as functional equivalent of CEQA review, exempting them from the requirement to prepare an EIR or negative declaration.[183] A certified program remains subject to the other provisions in CEQA such as the policy of avoiding significant adverse effects on the environment where feasible.[184] The California Coastal Commission's regulatory program is a certified program dealing with the consideration and granting of coastal

[176] Cal. Pub. Res. Code §§ 21100, 21151; Cal. Code Regs. tit. 14, §§ 15064 – 15065.
[177] Cal. Pub. Res. Code § 21067; Cal. Code Regs. tit. 14, §§ 15050 – 15053.
[178] Cal. Code Regs. tit. 14, § 15050.
[179] Cal. Code Regs. tit. 14, § 15051(a). CEQA defines a "public agency" to include "any state agency, board, or commission, any county, city and county, city, regional agency, public district, redevelopment agency, or other political subdivision" (Cal. Pub. Res. Code § 21063).
[180] Cal. Pub. Res. Code § 30601.4(b). Senate Bill 286, McGuire. 2023.
[181] Cal. Pub. Res. Code §§ 21081, 21002, 21002.1; Cal. Code Regs. tit. 14, §§ 15021, 15091.
[182] Cal. Code Regs. tit. 14, §§ 15220 – 15229, 15124(d).
[183] Cal. Pub. Res. Code § 21080.5; Cal. Code Regs. tit. 14, § 15250 – 15253.
[184] Cal. Code Regs. tit. 14, § 15250.

development permits and certification of local coastal programs.[185] Additionally, a local government's adoption of their local coastal program is generally not subject to CEQA review.[186]

AB 52 amended CEQA to add Tribal cultural resources as a distinct category of resources that must be considered in CEQA review, and to require consultation between lead agencies and Tribal Nations on projects that may impact Tribal cultural resources.[187] A lead agency's failure to comply with the Tribal consultation requirements of AB 52 can lead to the overturning of the agency's decision on a project.[188]

Projects to develop port infrastructure for the staging and assembly of floating offshore wind turbines are likely to have the potential for significant environmental effects and to require development of an EIR under CEQA. The lead agency for projects carried out by ports and harbor districts is likely to be the port or harbor district undertaking the project. For example, the Humboldt Bay Harbor District and the Port of Long Beach are the lead agencies for their respective projects. NEPA and CEQA review may also be coordinated, such as through the preparation of joint environmental review documents.

California Air and Resources Board Air Pollution Regulations

California Air and Resources Board (CARB) air pollution regulations apply to a variety of aspects of port operations, including:

- Mobile Cargo Handling Equipment Regulation: Intended to reduce diesel particulate matter (PM) and criteria pollutant emissions from compression ignition mobile cargo handling equipment that operate at ports and intermodal rail yards, such as forklifts and yard trucks (hostlers).[189] CARB staff is currently assessing the availability and performance of zero-emission technology to further reduce emissions.[190]
- Zero-Emission Forklift Regulation: Requires the phase-out of forklifts using large spark-ignition engines, such as those running on propane and gasoline.[191] The regulation includes requirements for forklift feel operators, rental agencies, manufacturers, and dealers.
- Ocean-Going Vessel Fuel Regulation: Sets fuel sulfur content limits and other requirements for ocean-going vessels in regulated California waters to reduce particulate matter (PM), oxides of nitrogen (NOx), and oxides of sulfur (SOx) emissions.[192]

[185] Cal. Code Regs. tit. 14, § 15251.
[186] Cal. Pub. Res. Code § 21080.9.
[187] Cal. Pub. Res. Code §§ 21080.3.1, 21080.3.2, 21082.3, 21084.2, 21084.3. *See Save the Agoura Cornell Knoll v. City of Agoura Hills*, 46 Cal. App. 5th 665, 690 (2020) (requiring development of an EIR where mitigated negative declaration failed to include adequate mitigation measures to avoid or mitigate impacts to Tribal cultural resources).
[188] *See Koi Nation of N. California v. City of Clearlake*, 109 Cal. App. 5th 815 (2025).
[189] Cal. Code Regs. tit. 13, § 2479.
[190] CARB. Cargo Handling Equipment.
[191] Cal. Code Regs. tit. 13, §§ 3000 – 3011.
[192] Cal. Code Regs. tit. 13, § 2299.2; Cal. Code Regs. tit. 17, § 93118.2.

- Commercial Harbor Craft Regulation: Regulates the fuel use of vessels engaging in commercial activity, such as sportfishing vessels, commercial fishing vessels, ferries, tugs, barges, among others.[193] The regulation has led to a transition to newer and cleaner engines with fewer emissions of air pollutants including diesel particulate matter (DPM), fine particulate matter (PM2.5), NOx, SOx, reactive organic gases (ROG), and greenhouse gases (GHG).[194] The regulation was amended in 2022 to expand the applicability of the regulation to more vessel types and require cleaner upgrades and newer technology.[195]

The CARB Ocean-Going Vessels at Berth Regulation, which may newly apply to some ports based on staging and integration projects, is discussed in more detail here. This regulation restricts air emissions from ocean-going vessels at berth in California waters.[196] While at berth, ocean-going vessels generate harmful emissions that impact air quality and surrounding communities. The Ocean-Going Vessels at Berth Regulation requires container vessels, refrigerated cargo vessels, cruise ships, roll on-roll of (ro-ro) vessels, and tanker vessels to reduce emissions while at berth by either connecting to shore electricity or using an alternative control to achieve emission reductions.[197] Recent amendments to the updated 2020 Ocean-Going Vessels at Berth Regulation expand on the original 2007 regulation by regulating emissions of additional types of vessels (including tanker and roll on-roll off vessels), reducing the threshold for applicability of emission controls, and placing additional responsibilities on ports, among other changes.

