

for non-FERC-jurisdictional LNG export plants.

FERC staff provides guidance on addressing siting requirements by the U.S. Department of Transportation (DOT). As a cooperating agency, DOT inspects and enforces compliance through a broad range of administration and judicial actions. Prior to filing of an LNG-related application, FERC staff meets, if asked, with the applicant to review conceptual facility design and provide guidance on resolving environmental, safety and design issues.

To fulfill National Environmental Policy Act of 1969 requirements, FERC staff prepares an Environmental Impact Statement (EIS), involving much interaction with intervenors, other interested parties, and the public.

While non-FERC jurisdictional inland LNG production, storage and transport facilities must comply with the same federal laws as FERC-jurisdictional, there is no “lead” federal agency. There are no *Memorandums of Understanding* or *Interagency Agreements* with any cooperating federal, state or local agencies to ensure compliance with the Federal Safety Standards for LNG Facilities, especially including CFR Title 49, Subpart B, Part 193, and the National Environmental Policy Act (NEPA). There is no transparency or public involvement in the siting, construction and operation of small-scale inland LNG export facilities.

FERC did not follow legislative intent

An **Act of Congress** is a statute enacted by the United States Congress. It can either be a Public Law, relating to the general public, or a Private Law, relating to specific institutions or individuals. Congress ensures agencies follow legislative intent, and agencies are not allowed to make arbitrary decisions. An agency must “articulate a satisfactory explanation for its action.” An agency’s interpretation is not owed deference if “there is reason to suspect that the interpretation does not reflect the agency’s fair and considered judgment on the matter in question.”

FERC failed to provide a reasoned explanation in disclaiming jurisdiction over small-scale inland LNG export facilities. FERC did this in Orders responding to three Petitions for Declaratory Order: *Shell*, *Emera*, and *Pivotal*. Each of the three petitioners requested that FERC disclaim jurisdiction over their operations involving importing or exporting natural gas. Commissioner Norman Bay filed Dissenting Opinions in each of these three cases. In the brief quotations below from these Orders we have added some **emphasis in red**.

Shell U.S. Gas & Power, LLC (“Shell”), [148 FERC ¶ 61,163 \(Sept. 4, 2014\)](#), Docket No. RP14-52-000

1. On October 16, 2013, Shell U.S. Gas & Power, LLC (Shell) filed a petition in Docket No. RP14-52-000. Shell requests the Commission declare that, by virtue of the exemption in section 1(d) of the Natural Gas Act (NGA) for the transportation and sale of natural gas that will be used as **vehicular fuel**, Shell will not be subject to any provisions of the NGA as a result of its importing liquefied natural gas (LNG) from Canada, liquefying domestic gas, and transporting Canadian and domestic LNG by truck, train, and waterborne vessel between states for the purpose of selling the LNG for use as fuel for vehicles, with any excess LNG being sold as fuel for non-vehicular uses.
2. We find herein, for reasons that do not rely on the exemption provided by NGA