

1986 MOU: USCG and RSPA on Waterfront LNG Facilities

**MEMORANDUM OF UNDERSTANDING BETWEEN THE UNITED STATES COAST
GUARD
AND THE RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION FOR
REGULATION OF
WATERFRONT LIQUEFIED NATURAL GAS FACILITIES**

I. INTRODUCTION. Within the Department of Transportation (DOT), the United States Coast Guard (USCG) and the Research and Special Programs Administration (RSPA) exercise separate and overlapping safety regulatory authority affecting the siting, design, construction, maintenance, and operation of waterfront liquefied natural gas (LNG) facilities adjoining the navigable waters of the United States. The USCG derives its authority over such facilities from the Ports and Waterways Safety Act (33 USC 1221 *et seq.*) and Executive Order 10173, as amended (3 CFR, 1949-1953 Comp., p. 356), issued by the President under the Magnuson Act (50 USC 191). The regulatory authority of the RSPA over these same facilities (as well as nonwaterfront LNG facilities) is derived from the Natural Gas Pipeline Safety Act of 1968, as amended (49 USC 1671, *et seq.*). Under 49 USC 1671(12), the RSPA's authority over LNG facilities does not extend to any structure or equipment (or portions thereof) located in navigable waters.

In recognition of each of the parties' respective regulatory responsibilities, the USCG and the RSPA agree that a Memorandum of Understanding is needed to avoid duplication of regulatory efforts regarding waterfront LNG facilities and to maximize the exchange of relevant information.

II. RESPONSIBILITIES OF THE PARTIES. For the foregoing reasons, the USCG and the RSPA agree to the following division of regulatory responsibilities with respect to waterfront LNG facilities and cooperation in carrying out these responsibilities:

USCG RESPONSIBILITIES: The USCG is responsible for establishing regulatory requirements for:

- (1) Facility site selection as it relates to management of vessel traffic in and around a facility;
- (2) All matters pertaining to structures or equipment (or portions thereof) located in the navigable waters and facilities located between the vessel and the last manifold (or valve) immediately before the receiving tank(s), other than the site selection responsibilities of the RSPA set for below.

RSPA RESPONSIBILITIES: The RSPA is responsible for establishing regulatory requirements for:

- (1) Site selection of facilities other than structure or equipment (or portions thereof) located in the navigable waters and except as provided by paragraph (1) of the "USCG RESPONSIBILITIES" set forth in this Memorandum; and

(2) All other matters pertaining to the facility beyond and (including) the last manifold (or valve) immediately before the receiving tank(s) except those structures or equipment (or portions thereof) located in the navigable waters.

JOINT RESPONSIBILITIES:

(1) The USCG and the RSPA will cooperate and assist each other in carrying out their respective waterfront LNG facility regulatory enforcement activities; and

(2) The USCG and the RSPA, in an effort to avoid inconsistent regulation of similar safety matters (including as between waterfront and nonwaterfront LNG facilities), will consult with each other before issuing each Advance Notice of Proposed Rulemaking, Notice of Proposed Rulemaking, and final regulation affecting waterfront LNG facilities.

III. EFFECT. This agreement is effective upon being signed by the authorized representatives of both the USCG and the RSPA and supersedes in its entirety the February 7, 1978, Memorandum of Understanding between the USCG and the Materials Transportation Bureau.

For the United States Coast Guard: ADM James S. Gracey, Commandant; May 5, 1986

For the Research and Specials Programs Administration, M. Cynthia Douglass, May 9, 1986