The federal Clean Air Act preempts states from adopting and enforcing standards and other requirements related to the control of emissions from nonroad engines or vehicles.[198] However, the Clean Air Act requires the EPA to authorize California to adopt and enforce regulations of certain nonroad engines and vehicles if California determines that California standards will be, in the aggregate, at least as protective of public health and welfare as applicable federal standards, among other requirements.[199] In 2023, the USEPA authorized the updated CARB's Ocean-Going Vessels at Berth Regulation under the Clean Air Act as meeting this standard.[200]

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[193] Cal. Code Regs. tit. 13, § 2299.5; Cal. Code Regs. tit. 17, § 93118.5.
[194] CARB. Commercial Harbor Craft.
[195] CARB. 2022. Final Regulation Order: Commercial Harbor Craft Regulation. On January 6, 2025, U.S. EPA granted California Clean Air Authorization of most elements of CARB's Commercial Harbor Craft Regulation, but the EPA did not take action on two elements of the CHC Regulation for in-use engines and vessels (Commercial Harbor Craft Regulation, 89 Fed. Reg. 1756 (Jan. 10, 2025)). On January 13, 2025, CARB withdrew its request for authorization of the two elements that the EPA did not take action on (CARB. January 13, 2025. Withdrawal of Elements of California's Request for Authorization, Pursuant to Clean Air Act Section 209(e)(2), for the Commercial Harbor Craft (CHC) Regulation).
[196] Cal. Code of Regs., tit. 17, §§ 93130 - 93130.22.
[197] "Berth" means a vessel's allotted place at a wharf, pier, or dock (Cal. Code Regs., tit. 17, § 93130.2(b)(10)).
[198] *See* 42 U.S.C. § 7543(e), Clean Air Act § 209(e); 40 C.F.R. § Pt. 1074.
[199] 42 U.S.C. § 7543(e)(2)(A), Clean Air Act § 209(e)(2)(A); 40 C.F.R. § 1074.105.
[200] California State Nonroad Engine Pollution Control Standards; Ocean-Going Vessels At-Berth, 88 Fed. Reg. 72461 (October 20, 2023).

Under the Ocean-Going Vessels at Berth Regulation, marine terminal operators have emission control, reporting, opacity, and planning obligations:

- **Emission control requirements.** Marine terminals must make shore power available to vessels at each berth or ensure that another CARB approved emission control strategy is available at each berth.[201] Terminals must also ensure that regulated vessels use shore power or another CARB approved emission control strategy.[202] Terminals that receive fewer than 20 regulated vessel visits per calendar year in two consecutive years are considered "low-activity terminals" and emission control measures generally do not apply.[203] If a low-activity terminal receives more than 20 vessel visits per calendar year for two consecutive years, the terminal must comply with all emission control and planning requirements.
- **Terminal plans.** All terminals, except low-activity terminals, must submit terminal plans to CARB that demonstrate how the terminal will comply with the Ocean-Going Vessels at Berth Regulation.[204]
- **Reporting requirements.** All terminals, regardless of whether they are a low-activity terminal, must report regulated vessel visits.[205]
- **Opacity requirements.** All terminals, regardless of whether they are a low-activity terminal, must comply with opacity requirements.[206]

Under the Ocean-Going Vessels at Berth Regulation, ports (like terminal operators) also have emission control, reporting, opacity, and planning obligations, including:

- **Emission control requirements.** Ports must provide equipment or necessary infrastructure that is outside of terminal operators' contractual ability to provide and which will enable a terminal to comply with emission control requirements.[207] Ports are also responsible, with terminals, to ensure that emission control requirements are met.[208] Ports with only low-activity terminals, however, are not subject to emission control requirements.[209]
- **Port plans.** Ports, except those with only low-activity terminals, must submit terminal plans to CARB that demonstrate how it will comply with the Ocean-Going Vessels at Berth Regulation.[210]
- **Reporting requirements.** All ports, regardless of whether they only have low-activity terminals, must report regulated vessel visits.[211]

[201] Cal. Code Regs. tit. 17, § 93130.9.
[202] Cal. Code Regs. tit. 17, § 93130.9(d).
[203] Cal. Code Regs., tit. 17, §§ 93130.8(e); 93130.10(a); 93130.2(b)(45).
[204] Cal. Code Regs. tit. 17, § 93130.14(a).
[205] Cal. Code Regs. tit. 17, § 93130.9(d).
[206] Cal. Code Regs. tit. 17, § 93130.6.
[207] Cal. Code Regs. tit. 17, § 93130.13(a).
[208] Cal. Code Regs. tit. 17, §§ 93130.13(b), 93130.14(a)(3)(G).
[209] *Id.*
[210] Cal. Code Regs. tit. 17, § 93130.14(b).
[211] Cal. Code Regs. tit. 17, § 93130.13(d).

- **Opacity requirements.** All ports, regardless of whether they only include low-activity terminals, must comply with opacity requirements.[212]

Government-to-Government Consultation Act

AB 923 (Ramos, 2022) added Section 11019.81 to the Government Code, known as the Government-to-Government Consultation Act.[213] The Act encourages state agencies to consult "on a government-to-government basis with federally recognized Tribes, and to consult with non-federally recognized tribes and tribal organizations, as appropriate."[214] This consultation is intended to allow Tribal officials the opportunity to provide meaningful and timely input in the development of policies, processes, programs, and projects that have Tribal implications.[215] The language of AB 923 requiring "government-to-government" consultation reflects the sovereign status of Tribal Nations.[216] State agencies are encouraged to consult with a federally recognized Tribe within 60 days of the Tribe making a request for consultation.[217] Additionally, each agency director is encouraged to consider the need for Tribal consultation before approving an agency action.[218] The Government-to-Government Consultation Act also identifies which officials at state agencies have authority to represent the State of California in Tribal consultations and requires that these officials complete consultation training.[219] Although this Act does not create mandatory consultation requirements, it encourages state agencies to consult with Tribal Nations and provides clarity on authorized state officials who can represent state agencies in consultations.

Harbor and Navigation Code

The California Harbor and Navigation Code governs harbors and ports in California, including the formation and authority of harbor districts and port districts.[220] The Harbor and Navigation Code also specifically recognizes the need for mitigation of air pollution impacts on community health related to port operations at the Ports of Long Beach, Los Angeles, and Oakland, including the movement of locomotives, ships, and trucks that move cargo containers to and from the port.[221] To address these impacts, the Code requires the Port of Long Beach to assess infrastructure and air quality improvement needs, including projects that improve the efficiency of the movement of cargo, reduce congestion impacts associated with the movement of cargo,

[212] Cal. Code Regs. tit. 17, § 93130.6.
[213] Cal. Gov't Code § 11019.81(a).
[214] Cal. Gov't Code § 11019.81(c).
[215] Cal. Gov't Code § 11019.81(c). "Tribal implications" means "agency actions that impact one or more federally recognized tribes or nonfederally recognized tribes or tribal organizations, the government-to-government relationship between the state and federally recognized tribes, or the distribution of power and responsibilities between the state and federally recognized tribes" (Cal. Gov't Code § 11019.81(b)(3)).
[216] *See* Cal. Gov't Code § 11019.81.
[217] Cal. Gov't Code § 11019.81(d).
[218] Cal. Gov't Code § 11019.81(e). "Agency action" includes, but is not limited to, agency development of policies, regulations, guidelines, processes, programs, and projects with Tribal implications (Cal. Gov't Code § 11019.81(b)(1)).
[219] Cal. Gov't Code § 11019.81(f), (h).
[220] Cal. Harb. & Nav. Code §§ 6000-6110 (harbor districts); §§ 6200-6372.
[221] Cal. Harb. & Nav. Code § 1740.

