

Chart of Time Lines for Obtaining Various State and Federal Pre-construction Authorizations for Proposed Onshore LNG Import Facilities in Texas

Scope, Limitations and Explanation of the Chart and its Time Lines

The chart identifies various state and federal governmental agencies that must issue some form of authorization before an onshore LNG import facility may be constructed in Texas, and the estimated time for completion of the application process for each. The chart is intended for illustrative purposes only. The time lines depicted are estimates; the actual time to obtain an authorization is dependent on many factors, including among others, the geographic location of the proposed facility, local community support for or opposition to the proposed facility, and the technical complexity of the proposed project. An attempt has been made to specify on the chart the overarching statute from which an authorizing entity derives its authority; however, no attempt has been made to enumerate the myriad state and federal statutes and rules that govern the actual construction and operation of an onshore LNG import facility.

The federal governmental agency with primary jurisdiction over the siting and construction of onshore LNG import facilities is the Federal Energy Regulatory Commission (FERC). However, depending on the scope of a project, a number of federal and/or state governmental agencies may have jurisdiction. The chart identifies several significant governmental agencies that must authorize a project before construction begins.

Applicants filing for a FERC authorization to site and construct an onshore LNG import facility have the option, subject to FERC approval, of using the traditional filing process, or may use a recently-developed process called NEPA Pre-filing. FERC estimates that applicants using the NEPA Pre-filing process may save as many as 6 months on application processing time. The key distinction between the two processes is that under the traditional process the environmental analysis of the proposed project does not begin until after an application is filed with FERC. Additional information about the FERC filing process can be found on the FERC's web site at <http://www.ferc.gov>.

The sequence in which an applicant seeks authorization from various governmental agencies is at the applicant's discretion; however, all authorizations are required before construction may commence. The Railroad Commission (RRC) does not issue a permit per se; however, the US Army Corps of Engineers relies on the RRC's determination in making its decision prior to issuing the Clean Water Act 401 water quality certification permit.

In addition to the governmental entities that grant specific permission to construct, a number of additional agencies monitor these applications, particularly at FERC, to ensure that a proposed onshore LNG import facility is in compliance with applicable state and federal law. These agencies include, among others, the Texas Parks and Wildlife Department, the Office of Pipeline Safety under the Research and Special Programs Administration within the US Department of Transportation, the Environmental Protection Agency, the US Fish and Wildlife Service, and the National Oceanic and Atmospheric Administration – National Marine Fisheries Service. Some of these same entities, and additional ones (including those identified on the chart), will have specific oversight of these onshore LNG import facilities during construction and upon operation.