

Categorical Exclusion from NEPA Review Unchallenged by the U. S. Department of Energy (DOE):

American LNG claimed a Categorical Exclusion from the requirements of the National Environmental Protection Act (“NEPA”) pursuant to exclusion B5.7 of DOE/FE’s regulations.²⁶ B5.7 applies to import/export authorizations that involve minor operational changes but not new construction.²⁷ The owner/operator of the American LNG operation is LNG Holdings, et al, and the LNG export facility was clearly “under construction” according to a July 6, 2015, *Status Update Letter*.²⁸

A footnote in the Application justifying use of this Categorical Exclusion references Order No. 3487 issued by the DOE to Carib Energy (USA), LLC) granting authorization to export domestically produced LNG in approved ISO LNG containers from the FERC-jurisdictional Floridian Facility in Martin County, Florida, that was in compliance with NEPA. Contrarily, American LNG is exporting from a non-FERC-jurisdictional facility that skirted NEPA review.

Non-existent NEPA Reviews cannot be duplicated:

According to American LNG’s Business Model, American LNG intends to purchase some or all of the output of the Hialeah Facility from LNG Holdings. Again, there was no NEPA review for this facility, and while the Commission is concerned about duplication of NEPA reviews, there can be no duplication where no initial review exists.

American LNG stated that the Hialeah Facility will be connected to the domestic natural gas supply market through an interconnection constructed by Florida Gas Transmission, and the proposed exports of LNG typically will be loaded at the Hialeah Facility into approved ISO containers (truck or rail mounted), then transported to and loaded onto container ships or roll-on/roll-off ocean-going carriers for export at the nearby Port of Miami or other ports in Florida capable of handling ISO containers without modification, including Port Everglades, Port Canaveral, Port of Palm Beach, and Port of Jacksonville. American LNG further states that it will purchase some or all of the output of the Hialeah Facility from LNG Holdings.²⁹

American LNG, Miami, Florida – PHMSA never received required data for analysis:

The Pipeline and Hazardous Materials Administration (PHMSA) never received the required data and information needed to perform their CFR Title 49, Subpart B, Part 193 analysis. At one point, Julie Halliday, formerly of PHMSA’s Engineering and Research Division, pleaded with the company to provide the required detail. In an email to Matt Davis at Florida East Coast Industries (Fortress Investment Group) dated **November 25, 2015**, that was obtained by FOIA request, Ms. Halliday wrote: “As a reminder, for our siting review, reference questions G7 and DS1 for a list of specific items to post for us to download. The siting review requires significant effort from our end and is not performed on site. Our ability to conduct this in a timely manner depends on the completeness of these documents. There is often a request for additional information. Please inform Mike [Khayata] and Joe when these documents have been posted and provide instructions on how to access the files.”³⁰

The first LNG export from this facility occurred on **February 5, 2016**, approximately 8 weeks after PHMSA’s last communication. The destination was Barbados.³¹