

**State Environmental Quality Review
NEGATIVE DECLARATION
Notice of Determination of Non-Significance**

Project Number N/A Date: **06/08/2013**

This notice is issued pursuant to Part 617 of the implementing regulations pertaining to Article 8 (State Environmental Quality Review Act) of the Environmental Conservation Law.

The New York State Department of Environmental Conservation (DEC), as lead agency, has determined that the proposed action described below will not have a significant environmental impact and a Draft Impact Statement will not be prepared.

Name of Action:

Promulgation of Part 570 to Title 6 of NYCRR, Liquefied Natural Gas (LNG), to regulate the safe siting and operation of LNG facilities and the transportation of LNG in accordance with provisions defined in Chapter 892 of the Laws of 1976.

SEQR Status:

Type 1	<input type="checkbox"/>
Unlisted	<input checked="" type="checkbox"/>

Conditioned Negative Declaration:

<input type="checkbox"/>	Yes
<input checked="" type="checkbox"/>	No

Description of Action:

The proposed action is the adoption of 6 NYCRR Part 570 to: (1) codify in regulation permit application procedures, including siting criteria pursuant to National Fire Protection Association Standards 52 and 59A, requirements for public participation, incorporate by reference applicable statutory penalties, and establish program fees; (2) provide requirements for site inspections and the training of local fire department personnel, if needed; (3) define intrastate and interstate LNG transportation; (4) explain the operating procedures for pre-existing non-conforming facilities; (5) provide proper procedures for the permanent closure of out-of-service LNG storage tanks; (6) indicate that financial assurance, the form and amount of which will be established by DEC, may be required to ensure proper facility closure of LNG facilities; (7) establish proper procedures to be followed for reporting releases of LNG; (8) continue to recognize Chapter 395 of the Laws of 1978, as amended, which adopted a moratorium on the siting of new LNG facilities in municipalities with populations of one million or more; and (9) provide a list of sources that are referenced in this regulation.

Location: Statewide.

Reasons Supporting This Determination:

(See 617.7(a)-(c) for requirements of this determination; see 617.7(d) for Conditioned Negative Declaration)

Chapter 892 of the Laws of 1976 added a new Article 23 Title 17 to the Environmental Conservation Law (ECL) and required DEC to establish criteria for the safe siting, operation, and transportation of liquefied natural gas (LNG). In 1978, with the passage of Chapter 395 of the Laws of 1978 as amended, the Legislature enacted a statewide moratorium on the siting of new LNG facilities which negated the need to draft and implement a regulation. Three grandfathered LNG facilities were allowed to continue operating, under DEC order.

DEC has not identified any areas of environmental concern with respect to the adoption of criteria, via regulation, for the safe siting and operation of LNG facilities and transportation of LNG throughout the State. The adoption of Part 570 will establish, among other requirements, minimum application requirements for the permitting of an LNG facility but does not commit DEC to approve any particular project. Permit applicants will need to demonstrate, on a case by case basis, whether a proposed project meets promulgated siting criteria which are designed to ensure the safety of the public. Permit applicants must also demonstrate to DEC that the project is needed and is in the public interest.

With regard to safety of such LNG facilities, under the direction of Chapter 385 of the Laws of 1997, a study of the safety of LNG facilities and potential economic and environmental benefits was conducted by the New York State Energy Research and Development Authority (NYSERDA). The subsequent report, released in 1998, determined that LNG did not pose the level of danger previously perceived and did not cause the 1973 accident that resulted in the implementation of Chapter 892. The New York City Fire Department conducted an investigation that concluded that the 1973 accident resulted from maintenance activities that were underway while the tank was empty. The 1998 report concluded that “given its physical and chemical properties, LNG is inherently no more dangerous than competing fuels.” The report also noted that, “LNG facilities have an excellent safety record. Over the last 25 years, in the 100 facilities operating in the United States there have been less than 10 accidents, resulting in few injuries and one fatality. This compares favorably with the safety record of facilities for competing fuels.”

The 1998 report revealed that New York State is the only state in the nation with a moratorium on the siting of LNG facilities, and that LNG facilities in other states had demonstrated histories of safe operation. The statewide moratorium was lifted in 1999, except for municipalities with populations of one million or more. In May 2013, this limited moratorium was extended to April 1, 2015.

The proposed regulatory structure can be expected to help ensure that LNG facilities continue their track record of safe operation. In terms of environmental impacts, any release of LNG quickly evaporates and dissipates, and does not pose any significant adverse environmental impacts to air, water, soil, or other environmental media.