and reduce pollution associated with the movement of cargo.[222] As relevant to port development projects that will result in the fill of subtidal habitat, the Harbor and Navigation Code requires subtidal or in-water mitigation for port projects that fill subtidal habitats in ocean or inland ports.[223]

Humboldt Bay Harbor, Recreation, and Conservation District Act

The Humboldt Bay Harbor, Recreation, and Conservation District Act, as amended, legislatively granted public trust lands in Wigi (Humboldt Bay) to the Humboldt Bay Harbor, Conservation and Recreation District (Humboldt Bay Harbor District) and created the Humboldt Bay Harbor District.[224] The Humboldt Bay Harbor, Recreation, and Conservation District Act defines the Humboldt Bay Harbor District's jurisdiction, identifies permissible uses of tidelands and submerged lands, creates standards for the authorization of activities on these lands, and requires public noticing for certain actions. See **Section 3.2.1** for more information on the Humboldt Bay Harbor, Recreation, and Conservation District Act, and see **Section 6.2.1** for more information on public noticing and engagement requirements and commitments to date, as well as **Section 1.2** for resolutions adopted by the Harbor District Board of Commissioners to help facilitate the project. The Humboldt Bay Harbor District will be responsible for processing a development permit for the portions of the Humboldt Bay Harbor District project within its jurisdiction pursuant to the Humboldt Bay Harbor, Recreation, and Conservation District Act.

Porter-Cologne Water Quality Control Act

The Porter-Cologne Water Quality Control Act (Porter-Cologne Act) regulates discharges that could affect the quality of waters of the state.[225] "Waters of the state" are broadly defined as "any surface water or groundwater, including saline waters, within the boundaries of the state."[226] The Porter-Cologne Act thus regulates water quality in all state waters, which is broader than the waters of the United States regulated by the CWA.[227] The Porter-Cologne Act also implements certain provisions of the CWA. The Act implements both the CWA NPDES permitting program and the California waste discharge requirement (WDR) permitting program.[228] The nine Regional Water Quality Control Boards (RWQCBs) have the primary responsibility for implementing the Porter-Cologne Act and generally issue WDRs for discharges that could affect the quality of waters of the state.[229] Some WDRs also serve as CWA NPDES permits.[230] Port development projects to construct infrastructure for the staging and integration of floating offshore wind turbines could potentially require WDRs for activities that

[222] Cal. Harb. & Nav. Code § 1750.
[223] Cal. Harb. & Nav. Code § 1720.
[224] Chapter 1283, Statutes of 1970, Harb. & Nav. Code § App. 2. https://slcprdwordpressstorage.blob.core.windows.net/wordpressdata/2023/07/S1970_Ch1283_acc.pdf.
[225] Cal. Water Code § 13000 et seq.
[226] Cal. Water Code § 13050(e).
[227] *See* 33 U.S.C § 1362(7); 40 C.F.R. § 120.2. *See also Sackett v. Env't Prot. Agency*, 598 U.S. 651 (2023) (discussing the history of the definition of waters of the United States and finding the USEPA's definition of this term as applied to wetlands to be overbroad).
[228] Cal. Water Code § 13160,
[229] Cal. Water Code § 13263.
[230] *See* Cal. Water Code § 13377.

result in discharges that could affect the quality of waters of the state under the Porter-Cologne Act, such as effluent discharge from construction activities.

Public Trust Doctrine

Under the common law public trust doctrine, the State of California has an affirmative duty to protect public trust lands in California, including state tidelands and submerged lands, for a broad range of public uses. These uses include navigation, fishing, boating, water-oriented recreation, public access, and environmental preservation and restoration.[231] The public trust doctrine is not static and the uses it protects may evolve over time to accommodate changing public needs.[232]

The State of California can grant public trust tidelands and submerged lands to local municipalities.[233] Grantees of public trust tidelands and submerged lands must protect the public trust uses and resources on these lands.[234] On granted public trust lands, the California State Lands Commission (CSLC) retains oversight authority and ensures that grantees' management of state tidelands and submerged lands and related revenue expenditures are consistent with the public trust doctrine, the statutory grant, and the California Constitution.[235] The CSLC also manages all ungranted public trust tidelands and submerged lands and issues leases for activities on these lands.[236] For more information on the public trust doctrine and state tidelands and submerged lands generally, see the Public Trust Doctrine webpage on the California State Lands Commission website and the Public Trust webpage on the California Coastal Commission website.

Projects to develop port infrastructure for the staging and assembly of floating offshore wind turbines will almost certainly occur, at least in part, on public trust tidelands and submerged lands because these projects require the development of infrastructure over navigable state waterways. In areas where public trust tidelands and submerged lands have been granted to local municipalities, local grantees are likely to process authorizations for development rather than the CSLC. However, the CSLC retains oversight authority over these lands. CSLC is likely to process applications for leases for activities on ungranted public trust lands. For the Humboldt Bay Harbor District project, the Humboldt Bay Harbor District is likely to process a permit for the project. For the Port of Long Beach project, the Port is likely to process a permit. In 2024, the California State Lands Commission, Port, and Harbor District signed a Memorandum of Understanding (MOU) on a California Floating Offshore Wind Staging and Integration

[231] *People v. California Fish Company*, 166 Cal. 576 (1913); *Nat'l Audubon Soc'y v. Superior Ct.*, 33 Cal. 3d 419 (1983); *Illinois Central Railroad Co. v. Illinois*, 146 U.S. 387 (1892).
[232] *Marks v. Whitney*, 6 Cal. 3d 251, 259 (1971).
[233] *City of Long Beach v. Marshall*, 11 Cal. 2d 609 (1938).
[234] *City of Long Beach v. Morse*, 31 Cal. 2d 254 (1947); Pub. Resources Code § 6009(c), (d).
[235] Cal. Pub. Resources Code §§ 6009, 6009.1, 6301, 6306.
[236] Cal. Pub. Resources Code § 6301 et seq.

