INTERAGENCY AGREEMENT
AMONG THE
FEDERAL ENERGY REGULATORY COMMISSION
UNITED STATES COAST GUARD
AND
RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION
FOR THE SAFETY AND SECURITY REVIEW OF WATERFRONT IMPORT/EXPORT LIQUEFIED NATURAL GAS FACILITIES

I. Introduction

The Federal Energy Regulatory Commission (FERC), the U.S. Coast Guard (USCG) within the U.S. Department of Homeland Security, and Office of Pipeline Safety (OPS) under the Research and Special Programs Administration (RSPA) within the U.S. Department of Transportation (Participating Agencies) are responsible for exercising regulatory authority over the siting, design, construction and operation of liquefied natural gas (LNG) facilities, and related land and marine safety and security issues.

The Purpose of this Interagency Agreement (IA) is to ensure that the Participating Agencies work in a coordinated manner to address issues regarding safety and security at waterfront LNG facilities, including the terminal facilities and tanker operations, to avoid duplication of effort, and to maximize the exchange of relevant information related to the safety and security aspects of LNG facilities and the related marine concerns.

Specifically, the Participating Agencies will work together to ensure that both land and marine safety and security issues are addressed in a coordinated and comprehensive manner. This includes LNG tankers traversing a waterway to the marine terminal, transfer of LNG to the onshore storage terminal, and terminal operations. The agencies agree that the information will be addressed in the FERC's study under the National Environmental Policy Act (NEPA) and disclosed to the public to the extent permitted by law. The FERC's regulations regarding Critical Energy Infrastructure Information, and Transportation Security Administration and Department of Transportation regulations may restrict disclosure of certain security sensitive information. The agencies also agree to identify and resolve any issues quickly during the study and to build a consensus on any hazard studies or other documents that provide criteria or the basis for conclusions regarding safety analyses.

II. Roles of the Participating Agencies

FERC. The FERC is responsible for authorizing the siting and construction of onshore LNG facilities under Section 3 of the Natural Gas Act (15 U.S.C. § 717 et seq.). FERC also authorizes the construction and operation of interstate natural gas pipelines that may be associated with the LNG facilities under section 7 of the NGA.

The FERC conducts environmental, safety, and security reviews of LNG plants and related pipeline facilities, and as the Lead Federal Agency prepares the overall NEPA documentation

(18 CFR Part 380). In conjunction with the NEPA review, the FERC conducts a cryogenic design review of the proposed facilities. A summary of that review, including conclusions and recommendations, is included in the NEPA document. FERC can impose safety requirements to ensure or enhance operational reliability of the LNG facilities within its jurisdiction.

During construction of the LNG facilities, the FERC conducts periodic inspections to ensure compliance with conditions attached to the FERC authorizations.

Once the LNG facilities are in operation, the FERC conducts inspections of the LNG plant, focusing on equipment, operation, and safety. As part of the inspection program, the FERC maintains a Cryogenic Design Inspection Manual for each jurisdictional facility.

RSPA. RSPA has authority to promulgate and enforce safety regulations and standards for the transportation and storage of LNG in or affecting interstate or foreign commerce under the pipeline safety laws (49 U.S.C. Chapter 601).

RSPA's authority extends to the siting, design, installation, construction, initial inspection, initial testing, operation, maintenance of LNG facilities. Operation and maintenance includes fire prevention and security planning for LNG facilities under 49 CFR Part 193. OPS inspects and enforces compliance with these regulations through a broad range of administrative and judicial actions.

USCG. The USCG exercises regulatory authority over LNG facilities which affect the safety and security of port areas and navigable waterways under E.O. 10173, the Magnuson Act (50 U.S.C. § 191), the Ports and Waterways Safety Act of 1972, as amended (33 U.S.C. § 1221, et seq.) and the Maritime Transportation Security Act of 2002 (46 U.S.C. Section 701). The USCG is responsible for matters related to navigation safety, vessel engineering and safety standards, and all matters pertaining to the safety of facilities or equipment located in or adjacent to navigable waters up to the last valve immediately before the receiving tanks. The USCG also has authority for LNG facility security plan review, approval and compliance verification as provided in Title 33 CFR Part 105, and siting as it pertains to the management of vessel traffic in and around the LNG facility.

III. Responsibilities of the Participating Agencies

A. Siting and Approval. The FERC will be the lead agency responsible for the preparation of the analysis and decisions required under NEPA for the approval of new facilities. The scope of this review includes all aspects of the project including: tanker operation; marine facilities; and terminal construction and operation, environmental and cultural impacts. The USCG and RSPA agree to participate as cooperating agencies so that the NEPA document conveys complete information to the involved stakeholders. The FERC NEPA document is also intended to meet the needs of the Participating Agencies, as well as other cooperating agencies, such that any necessary permits can be issued concurrently with the FERC authorizations.

