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**LNG EXPORTS: CURRENT STATE OF
THE FEDERAL APPROVAL PROCESS**



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CURRENT STATE OF THE LNG EXPORT PROJECT APPROVAL PROCESS

- This presentation will review the current state of the approval processes for LNG export projects employed by the United States Department of Energy (“DOE”) and the Federal Energy Regulatory Commission (“FERC”).
- The focus will be on issues highlighted by recent agency orders and proposals, as well as implications of recent agency actions for the continuing development of LNG export infrastructure and commercial arrangements.

Major Federal Approvals Required for Exports of Natural Gas as LNG

- Under Section 3 of the Natural Gas Act (“NGA”), 15 U.S.C. § 717b, FERC authorizes the siting and construction of facilities used for natural gas exports, while the DOE’s Office of Fossil Energy (“DOE/FE”) authorizes exports of the commodity itself
 - FERC focuses on engineering and environmental issues
 - Under NGA § 15, FERC is the lead agency for preparation of the Environmental Impact Statement (“EIS”) or, in some cases, an Environmental Assessment (“EA”) required by the National Environmental Policy Act (“NEPA”)

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Major Federal Approvals Required for Exports of Natural Gas as LNG (cont’d)

- Under NGA Section 3(c), 15 U.S.C. § 717b(c), DOE/FE is essentially obligated to authorize natural gas exports to nations with which the U.S. has a Free Trade Agreement requiring national treatment for trade in natural gas
 - Such exports are deemed to meet the NGA’s public interest standard and must be granted “without modification or delay”

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Major Federal Approvals Required for Exports of Natural Gas as LNG (cont'd)

- As to exports to nations with which the U.S. does *not* have a Free Trade Agreement (“non-FTA nations”), NGA Section 3(a), 15 U.S.C. § 717b(a), obligates DOE/FE to determine whether the proposed export will “not be consistent with the public interest”
 - DOE indulges in a rebuttable presumption that an LNG export proposal is in the public interest and imposes on opponents the burden to show that a particular proposal is inconsistent with the public interest
- Most major LNG markets are in non-FTA nations

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Major Federal Approvals Required for Exports of Natural Gas as LNG (cont'd)

Note that LNG terminals located offshore beyond state waters are approved not by FERC, but by the Department of Transportation’s Maritime Administration (“MARAD”) under the Deepwater Ports Act

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