Partnership agreeing to cooperate and share information with each other in the planning and permitting of these projects.[237]

Tribal Co-Governance and Co-Management of Ancestral Lands and Waters Act

Effective January 1, 2025, the "Tribal Cogovernance and Comanagement of Ancestral Lands and Waters Act" (AB 1284, Ramos, 2024) gives the California Natural Resources Agency (CNRA) and its departments, boards, commissions, and conservancies the authority to enter into co-governance and co-management agreements with federally recognized Tribes "for the purposes of shared responsibility, decisionmaking, and partnership in resource management and conservation within a Tribe's ancestral lands and waters."[238] The scope of these agreements must be limited to areas under CNRA's jurisdiction.[239] Meaning, the CNRA cannot agree to share responsibility or decision making power that it does not have. "Co-governance" means "governance that emphasizes collaboration and shared decision making on a government-to-government level."[240] Whereas "co-management" means "a collaborative effort established through an agreement in which two or more sovereigns mutually negotiate, define, and allocate amongst themselves the sharing of management functions and responsibilities for a given territory, area, or set of natural resources."[241] At the request of a federally recognized Tribe, the CNRA and its departments, boards, commissions, and conservancies can begin government-to-government negotiations on co-governance and co-management agreements, to the extent feasible within existing staffing and budget.[242] Although the CNRA is not required to enter into co-governance or co-management agreements or to consult regarding these agreements, the Act gives CNRA and its subsidiary agencies the authority to do so. The Act generally applies to the CNRA and includes the California State Lands Commission and California Coastal Commission, but does not apply to local agencies such as the Humboldt Bay Harbor District or Port of Long Beach.[243] Permitting or leasing decisions by the California Coastal Commission (and California State Lands Commission to the extent applicable) relating to port development projects to support offshore wind represent resource management and conservation decisions that could potentially be the subject of co-governance or co-management agreements with Tribal Nations whose ancestral lands and waters include the project area.[244]

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[237] California State Lands Commission, Port of Long Beach, Humboldt Bay Harbor, Recreation and Conservation District. (December 17, 2024). Memorandum of Understanding on a California Floating Offshore Wind Staging and Integration Partnership.

[238] Cal. Gov't Code § 11019.82(c). "Ancestral lands and waters" mean lands, resources, and waters within a federally recognized Tribe's ancestral territory (Cal. Gov't Code § 11019.82(b)(1)).

[239] Cal. Gov't Code § 11019.82(c)(2).

[240] Cal. Gov't Code § 11019.82(b)(2).

[241] Cal. Gov't Code § 11019.82(b)(3).

[242] Cal. Gov't Code § 11019.82(d).

[243] Cal. Gov't Code § 11019.82(b)(5), (c).

[244] In the case of the California State Lands Commission, for example, such a co-management agreement could take the form of a lease. California State Lands Commission staff have indicated that Commission leases are non-exclusive, and so a site could be subject to a Tribal co-management lease agreement, and also leases with other parties for use.

Local Requirements

General Plans

A general plan is a comprehensive, long-term planning document for a city or county, which contains development policies, objectives, and standards. General plans must include elements that address land use, circulation, housing, conservation, open space, noise, safety, and environmental justice.[245] Local government land use and development decisions must be consistent with the general plan.[246] A general plan must designate the general location, distribution, and intensity of land uses within the jurisdiction.[247] When amending their general plans, local governments must meet Tribal consultation requirements under Senate Bill (SB) 18 (Burton, 2004).[248] In the coastal zone, portions of a local government's general plan are also sometimes part of its certified local coastal program under the Coastal Act.

Projects to develop port infrastructure for the staging and assembly of floating offshore wind turbines will generally need to be consistent with the general plan of the city or county the project is located in. In some cases, a general plan may need to be amended to accommodate the project. The Humboldt County General Plan primarily designates the Humboldt Bay Harbor District project site as Industrial Coastal Dependent (MC), which allows industrial uses dependent on, or related to, the harbor.[249] The City of Long Beach General Plan designates the proposed Port of Long Beach project site as Regional Serving Facility (RSF), which allows facilities that serve the sub-region or region including the Port of Long Beach.[250]

Zoning Regulations

Zoning regulations govern development within a local government's jurisdiction by dividing the area into distinct districts, regulating buildings and structures, and determining the nature and extent of the use of buildings and land.

The Port of Long Beach project site is zoned Port-related Industrial (IP), where uses are primarily port-related or water dependent and must be consistent with the port master plan.[251]

The Humboldt Bay Harbor District project site is zoned Industrial Coastal Dependent (MC), Industrial General (MG), Natural Resources (NR), and Public Facilities (PF).[252] Pursuant to the Humboldt Bay Harbor, Recreation, and Conservation District Act, only Humboldt County zoning ordinances that were in effect on November 23, 1970 and that have not been repealed, expired, or become nonoperative apply to lands within the Humboldt Bay Harbor District's

[245] Cal. Gov't Code § 65302.
[246] *Citizens of Goleta Valley v. Bd. of Supervisors*, 52 Cal. 3d 553, 570 (1990).
[247] Cal. Gov't Code § 65302(a).
[248] Cal. Gov. Code §§ 65092, 65352 et seq. See the State of California Office of Land Use and Climate Innovation Tribal Consultation Guidelines (2005) for more information.
[249] Humboldt County. 2017. Humboldt County General Plan, Land Use Element.
[250] City of Long Beach. 2019. Long Beach General Plan, Land Use Element.
[251] City of Long Beach Municipal Code, Tit. 21, Ch. 21.33.
[252] Humboldt County Code, Tit. III, Div. 1, Ch. 3, Part 1.

jurisdiction.[253] As a result, there may be a number of County zoning ordinances that do not apply to lands within the Humboldt Bay Harbor District's jurisdiction. Much of the Humboldt Bay Offshore Wind Heavy Lift Marine Terminal project is located on lands within the Humboldt Bay Harbor District's jurisdiction. There are some portions of the project site, however, that are not located within Humboldt Bay or the tidelands and submerged lands granted to the Humboldt Bay Harbor District, and are thus outside of the Harbor District's jurisdiction.[254] These areas are likely subject to all applicable County zoning ordinances and portions of the project in this area may require a building, grading, conditional use or other permit or authorization from the County.

[253] Cal. Harb. & Nav. Code § App. 2, § 19.
[254] *See* Cal. Harb. & Nav. Code § App. 2, §§ 3(f), 5.5, 19.

Appendix C: Potential timeline for permitting

The following table indicates a potential permitting timeline for projects to develop port infrastructure for the staging and assembly of offshore wind turbines. These timelines are based on the statutory and regulatory deadlines identified in Appendix D and assume no extensions to these deadlines. Instances in which there are not specific statutory or regulatory deadlines are noted in footnotes. In practice, the permitting timeline for a proposed project is likely to be longer than is shown in the table below because many deadlines can be extended under certain circumstances and there may be other actions, such as appeals and requests for the applicant to provide additional information, that increase the amount of time it takes to receive an authorization.

