



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 1

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OFFICE OF THE
REGIONAL ADMINISTRATOR

November 22, 2006

Mark A. Prescott
USCG Deepwater Ports Standards Division (G-PSO-5)
U.S. Coast Guard Headquarters
2100 Second Street, SW
Washington, DC 20593-0001

RE: USCG Final Environmental Impact Statement/Environmental Impact Report for the Northeast Gateway Energy Bridge, L.L.C. Liquefied Natural Gas Deepwater Port License Application, DOT Docket Number: USCG-2005-22219, CEQ# 20060441

Dear Mr. Prescott:

In accordance with our responsibilities under the National Environmental Policy Act (NEPA) and Section 309 of the Clean Air Act, the U.S. Environmental Protection Agency (EPA) has reviewed the U. S. Coast Guard's (USCG) Final Environmental Impact Statement (FEIS) for the Northeast Gateway Energy Bridge (Northeast Gateway or NEG), L.L.C. Liquefied Natural Gas Deepwater Port proposed in Massachusetts Bay.

The FEIS details the Northeast Gateway proposal to construct and operate a deepwater port to import liquefied natural gas (LNG) to New England. The proposed port would be located in Massachusetts Bay approximately 13 miles south-southeast of Gloucester, Massachusetts. The deepwater port would consist of two subsea submerged turret loading buoys that would connect to a 16.1 mile long, 24-inch-diameter pipeline that would deliver natural gas to the existing subsea Hubline pipeline which connects to shore. LNG would arrive at the port in Energy Bridge Regasification Vessels and would then be vaporized to natural gas using a shipboard closed-loop process. Following vaporization the natural gas would be transferred from the vessel through the loading buoys to the proposed pipeline. The proposed port would be located in federal waters. Northeast Gateway proposes to begin service by the winter of 2007-2008.

In addition to our environmental review role in this case, EPA is responsible for administering applicable provisions of the Clean Air Act and Clean Water Act. EPA also has cooperated with the Maritime Administration (MARAD) and the USCG in preparing this FEIS to fulfill all of the federal licensing agencies' NEPA compliance responsibilities. EPA has also assisted the USCG and MARAD, the lead agencies, in consultations that federal licensing and permitting agencies are required to conduct with the National Oceanographic and Atmospheric Administration (NOAA) under the Endangered Species Act, National Marine Sanctuaries Act, Marine Mammal Protection

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Act, and Magnuson-Stevens Act. EPA is currently reviewing applications filed by Northeast Gateway for permits under the Clean Air Act and Clean Water Act and expects to make draft permits available for public review and comment.

The Northeast Gateway proposal is one of two proposed LNG deepwater ports currently under review by this office, the Neptune LNG deepwater port being the other. As we have indicated in the past, EPA recognizes that New England's air quality has benefited greatly from the increased use of natural gas for electricity generation. EPA also recognizes the need to bring additional natural gas supplies into New England to meet growing energy demands and to maintain the environmental benefits gained over the last ten years. We continue to believe that a well-sited LNG facility, that provides a new supply of natural gas to the region in an environmentally-responsible manner, can make a substantial contribution to maintaining our recent air quality gains.

We appreciate the efforts of the USCG and its consultants to respond to our comments on the Draft EIS and interim FEIS. Based on our review of the FEIS, EPA has no environmental objection to the FEIS. We will continue to work closely with the USCG and the applicant on air and water permits for the project. The enclosure to this letter contains several additional comments that we believe can be addressed in the Record of Decision and the remainder of the licensing process for the project. We continue to encourage the USCG to work closely with NOAA to minimize and mitigate any unavoidable impacts to marine organisms during the construction and operation of the Northeast Gateway port.

Thank you for the opportunity to offer comments on the FEIS for the Northeast Gateway project. Please feel free to contact Timothy Timmermann of the Office of Environmental Review at 617-918-1025 if you have any questions about these comments.

Sincerely,

Robert W. Varney
Regional Administrator

Enclosure

Additional Comments on the Northeast Gateway Deepwater Port FEIS

Generally, the FEIS addresses air and water quality impacts and compliance with the Clean Air Act (CAA) and Clean Water Act (CWA) consistent with EPA's prior comments. EPA does have clarifying comments to offer on the subject of the conformity determination and miscellaneous issues under the CAA.

