

# Environmental Site Review & Permitting for Intermodal Facility: Western Arkansas Intermodal Authority RFQ



**Walter Wright, Jr.**  
wwright@mwlaw.com  
(501) 688.8839

09/18/2020

The Western Arkansas Intermodal Authority (“WAIA”) issued an August 30th Request for Qualifications (“RFQs”) related to a proposed port and intermodal facility addressing two separate tasks:

- Preliminary Engineering & Design for Intermodal Facility
- Environmental Site Review & Permitting for Intermodal Facility

RFQs were to have been submitted by September 16th.

Arkansas Act 690 allows cities and counties to establish an Authority to develop industrial sites and acquire, equip, construct, maintain and operate regional transportation facilities.

Arkansas has a number of regional intermodal facility authorities which include the Western Arkansas Intermodal Authority (“WAIA”).

Intermodal freight transportation is often described as the use of two modes of freight. These might include truck and rail to transport goods from shipper to consignee.

Intermodal shipping is argued to lower costs and contribute to a greener environment. Such facilities accommodate and interconnect different modes of transportation and serve intrastate, interstate and international movement of people and goods. They include, but are not limited to, highway elements providing terminal access, coastal, inland and Great Lakes ports, canals, pipeline farms, airports, marine and/or rail terminals, major truck terminals, transit terminals and intercity bus terminals.

WAIA is described as the transportation division of the Western Arkansas Planning & Development District.

The project described by WAIA is the determination of the feasibility of the development of an inland river port.

The RFQ for Preliminary Engineering & Design is described as including:

- Preliminary engineering and design for an inland river port and intermodal development
- Coordination with the National Environmental Policy Act (“NEPA”) regulatory oversight
- United States Army Corps of Engineers oversight
- Other federal, state and local agencies’ requirements and protocols

- Other design considerations and specifications associated with the development of and use of proposed port and intermodal property
- Other technical expertise

The Environmental Site Review & Permitting for Intermodal Facility RFQ is described as requesting:

- Environmental laws and regulations and their application to inland river port and intermodal development
- NEPA environmental regulatory and U.S. Army Corps of Engineers oversight, along with other federal, state and local agencies and their requirements and protocols
- Completion of the initial draft Environmental Review prepared by the U.S. Army Corps of Engineers
- Initiate and completing all permitting for the project site and all/or any documentation such as a no rise certificate
- Other identification and investigation such as costs, schedules, and remedial strategies associated with the development of and use of proposed port and intermodal property
- Environmental compliance and environmental liability
- Other technical expertise may also be required

Note that NEPA is triggered because of the involvement of a federal agency. The statute requires federal agencies to assess environmental effects of their proposed action prior to making decisions. It requires federal agencies to include environmental values and issues in their decision-making process.

This federal mandate is accomplished by agency consideration of the environmental impacts of proposed actions and reasonable alternatives to those actions. The statute requires federal agencies in certain instances to prepare a detailed Environmental Impact Statement (“EIS”). However, the requirement to produce this document is only triggered in the event of a “major federal action” that will “significantly affect the environment.”

As opposed to an EIS, which is a much more detailed document, an Environmental Assessment (“EA”) provides sufficient evidence and analysis for determining whether a finding of no significant impact for an EIS should be prepared.

NEPA differs from action forcing environmental statutory programs such as the Clean Air Act and the Clean Water Act. It does not impose substantive mandates. Instead it is limited to requiring federal agencies to meet procedural requirements such as preparation of an EA or EIS in certain defined instances. As a result, it does not require a certain alternative or the meeting of a particular standard.

A link to the two RFQs which provide descriptions of the WAIA project can be found below:

<https://www.wapdd.org/wp-content/uploads/2020/08/RFQ-Environmental-Site-Review-Permitting-WAIA-1.pdf>

<https://www.wapdd.org/wp-content/uploads/2020/08/RFQ-WAIA-PRELIM-ENG-DESIGN-1.pdf>