Before a project proponent can obtain certain authorizations, it must first complete environmental review requirements or receive other authorizations. Coastal development permits, [255] discretionary local government permits,[256] and California Endangered Species Act incidental take permits[257] can all generally only be issued after CEQA review is complete. NEPA review must generally be complete before the completion of Coastal Zone Management Act review, Clean Water Act Section 404 permits, Rivers and Harbors Act Sections 10 and 14 permits, Marine Protection, Research and Sanctuaries Act Section 103 permits, and Marine Mammal Protection Act incidental take authorizations. Coastal Zone Management Act review must be complete prior to the issuance of Clean Water Act Section 404 permits or Rivers and Harbors Act Sections 10 and 14 permits.[258] A Clean Water Act Section 401 certification must also be received before issuance of a Clean Water Act Section 404 permit.[259] A USCG private aids to navigation authorization cannot be obtained until after the Rivers and Harbors Act and Clean Water Act Section 404 permits have been issued.[260] Additionally, Federal Endangered Species Act review is generally coordinated with Magnuson-Stevens Fishery Conservation and Management Act essential fish habitat consultation,[261] and any Marine Mammal Protection Act incidental take authorization.[262]

[255] *See* Cal. Pub. Res. Code §§ 21080(a), 21080.5; Cal. Code Regs. tit. 14, § 13096(a). *See also* CEC. 2023. AB 525 Offshore Wind Energy Permitting Roadmap, 36 (stating that coastal development permit review is usually conducted concurrently with CEQA, with a permit decision issued shortly after CEQA review is concluded).
[256] Cal. Pub. Res. Code § 21080(a); Cal. Code Regs. tit. 14, §§ 15050(b), 15357.
[257] Cal. Pub. Res. Code § 21080(a); Cal. Code Regs. tit. 14, §§ 783.3, 15050(b), 15357. *See also* CDFW Incidental Take Permits website.
[258] 33 C.F.R. § 325.2(b)(2).
[259] 33 U.S.C. § 1341; 40 C.F.R. § 230.10(b)(1).
[260] 33 C.F.R. § 66.01-30.
[261] *See* 50 C.F.R. § 600.920; NMFS. 2018. Further Guidance on Combined EFH and ESA Consultations, No. 03-201-07.
[262] 50 C.F.R. § 402.14(i).

Federal Agencies

Permitting or Planning Process	Year 1	Year 2	Year 3	Year 4
National Environmental Policy Act review				
U.S. Army Corps of Engineers (USACE), Clean Water Act of 1972, Section 404 individual permit[263]				
USACE, Rivers and Harbors Act of 1899, Section 10 individual permit				
USACE, Rivers and Harbors Act of 1899, Section 14 individual permit				
USACE, Marine Protection, Research and Sanctuaries Act of 1972, Section 103 permit				
U.S. Fish and Wildlife Service (USFWS) and/or National Marine Fisheries Service (NMFS), Endangered Species Act of 1973, Section 7 consultation				
USFWS and/or NMFS, Magnuson-Stevens Fishery Conservation and Management Act, essential fish habitat consultation				
USFWS and/or NMFS, Marine Mammal Protection Act of 1972, incidental take authorization[264]				
U.S. Coast Guard, Code of Federal Regulations, Title 33,				

[263] USACE generally requires that Coastal Zone Management Act (CZMA) review occur prior to issuance of USACE permits (33 C.F.R. § 325.2(b)(2)).

[264] Assumes an incidental take authorization, rather than a letter of authorization, is required. There is no specific statutory or regulatory deadline for this authorization; however, NMFS guidance states that it may take about 5-8 months or longer and USFWS guidance states that it may take about 12 months for this authorization, as noted in Appendix D.

Permitting or Planning Process	Year 1	Year 2	Year 3	Year 4
Part 66, private aids to navigation approval[265]				
Federal Aviation Administration, Code of Federal Regulations, Title 14, Part 77, obstruction evaluation[266]				
National Historic Preservation Act, Section 106 consultation				

State Agencies

Permitting or Planning Process	Year 1	Year 2	Year 3	Year 4
California Environmental Quality Act review[267]				
California Coastal Commission (CCC), California Coastal Act, certification decision on port master plan amendment or local coastal program amendment				
CCC, California Coastal Act, consolidated coastal development permit (for projects governed by certified local coastal program and within the CCC's permitting authority)				
CCC, Coastal Zone Management Act, federal consistency review				

[265] There is no specific statutory or regulatory deadline for this approval, as noted in Appendix D.
[266] There is no specific statutory or regulatory deadline for this evaluation; however, FAA guidance recommends submitting a notice of the construction at least 60-90 days before commencing construction, as noted in Appendix D.
[267] Assumes CEQA and NEPA review is coordinated. CEQA deadlines are discretionary and can be waived when a project requires both CEQA and NEPA review, as discussed in Appendix D. However, CEQA review must be integrated with NEPA review to the fullest extent possible, as discussed in Appendix B.

Permitting or Planning Process	Year 1	Year 2	Year 3	Year 4
California Department of Fish and Wildlife, California Endangered Species Act, Section 2081 incidental take permit				
California Office of Historic Preservation, National Historic Preservation Act, Section 106 concurrence				
State Water Resources Control Board (SWRCB) or regional water quality control board (RWQCB), Clean Water Act of 1972, Section 401 certification[268]				
SWRCB or RWQCB, Porter Cologne Water Quality Act and Clean Water Act of 1972, Section 402, water discharge requirement (WDR)/National Pollutant Discharge Elimination System (NPDES) permit				
California State Lands Commission, lease for activities on public trust lands (if project is located on ungranted state tidelands or submerged lands)				

[268] Section 401 certification must be obtained or waived prior to issuance of permits for activities that result in discharges into navigable waters, such as CWA Section 404 permits issued by USACE (33 U.S.C. § 1341(a); 33 C.F.R. § 325.2(b)(1)(ii)).

Local Agencies

Permitting or Planning Process	Year 1	Year 2	Year 3	Year 4
Port governing authority, California Coastal Act, port master plan amendment				
Port governing authority, California Coastal Act, coastal development permit				
Harbor District, development permit				
County or city, California Coastal Act, local coastal program amendment				
County or city, building permits or other permits[269]				

[269] As discussed in Section 4.1.3 of the report, projects located within the City of Los Angeles' coastal development permitting authority are also likely to require a coastal development permit from the City.