Conformity under the CAA

Section 176(c) of the CAA prohibits federal entities from taking actions in nonattainment or maintenance areas which do not conform to the applicable implementation plan for the attainment and maintenance of the National Ambient Air Quality Standards (NAAQS). A conformity determination is required in the case of the Northeast Gateway Port because the Deepwater Port Act (DPA) provides that the port is generally subject to the law applicable in the nearest adjacent coastal state. The project emissions of concern are those occurring onshore in the 8-hour ozone nonattainment area, emissions in Massachusetts' State territorial waters (adjacent to the designated nonattainment area), and emissions within the safety area (500 meters around the loading buoys). A general conformity determination is required "for each pollutant where the total of direct and indirect emissions in a nonattainment or maintenance area caused by a Federal action would equal or exceed" specified thresholds. 40 CFR § 93.153(b). Table 4-40, "Total NOx and VOC Emissions Subject to Conformity" on page 4-154 of the FEIS, indicates that project emissions in calendar year 2007 will exceed the applicability thresholds for both NOx (100 tons per year threshold for a moderate ozone nonattainment area in an ozone transport region) and VOC (50 tons per year threshold for a moderate ozone nonattainment area in an ozone transport region). The calendar year 2007 project emissions subject to general conformity are currently calculated as 268 tons of NOx and 50.2 tons of VOC.

EPA is pleased that the USCG and MARAD, prior to issuance of a license under DPA, will issue a draft general conformity determination for Agency and public review, followed by a final general conformity determination. EPA understands that USGC and MARAD intend to demonstrate conformity by requiring the applicant to fully offset calendar year 2007 NOx and VOC emissions (268 tons and 50.2 tons, respectfully) through the purchase of discrete emission reduction credits (ERCs) and/or New Source Review (NSR) offsets (rate-based ERC's) equivalent in time, location and quantity to the emissions from the project in 2007. Operational emissions in calendar year 2008 and later are projected at 59 tons per year of NOx and 18 tons per year of VOC, which are both below the conformity thresholds.

In regard to the General Conformity determination using offsets, the regulations require that these offsets are enforceable at both the state and federal levels. See, 40 C.F.R. 93.152 and 93.158(a)(2). The DPA license can be used to enforce the offset commitments on which the general conformity determination will rely. EPA recommends that MARAD include any necessary conditions of the conformity determination in the Record of Decision (ROD) and include these conditions in the

license, consistent with the written commitments the applicant has provided to support the conformity determination. EPA looks forward to continuing its assistance to USCG in its preparation of its draft General Conformity Determination document.

Section 176(c) of the CAA requires EPA to evaluate independently the applicability of general conformity in connection with our issuance of a CAA Preconstruction Permit and a CWA National Pollution Discharge Elimination System (NPDES) Permit for the Northeast Gateway Port Facility. EPA plans to join USCG and MARAD in circulation of the draft conformity determination, and make our own conformity finding based on the conformity documents and commitments developed by USCG and MARAD. Other Cooperating Federal Agencies including the Federal Energy Regulatory Commission (FERC) and the U.S. Army Corps of Engineers (ACOE) may also need to make independent general conformity determinations. EPA recommends that USCG and MARAD facilitate the conformity process by including all these cooperating agencies in the USCG and MARAD conformity determination process.

Port Access for Compliance Inspections

As EPA moves forward with its air permitting responsibilities for NEG, the Agency will need access to the port vessels to conduct compliance inspections in order to confirm compliance with air emission limits. Preliminary conversations with the USCG in Boston have indicated that the USCG will assist EPA with such access, including opportunities for transport to and from the port such that EPA compliance inspections could be conducted concurrent with USCG activities. EPA commits to working with the USCG to coordinate any EPA inspection trips to the vessels while at port with USCG inspections of the port. In addition, EPA recommends that the ROD and the resulting DPA license specifically provide that the port operator grant access to EPA inspectors who present Agency credentials to allow for inspections on and in the vessels to determine compliance with EPA-issued environmental permits. To that end, we are providing the following draft language which parallels the accessibility language we expect to include in EPA-issued air permits. EPA recommends that this language be included in the ROD and the DPA license.

The [permittee] shall allow all authorized representatives of the Administrator of the U.S. Environmental Protection Agency, upon presentation of credentials, to enter upon or through any premises of [the permittee], including vessels and other facilities and areas where records required under this permit are kept. The [permittee] shall allow such authorized representatives, at reasonable times, to access and copy any records that must be kept under this permit, to inspect any facilities, equipment (including monitoring and air pollution control equipment), practices, or operations regulated or required under this permit, and to sample or monitor substances or parameters for the purpose of assuring compliance with this permit.

