

NATIONAL MARINE FISHERIES SERVICE POLICY DIRECTIVE 30-130

January 18, 2007

Administration and Operations

***REVIEW OF DRAFT DOCUMENTS RELATED TO PROPOSED LIQUEFIED
NATURAL GAS TERMINALS***

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SUMMARY OF REVISIONS:

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OPR: F (E. Lindow)

Certified by: F (W. Hogarth)

Type of Issuance:

SUMMARY OF REVISIONS:

1. Introduction. This policy establishes procedures for the review of draft documents related to proposed liquefied natural gas (LNG) terminals. LNG is becoming a significant source of energy throughout the world and within the United States. There has been a dramatic increase in the number of federal license applications for construction and operation of LNG shipping terminals and associated facilities.

As a result, the National Oceanic and Atmospheric Administration (NOAA) has also experienced an increase in the number of consultations and project reviews associated with Federal authorizations for these facilities. Staff within NOAA National Marine Fisheries Service (NMFS), National Ocean Service, Office of Program Planning and Integration, and Office of General Counsel all play an integral role in the licensing process. Specifically, NOAA staff carry out consultations under the Endangered Species Act (ESA), Magnuson-Stevens Fishery Conservation and Management Act (MSA), Fish and Wildlife Coordination Act (FWCA), and National Marine Sanctuaries Act (NMSA); provide comments on documents developed in accordance with the National Environmental Policy Act (NEPA); review permit applications under the NMSA, ESA, and Marine Mammal Protection Act (MMPA); process appeals filed with the Department of Commerce pursuant to the Coastal Zone Management Act (CZMA); and review U.S. Coast Guard license applications for completeness in accordance with the Deepwater Port Act and the Memorandum of Understanding Related to the Licensing of Deepwater Ports pursuant to the Deepwater Port Act of 1974 (Deepwater Port MOU).

2. Objectives. The national significance of issues surrounding the approval of LNG terminals and the associated required reviews and consultations requires a closely coordinated approach to NOAA's review of these proposals. This directive establishes a process by which NMFS Headquarters can review draft documents produced by NMFS Regional Offices related to proposed LNG terminals. This review will serve as both a way to ensure consistency within agency documents, as well as providing NMFS Headquarters advanced notice regarding controversial issues within NMFS Regional documents. This policy directive is intended to cover both FERC and MARAD licensed LNG projects. The procedures identified in this policy directive will remain in place until they are withdrawn or superseded by future NMFS or NOAA protocols.

3. Authorities and Responsibilities. This policy establishes the following authorities and responsibilities with respect to documents related to the approval of LNG terminals¹:

3.1 The Regional Administrators will be responsible for:

a. Submitting draft documents that provide agency determinations or recommendations pursuant to authorities under the ESA, MMPA, MSA, FWCA, and NEPA to the NMFS Office of the Assistant Administrator for review before the official with delegated authority signs the document.² These documents will be provided to the Office of the Assistant Administrator a minimum of five business days prior to the documents being signed by the individual delegated signature.³

b. Incorporating edits and changes to the submitted document as requested by the Office of the Assistant Administrator.

c. If the five day review period expires, and no comments are received from the Office of the Assistant Administrator, the Regional Administrator may presume concurrence, finalize, and transmit the document to MARAD or FERC, as appropriate.

3.2 The Office of the Assistant Administrator will be responsible for:

a. Distributing the submitted documents to the LNG coordinators in the NMFS Office of Protected Resources (F/PR) and the NMFS Office of Habitat Conservation (F/HC), and General Counsel for Fisheries (GCF).

b. Conducting a review of the documents for consistency and controversial issues.

c. Notifying NOAA Headquarters of any controversial issues contained within the Regional documents.

d. Evaluating any comments provided through the F/PR, *FIHC*, and GCF review process.

e. Submitting a consolidated set of NMFS Headquarters' comments or edits on the documents to the appropriate Regional Administrator within the 5 day review

1 This policy does not affect the current process being applied for Completeness Reviews under the Deepwater Port Act. Under that process, the timeline for NMFS Headquarters review will continue to be determined on a case-by-case basis.

2 Examples of such documents include comments on Draft and Final Environmental Impact Statements, Biological Opinions, and Essential Fish Habitat Consultations. This review process does not apply to comments on interim NEPA documents, NEPA Scoping comments, and responses to requests for information.

3 If multiple NMFS documents are being filed simultaneously, or in response to a request from the action agency (e.g., both ESA and EFH documents are filed during the NEPA public comment period), then the 5-day review will be conducted concurrently for all NMFS documents being filed. NMFS documents should be compiled at the regional level into one document or one filing "package" if multiple documents are being filed simultaneously.

timeframe.

3.3 The LNG Coordinators within F/PR and F/HC will be responsible for:

- a. Distributing these documents within the appropriate headquarters offices.
- b. Coordinating the consistency review of draft documents developed by their regional counterparts (e.g., F/PR coordinates with ESA regional staff and reviews ESA-related documents; F/HC performs a similar role for EFH). This review will focus on ensuring consistency in LNG-related documents throughout the agency.
- c. Submitting comments or edits on the documents to the Office of the Assistant Administrator by the end of the third day of the review period.

4. Review of effectiveness of this policy. The Office of the Assistant Administrator will review this policy on an annual basis for effectiveness and necessity.

Signed _____
William T. Hogarth, Ph.D.
Assistant Administrator
National Marine Fisheries Service

January 4, 2007
Date

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