

Under regulations that were in place in 2015, the DOE was required to conduct an environmental review pursuant to NEPA before granting an application to export natural gas to non-FTA countries. In the subject telephone message, John Anderson, Director of Fossil Energy at the DOE, explained how American LNG Marketing escaped NEPA review by claiming a B5.7 Categorical Exclusion. American LNG Marketing was sourcing LNG from its affiliate, LNG Holdings, that was not “already existing” when the DOE granted export approval.

Without having to retain legal counsel, residents who live within close proximity to the LNG Holdings’ LNG liquefaction, storage and distribution facility have little to no recourse. Further, as of November 25, 2015, PHMSA had not received documents needed for siting review. The first export occurred on February 5, 2016.

B5.7: Import or export natural gas, with operational changes

From November 14, 2011, through January 3, 2021, the full text of this categorical exclusion was:

“Approvals or disapprovals of new authorizations or amendments of existing authorizations to import or export natural gas under section 3 of the Natural Gas Act that involve minor operational changes (such as changes in natural gas throughput, transportation, and storage operations) but not new construction.”²¹

B5.7: Import/export natural gas, no new construction

Prior to November 14, 2011, the full text of this categorical exclusion was:

²¹ NEPA POLICY AND COMPLIANCE – Categorical Exclusion Determinations: B5.7, accessed October 3, 2022, <https://www.energy.gov/nepa/listings/categorical-exclusion-determinations-b57>