Appendix D: Statutory and regulatory timelines for permit processes

The following section identifies statutory and regulatory deadlines for key regulatory decisions. In many cases, the actual timing of a decision is likely to be longer than the deadlines identified in this table. This is because many deadlines can be extended under certain circumstances and there may be other actions, like appeals and requests for the applicant to provide additional information, that increase the amount of time it takes to receive an authorization

Bald Eagle and Golden Eagle Protection Act

Action	Deadline	Authority
USFWS decision on eagle incidental take specific permit or general permit	No specific deadline; however, USFWS generally recommends submitting applications for endangered or threatened species at least 90 days before the requested effective date, and applications for all other species at least 60 days before the requested effective date USFWS may issue a single permit for multiple authorizations where appropriate	*See* 50 C.F.R. Part 22; 50 C.F.R. §§ 13.1(b), 13.11(c)

California Coastal Act

Coastal development permits issued by Coastal Commission

Action	Deadline	Authority
Determination of whether application is complete	30 days after receipt of application (or receipt of additional materials requested for application)	Cal. Code Regs. tit. 14, § 13056
Action on coastal development permit	180 days after application is deemed complete or after the CEQA lead agency has approved the project, whichever is longer	Cal. Gov. Code § 65952
Extension of deadline to take action on coastal development permit	90 days in addition to the 180 days above	Cal. Gov. Code § 65957

Port master plan amendments

Action	Deadline	Authority
Port governing authority public hearing on draft port master plan[270]	30-90 days after the date the notice of completion was published	Cal. Pub. Resources Code §§ 30712, 30716(a)
Coastal Commission decision on certification of port master plan	90 days after complete submittal of port master plan by the port governing authority	Cal. Pub. Resources Code §§ 30714, 30716(a); Cal. Code Regs. tit. 14, § 13636.

Local coastal program amendments[271]

Action	Deadline	Authority
Decision on certification of land use plan amendment or combined land use plan and implementation plan amendment	90 days after submittal of a complete application for amendment	Cal. Pub. Resources Code §§ 30512(a), 30514(b)
Decision on certification of implementation plan amendment	60 working days after receipt of the complete application for amendment	Cal. Pub. Resources Code §§ 30513, 30514(b)
Extension of deadline for decision on certification of land use plan or implementation plan amendment	Deadline can be extended up to one year for good cause	Cal. Pub. Resources Code § 30517

Federal Coastal Zone Management Act

Action	Deadline	Authority
Coastal Commission concurrence or objection to federal consistency determination	60 days from receipt of the federal agency's consistency determination and supporting information	15 C.F.R. § 930.41(a)

[270] This hearing can be combined with any applicable hearings on draft environmental impact reports held pursuant to CEQA (Cal. Code Regs. tit. 14, § 13627). Additionally, ports are entitled to one preliminary plan review at a hearing prior to formal submittal of a port master plan for certification (Cal. Code Regs. tit. 14, §§ 13629, 13218).

[271] Certain local coastal program amendments that are minor or de minimis can be processed on faster timelines than the ones indicated here (Cal. Pub. Resources Code § 30514(c), (d)). However, local coastal program amendments with substantive changes relating to port development projects are unlikely to qualify as minor or de minimis local coastal program amendments.

Extension of deadline for federal consistency determination	Federal agency must approve at least one request for an extension period of 15 days or less	15 C.F.R. § 930.41(b)

California Environmental Quality Act

Action	Deadline[272]	Authority
Lead agency determination of whether application is complete	30 days from the receipt of the application, except in certain projects with short time periods for approval	Cal. Code Regs. tit. 14, §§ 15101, 15111
Lead agency formal notification to Tribal Nations that have requested notice	14 days of determining that an application for a project is complete or a decision by a public agency to undertake a project	Cal. Pub. Res. Code § 21080.3.1(d)
Tribal Nation response to formal notification of project requesting consultation	30 days of receipt of formal notification	Cal. Pub. Res. Code § 21080.3.1(b), (d)
Lead agency begins consultation with Tribal Nations who requested	30 days of receiving request for consultation	Cal. Pub. Res. Code § 21080.3.1(e)
Lead agency completion of initial study to determine whether to prepare an environmental impact report (EIR) or negative declaration	30 days after an application is accepted or deemed complete, but can be extended by an additional 15 days with the consent of the lead agency and the applicant	Cal. Pub. Res. Code § 21080.2; Cal. Code Regs. tit. 14, § 15102
Lead agency adoption of negative declaration for certain private projects	180 days from when the application was accepted or deemed complete, but can be extended by an additional 90 days with the consent of the lead agency and the applicant or can be waived by the applicant for projects subject to both CEQA and NEPA	Cal. Pub. Res. Code §§ 21100.2, 21151.5; Cal. Code Regs. tit. 14, §§ 15107, 15110

[272] The deadlines in CEQA are discretionary rather than mandatory (*Eller Media Co. v. City of Los Angeles*, 87 Cal. App. 4th 1217, 1220 (2001)).

Lead agency certification of EIR for certain private projects	1 year from when the application was accepted or deemed complete, but can be extended by an additional 90 days with the consent of the lead agency and the applicant or can be waived by the applicant for projects subject to both CEQA and NEPA	Cal. Pub. Res. Code §§ 21100.2, 21151.5; Cal. Code Regs. tit. 14, §§ 15108, 15110
Lead agency approval or disapproval of projects subject to the Permit Streamlining Act	Generally 180 days of certification of EIR or 60 days of adoption of negative declaration, but can be extended an additional 90 days if the applicant and agency agree When a joint EIR/EIS is prepared, 90 days after the adoption or completion of the EIR/EIS	Cal. Gov't Code §§ 65950, 65951, 65957

Clean Water Act

Action	Deadline	Authority
USACE determination of whether an individual Section 404 permit application is complete	Generally 15 days after receipt of application	33 C.F.R. § 325.2(a)
USACE individual Section 404 permit	Generally 60 days after receipt of a complete application, but this time can be extended under certain circumstances including if the comment period is extended or necessary information cannot reasonably be obtained within 60 days	33 CFR 325.2(d), see also 33 U.S.C. § 1344(q)
SWRCB or RWQCB Section 401 certification	60 days of receipt of request for certification, with an extension up to 1 year of	33 U.S.C. § 1341(a)(1); 33 C.F.R. § 325.2(b)(1)(ii)

	receipt available in circumstances that may reasonably require a period of time longer than 60 days	