1. Prepare and Review the Safety and Related Aspects of the NEPA Document. The FERC will notify the other Participating Agencies as early as possible of pending start of the NEPA review of LNG facilities, including meetings with potential applicants. The FERC will then establish a schedule for the project review process, including key times for consultation. Such schedule will be as expeditious as possible and consistent with the periods for analysis and response that are required by the statutes and regulations applicable to the proposed project. To facilitate participation, the FERC will coordinate with the Participating Agencies regarding the scheduling of scoping or other meetings.

2. Develop and Share Data. The Participating Agencies will share the information gathered, considered and relied upon by each of them. Specifically, the Participating Agencies agree to:

a. Provide the necessary support for the NEPA analysis to assess and evaluate:
- LNG tanker operation and potential hazards;
- Operating controls to mitigate hazards;
- Project-specific operating plans;
- Potential hazards and risks to nearby populace;
- Marine terminal operation and risks; and
- Land terminal and risks.

b. Cooperate in the preparation of requests for additional studies or data, avoid duplicative requests, and compile a consistent set of information on which all Participating Agencies will rely.

c. Identify and develop information at the level of detail required to complete the environmental review.

d. Cooperate in evaluating alternative sites, safety zones, docking areas, port locations.

e. Cooperate in assessing mitigation measures that will be conditions of approval of the project. FERC will work to ensure that conditions of approval and/or project mitigations assessed by Participating Agencies and provided to FERC during the NEPA proceedings, and engineering and operations reviews are considered.

f. Attend public scoping and other meetings, as appropriate, to make presentations, get comments, and answer questions on roles and responsibilities.

3. Participate in Studies. The Participating Agencies agree to cooperate and provide input and feedback into any studies which the FERC undertakes to address safety and security issues; including the modeling of LNG spills on water and methods to assess risks and hazards of transport by tankers to a marine terminal.

B. Operation and Inspection. The Participating Agencies further agree to cooperate in the inspection and operational review of LNG facilities, as appropriate. The FERC will invite the other Participating Agencies to participate in FERC sponsored LNG facility inspections and technical conferences with facility operators. Each agency will designate representatives to participate in the inspections and conferences.

C. Informal Communication. The Participating Agencies agree to communicate informally throughout the process to ensure that issues are discussed as soon as possible and shared among all agencies.

D. Dispute Resolution. Disputes regarding existing statutory requirements will be resolved by the relevant Participating Agencies using existing dispute resolution methods and in accordance with existing statutory authorities. If a Participating Agency identifies such a dispute with the procedures of the IA, it will notify all other Participating Agencies and make every attempt to resolve the issue.

IV. General Provisions

A. This IA does not obligate or commit funds and does not serve as the basis for the transfer of funds. All provisions in this IA are subject to the availability of funds.

B. This IA does not supersede existing agreements among any of the signatories, including the 1985 Memorandum of Understanding between the FERC and the Department of Transportation on LNG facilities.

C. This IA may be modified or amended upon written request of any Participating Agency hereto and the subsequent written concurrence of all of the Participating Agencies. Participation in this IA may be terminated sixty (60) days after a Participating Agency provides written notice of such termination to the other Participating Agencies.

D. This IA is intended only to ensure complete assessment of all facility operations and hazards and to improve the cooperation among the Participating Agencies. It is not intended to, nor does it, create any right, benefit, or trust responsibility, substantive or procedural, enforceable at law or equity by any person or party against the United States, its agencies, its officers, or any other person. This IA is not intended to direct or bind any person outside the Participating Agencies.

E. This IA neither expands nor is in derogation of those powers and authorities vested in the Participating Agencies by applicable law.

F. This IA does not affect any guidelines related to information quality issued by the Participating Agencies in connection with section 515 of the Treasury and General Government Appropriations Act for FY 2001 (P.L. 106-554). Information disseminated pursuant to this IA will be subject to the information quality guidelines of the Participating Agency that disseminates the information.

G. This IA is solely for the purpose of establishing internal procedures for the Participating Agencies to consider and deal with the various environmental, security, and safety responsibilities in the context of applications submitted pursuant to section 3 of the NGA, and nothing in this IA shall be construed to create a cause of action.

V. Principal Contacts

The Participating Agencies designate agency contacts identified in Attachment A. These contacts may be changed at the Participating Agency's discretion upon notice to the other Participating Agencies.

VI. Effective Date and Duration:

This IA is effective upon the date of the last signatory unless extended or terminated earlier by mutual agreement of the Participating Agencies.

Patrick Wood, III
Chairman
Federal Energy Regulatory Commission

28 Jan 2004
Date

Admiral Thomas H. Collins
Commandant, United States Coast Guard
Department of Homeland Security

FEB 10 2004
Date

Samuel G. Bonasso, P.E.
Deputy Administrator, Research and Special Programs Administration
Department of Transportation

2.3.04
Date

Attachment A: Participating Agency Contacts

The following are the principle initial contacts for each agency:

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