Specific Comments

Page ES-24: It appears that the project will now include the placement of acoustic detection buoys during calendar year 2007. The emissions from the placement of these buoys should be accounted for as indirect emissions in the conformity determination for 2007.

Page ES-31, paragraphs 12 and 13; Page 4-155 under FERC staff recommends; Page 4-162 paragraph 12; and Page 4-163 paragraph 13: EPA notes that the correct citation to the applicable conformity regulations is 40 CFR part 93. Part 51 presents the minimum requirements for a state's conformity program, whereas part 93 contains the federal program that applies in the absence of an approved state program. Here the agencies are addressing the federal program under part 93.

Page ES-38, Second paragraph under Air Quality, ". . . offsets are required for NO_x and VOC construction emissions;" and Page 4-155, end of first paragraph: EPA notes that offsets are required for both operational *and* construction emissions that exceed thresholds in calendar year 2007.

Page 1-20, under General Conformity: As discussed in our general comments above, the basis for applying the General Conformity program to this project is that the Deepwater Port Act generally makes the law of the nearest adjacent coastal state applicable to the port. Here, the port, including any portions within state waters and the exclusion zone in federal waters, is included in the conformity program applicable throughout Massachusetts. While the discussion in the FEIS concerning the Ozone Transport Region and Massachusetts Department of Environmental Protection's (MDEP) inventory supporting its ozone attainment demonstration is a useful explanation for the environmental importance of the conformity demonstration, it is EPA's view that these considerations are not the basis for requiring the demonstration.

Page 4-144, Mixing height: EPA continues to recommend that the 24-hour impacts modeling conducted using a mixing height of 500 meters should include model runs with mixing heights limited to 300 meters and 100 meters, because lower mixing heights may prevail and affect pollutant concentrations near the port. Rather than add these additional mixing height runs, the FEIS discusses adding receptors at 100 and 300 meters from the port. This presentation of ambient air impacts appears to be sufficient for the purposes of satisfying the more general requirement under NEPA to explain the project's environmental impacts. But the applicant should be sure to address the mixing height issue, consistent with EPA modeling guidance, in the modeling supporting its application to EPA for air permits under the CAA.

Page 4-145, 4-146 Mobile Sources: This discussion suggests that only vessel navigation emissions and the other listed "minor" emission sources are subject to a general conformity analysis. The discussion appears to assume that operational emissions addressed by the minor new source review permit will not have to be included in the general conformity determination. Stationary emissions from the tankers while moored also need to be evaluated in the conformity process. Stationary source emissions are

exempt from conformity review only if subject to a *major* NSR/Prevention of Significant Deterioration (PSD) permit.

Page 4-152: The FEIS states that “the addition of a new heater at Weymouth Meter Station would not cause the existing station source to exceed any major source NSR/PSD thresholds.... The new heater at the Weymouth station would require a minor source permit from MDEP.” EPA agrees that the new heater will have to address applicable air permitting requirements administered on-shore by MDEP. The first part of this discussion, however, suggests that the Weymouth heater is part of the “deepwater port.” The port does not extend on-shore under the DPA, and EPA does not believe that emissions from the Weymouth Station would be counted as part of the port’s emissions for CAA permitting purposes.

Page 4-154: Table 4-40 correctly shows construction and operation emissions in 2007 exceed the applicable general conformity thresholds (2007 NO_x emissions of 268 (267.69) tpy and 2007 VOC emissions of 50.2 (50.16) tpy). EPA wishes to clarify the discussion preceding this table explaining why a conformity determination for carbon monoxide (CO) is not necessary. A CO analysis is not necessary because of the localized impacts of CO emissions in the on-shore areas designated as maintenance areas for CO and MDEP’s determination that CO need not be evaluated at the project location. The fact that the project area is at sea does not necessarily exempt it from conformity requirements for CO because the DPA makes the designation of the nearest adjacent coastal state potentially applicable. But in this case, MDEP has concluded that the designation of the relatively isolated CO maintenance areas does not need to be applied through the DPA to the port. EPA also notes that the conformity analysis should also include any indirect emissions caused by the placement of the acoustic detection buoys during 2007.

Page 6-38, lines 42-44: EPA wishes to clarify that determining this project’s emissions are consistent with regional air quality requirements depends on a finding of conformity.

Page 6-39, lines 32 through 48 continuing on page 6-40: EPA wishes to clarify that USCG submitted to EPA a *preliminary* draft General Conformity determination for comment, as well as our understanding that the USCG will issue that draft determination for public comment in which EPA expects to join and that the final general conformity determination will be made before issuance of the DPA license.