Endangered Species Act of 1973

Action	Deadline	Authority
USFWS/NMFS concurrence or revision of acting federal agency's list of any listed species, proposed species, or designated or proposed critical habitat that may be present in the action area	30 days of receipt of the notification of or the request for a species list	50 C.F.R. § 402.12(d)
Completion of biological assessment by acting federal agency (or designated representative)	180 days after its initiation (receipt of or concurrence with species list), unless USFWS/NMFS and the federal agency agree to a different time period[273]	16 U.S.C. § 1536(c)(1); 50 C.F.R. § 402.12(i)
USFWS/NMFS written concurrence or non-concurrence with acting federal agency's determination that the proposed action is not likely to adversely affect listed species or critical habitat	60 days of written request for concurrence from acting federal agency, which can be extent to up to 120 days total from the date of receipt request for concurrence if agreed upon by USFWS/NMFS, the acting federal agency, and any applicant	50 C.F.R. § 402.13(c)
Conclusion of formal consultation	90 days after its initiation unless USFWS/NMFS and acting federal agency agree to an extension However, if an applicant is involved, this deadline can only be extended by 60	16 U.S.C. § 1536(b); 50 C.F.R. § 402.14(e)

[273] If a permit or license applicant is involved, the 180–day period may not be extended unless the agency provides the applicant, before the close of the 180–day period, with a written statement setting forth the estimated length of the proposed extension and the reasons why such an extension is necessary (50 C.F.R. § 402.12(i)).

	additional days (150 total days after initiation) without the consent of the applicant	
USFWS/NMFS delivery of biological opinion to acting federal agency and any applicant	45 days after the conclusion of formal consultation	50 C.F.R. § 402.14(e)

Federal Aviation Administration regulations

Action	Deadline	Authority
Applicant submission to the FAA of notice of proposed construction	45 days before the start date of the proposed construction or alteration or the date an application for a construction permit is filed, whichever is earliest[274]	14 C.F.R. § 77.7(b)
Aeronautical study and FAA determination of hazard or no hazard	No specific deadline	See 14 C.F.R. Part 77

California Endangered Species Act

Action	Deadline	Authority
CDFW initial review of incidental take permit application	30 days of receipt of application	Cal. Code Regs. tit. 14, § 783.5(b)
CDFW decision on incidental take permit	90 days from the date on which the CEQA lead agency approved the activity or from the date CDFW accepted the application as complete, whichever is later Deadline may be extended an additional 60 days (for a total of 150 days) if CDFW makes a written finding that additional time is necessary due to the complexity of the	Cal. Code Regs. tit. 14, § 783.5(c)(1)

[274] The FAA's General FAQ's website recommends submitting the notice as soon as possible, and at least 60-90 days before commencing construction.

	application or the scope and duration of the requested permit[275]	
CDFW notice of determination after issuance of incidental take permit	5 working days after issuance (or amendment) of the incidental take permit	Cal. Code Regs. tit. 14, § 783.5(c)(2)
CDFW consistency determination for a federal incidental take permit (ITP) or incidental take statement (ITS) issued for a CESA listed species	30 days of receipt of notice of federal ITP or ITS	Cal. Fish & Game Code § 2080.1(c)

Humboldt Bay Harbor, Recreation, and Conservation District Act

Action	Deadline	Authority
Humboldt Bay Harbor District mailing and publication of notice of filed application	10 days of filing of application	Cal. Harb. & Nav. Code § App. 2, § 24(e)
Request for public hearing	30 days of notice of filed application	Cal. Harb. & Nav. Code § App. 2, § 24(f)
Humboldt Bay Harbor District hearing on application	90 days of mailing and publication of the notice of the filing of application	Harbor District Ordinance No. 14, § 1.06(C)
Humboldt Bay Harbor District Board action on application (not required to be final action)	30 days of the hearing	Harbor District Ordinance No. 14, § 1.07(D)

Magnuson-Stevens Fishery Conservation and Management Act

Action	Deadline	Authority
NMFS recommendations in response to federal action agency EFH assessment	Timeline differs depending on the type of consultation, and some consultation processes do not have specific deadlines. Consultation types with	*See* 50 C.F.R. § 600.920

[275] The Cal. Code Regs. tit. 14, § 783.5(c)(1) deadlines identified here apply when CDFW is the responsible (rather than lead) agency under CEQA for the project and CDFW does not take any of the actions regarding a finding of insufficiency of the final EIR or negative declaration described in Cal. Code Regs. tit. 14, § 15096(e) (Cal. Code Regs. tit. 14, § 783.5(c)(1)). These deadlines are used for this report because CDFW is unlikely to be the lead agency under CEQA for offshore wind port development projects.

	specific deadlines are identified below.	
Federal action agency notification of proposed action and EFH assessment to NMFS as part of existing environmental review procedures (e.g. ESA, NEPA)	According to the same time frames for notification (or for public comment) as in the existing environmental review process, and at least 60 days (or 90 days if the action would result in substantial adverse impacts) prior to taking the proposed action, whenever possible	50 C.F.R. § 600.920(f)
NMFS response to EFH assessment when consultation is part of existing environmental review procedures	Comment deadline under existing environmental review process, unless acting federal agency and NMFS agree to a different deadline	50 C.F.R. § 600.920(f)
Federal action agency submission of EFH assessment to NMFS for abbreviated consultation	60 days prior to a final decision on the proposed action	50 C.F.R. § 600.920(h)
NMFS response to EFH assessment for abbreviated consultation	30 days of EFH assessment submission, unless NMFS and the acting federal agency agree to an earlier deadline	50 C.F.R. § 600.920(h)
Federal action agency submission of EFH assessment to NMFS for expanded consultation	90 days prior to a final decision on the proposed action	50 C.F.R. § 600.920(i)
NMFS response to EFH assessment for expanded consultation	60 days of complete EFH assessment submission, unless NMFS and the acting federal agency agree to a different deadline or extension of consultation	50 C.F.R. § 600.920(i)
Federal action agency response to NMFS EFH recommendations	30 days after receipt of NMFS recommendation; final response from federal action agency must be received no later than 10 days before taking any proposed action[276]	16 U.S.C. § 1855(b)(4)(B); 50 C.F.R. § 600.920(k)

[276] NMFS guidance states that if an action agency's final response is not possible within 30 days,

Marine Mammal Protection Act of 1972

Action	Deadline	Authority
NMFS public comment period on published notice of proposed incidental harassment authorization (IHA) or application for regulations for a letter of authorization (LOA)	Not to exceed 30 days from the date of publication of notice in the Federal Register	50 C.F.R. § 216.104(b)
NMFS IHA issuance	No specific deadline; NMFS states that it may take about 5-8 months or longer	See the NMFS Incidental Take Authorizations Under the Marine Mammal Protection Act website
USFWS IHA issuance	No specific deadline; but is required to process applications "as quickly as possible." USFWS states that it may take 12 months	50 C.F.R. § 13.11(c). See the USFWS Incidental Take Authorizations – Applicant Instructions website
NMFS issuance of LOA	No specific deadline; NMFS states that it may take about 8-16 months or longer	See the NMFS Incidental Take Authorizations Under the Marine Mammal Protection Act website
USFWS final incidental take regulations	No specific deadline; but is required to process applications "as quickly as possible." USFWS states that it may take up to 18 months	50 C.F.R. § 13.11(c). See the USFWS Incidental Take Authorizations – Applicant Instructions website

Marine Protection, Research, and Sanctuaries Act of 1972

Action	Deadline	Authority
USACE determination of whether application for dredged material disposal is complete	Generally 15 days after receipt of application	33 C.F.R. § 325.2(a)

an interim reply may be provided that identifies an anticipated date for the final response; however, a final response must be received no later than 10 days before the action agency takes any proposed action (NMFS Guide to EFH Consultations, Section 2.5.3).

USACE public notice of application for dredged material disposal	15 days of receipt of complete application	33 C.F.R. § 325.2(d)
USEPA initial review of USACE determination of issuance of dredged material permit	30 days of receiving USACE notice of intent to issue permit and related information	33 U.S.C. § 1413(c)(1); 40 C.F.R. § 225.2(b)
USEPA decision on concurrence with USACE determination on permit	45 days after receiving all necessary information from USACE Deadline may be extended by 45 days upon USEPA request	33 U.S.C. § 1413(c)(2)
USACE decision on permit for dredged material disposal	Generally 60 days after receipt of a complete application, but this time can be extended under certain circumstances including if the comment period is extended or necessary information cannot reasonably be obtained within 60 days	33 C.F.R. § 325.2(d)

*USACE permits must generally be issued after CZMA review (33 C.F.R. § 325.2(b)(2)) and after Section 7 ESA consultation (33 C.F.R. § 325.2(b)(5)).

National Environmental Policy Act

Action	Deadline	Authority
Completion of environmental assessment (EA)	1 year from issuance of notice of intent (NOI) or the date when the agency determined an EA is required, unless the lead agency extends the deadline and establishes a new deadline in consultation with the applicant	42 U.S.C. § 4336a(g); 40 C.F.R. § 1501.10(b)
Completion of environmental impact statement (EIS)	2 years from issuance of NOI or the date when the agency determined an EIS is	42 U.S.C. § 4336a(g); 40 C.F.R. § 1501.10(b)

	required, unless the lead agency extends the deadline and establishes a new deadline in consultation with the applicant [277]	
Record of decision (ROD)	Generally no earlier than 90 days after notice of filing of draft EIS or 30 days after notice of filing of final EIS, with certain exceptions For FAST-41 covered projects, the ROD must be issued no later than 90 days after the final EIS to the maximum extent practicable	40 C.F.R. § 1506.10(b); 42 U.S.C. § 4370m-4(f)

Lead agencies are also required to develop a schedule for completion of the EA or EIS and any authorizations required to carry out the action.[278]

National Historic Preservation Act

Action	Deadline	Authority
State historic preservation office (SHPO) or Tribal historic preservation officer (THPO) response to request for review of finding or determination from acting federal agency	30 days of receipt of request SHPO/THPO may re-enter consultation process at a later time	36 C.F.R. §§ 800.3(c), 800.4(d)
Advisory Council on Historic Preservation (ACHP) response to request for review of a finding of no historic properties affected	30 days of receipt of request	36 C.F.R. § 800.4(d)
ACHP response to request for review of finding of no adverse effect	15 days of receipt of request, which can be extended 15 additional days upon ACHP's request	36 C.F.R. § 800.5(c)

[277] For final EISs issued in 2024, the median time from NOI to final EIS was 2.2 years. (Council on Environmental Quality. 2025. Environmental Impact Statement Timelines (2010-2024)).
[278] 40 C.F.R. § 1501.10.

ACHP notice of participation in resolution of adverse effects	15 days of receipt of notice or other request	36 C.F.R. § 800.6(a)
ACHP comments on termination of consultation or resolution of objections	45 days of receipt of request, unless otherwise agreed to by the federal agency	36 C.F.R. § 800.7(c)

Port of Long Beach Guidelines for Implementation of Port Master Plan

Action	Deadline	Authority
Public hearing on issuance of Harbor Development Permit	21 to 42 days of the filing of an application	Port of Long Beach Ordinance No. HD-1701, § 6.6
Board of Harbor Commissioners vote on issuance of Harbor Development Permit	At or within 21 days of the public hearing, unless time limit is waived by applicant	Port of Long Beach Ordinance No. HD-1701, § 6.15

Rivers and Harbors Act

Action	Deadline	Authority
USACE determination of whether Section 10 individual permit application is complete	Generally 15 days after receipt of application[279]	33 C.F.R. § 325.2(a)
USACE decision on Section 10 application for individual permit	Generally 60 days after receipt of a complete application, but this time can be extended under certain circumstances including if the comment period is extended or necessary information cannot reasonably be obtained within 60 days[280]	33 C.F.R. § 325.2(d)
USACE determination of whether Section 14 individual permit application is complete	30 days after receipt of application	33 U.S.C. § 408(d)(1)

[279] However, USACE coordinates review on applications for authorization under Section 14 and Section 10 of the Rivers and Harbors Act and/or Section 404 of the CWA to the maximum extent practicable (33 U.S.C. § 408(b)(2)).
[280] See footnote above regarding coordinated review.

USACE decision on Section 14 application for individual permit	Generally 90 days after receipt of a complete application, but USACE can instead provide schedule to applicant identifying when it will make a decision	33 U.S.C. § 408(d)(2)

U.S. Coast Guard aids to navigation approvals

Action	Deadline	Authority
USCG determination of completeness of application for private aids to navigation	No specific deadline	*See* 33 C.F.R. § 66.01-15(a)
USCG approval of application for private aids to navigation	No specific deadline[281]	*See* 33 C.F.R. § 66.01-15(b)

[281] An applicant must obtain authorization from USACE before USCG will authorize any private aid to navigation consisting of a fixed structure placed in the navigable waters of the United States (33 C.F.R. § 66.01-30).