In 2011, a more focused LNG study was sponsored by NYSERDA. The report that resulted from that study confirmed that over a decade later LNG continues to have environmental benefits

as a cleaner burning fuel without any significant adverse environmental impacts and that uses of LNG have increased significantly in many parts of our country. This report also provided a national picture of the use of LNG, documenting that over past decades there has been substantial evidence of the safe management of LNG at various types of facilities (such as, LNG export terminals [which require federal approval]; LNG production from pipelines; dispensing facilities [fueling stations]). Other states, except New York, use the LNG standards written and approved by the National Fire Protection Association (NFPA), which continue to be updated by NFPA to ensure continued safe operation of LNG throughout the nation. These standards are: (1) NFPA 52, "Vehicular Fuel Systems Code," updated 2013; and (2) NFPA 59A, "Standard for the Production, Storage and Handling of Liquefied Natural Gas (LNG)," updated 2013. Under the proposed regulations, New York will incorporate by reference these NFPA standards that are used by other states.

LNG facilities will be subject to a site plan process under the proposed regulations. At the time of each application, DEC will review and make a determination on individual permitting requirements. Based on projections provided in the 2011 LNG Report, it is estimated that between 10 and 25 facilities (best estimate 21 facilities) will be permitted in the first five years after Part 570 is promulgated.

DEC has determined that this Notice of Determination of Non-Significance is appropriate and that the LNG rulemaking will not cause adverse impacts on the environment. Rather, it will have positive environmental benefits to the public and business communities of the State as it allows for an alternative, clean fueling source that is less expensive than that which is currently available for such uses.

If Conditioned Negative Declaration, provide on attachment the specific mitigation measures imposed, and identify comment period (not less than 30 days from date of publication in the ENB)

For Further Information:

Contact Person(s): Ted Bennett/Angela Chieco, DER Regulatory Coordinators

Address: NYS Department of Environmental Conservation
Division of Environmental Remediation
625 Broadway
Albany NY, 12233-7012

Telephone Number: (518) 402-9764

For Type 1 Actions and Conditioned Negative Declarations, a Copy of this Notice is sent to:

Chief Executive Officer, Town / City / Village of
Other involved agencies (if any)
Applicant (if any)
Environmental Notice Bulletin, 4th Floor, 625 Broadway, Albany NY 12233-1750

617.20
Appendix C
State Environmental Quality Review
SHORT ENVIRONMENTAL ASSESSMENT FORM
For UNLISTED ACTIONS Only

PART I - PROJECT INFORMATION (To be completed by Applicant or Project sponsor)

1. APPLICANT/SPONSOR NYS Department of Environmental Conservation	2. PROJECT NAME Rulemaking for Liquefied Natural Gas [LNG]
3. PROJECT LOCATION: Municipality Statewide County _____	
4. PRECISE LOCATION (Street address and road intersections, prominent landmarks, etc., or provide map) Statewide	
5. PROPOSED ACTION IS: <input checked="" type="checkbox"/> New <input type="checkbox"/> Expansion <input type="checkbox"/> Modification/alteration	
6. DESCRIBE PROJECT BRIEFLY: <u>Chapter 892 of the Laws of 1976 added a new Article 23 Title 17 (Liquefied Natural and Petroleum Gas) to the Environmental Conservation Law. Since the release of a liquefied natural gas (LNG) safety report in 1998 and a subsequent LNG study conducted in 2011, along with the reversal of LNG moratorium (except for municipalities with populations of one million or more), it is necessary and desirable to promulgate a New York State Department of Environmental Conservation regulation to advise interested parties of criteria for safe and proper siting and operation of LNG facilities and transportation of LNG; and to provide the affected public with proper procedures and rights regarding participation in the process. Thus, the proposed action is to adopt a new regulation, Part 570, to Title 6 of the New York Codes of Rules and Regulations. Based on projections provided in the 2011 LNG Report, it is estimated that between 10 and 25 facilities (best estimate 21 facilities) will be permitted in the first five years after Part 570 is promulgated.</u>	
7. AMOUNT OF LAND AFFECTED: Initially <u> N/A </u> acres Ultimately _____ acres	
8. WILL PROPOSED ACTION COMPLY WITH EXISTING ZONING OR OTHER EXISTING LAND USE RESTRICTIONS? <input type="checkbox"/> Yes <input type="checkbox"/> No If No, describe briefly N/A	
9. WHAT IS PRESENT LAND USE IN VICINITY OF PROJECT? <input type="checkbox"/> Residential <input type="checkbox"/> Industrial <input type="checkbox"/> Commercial <input type="checkbox"/> Agriculture <input type="checkbox"/> Park/Forest/Open Space <input type="checkbox"/> Other Describe: N/A	
10. DOES ACTION INVOLVE A PERMIT APPROVAL, OR FUNDING, NOW OR ULTIMATELY FROM ANY OTHER GOVERNMENTAL AGENCY (FEDERAL, STATE OR LOCAL)? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If Yes, list agency(s) name and permit/approvals:	
11. DOES ANY ASPECT OF THE ACTION HAVE A CURRENTLY VALID PERMIT OR APPROVAL? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If Yes, list agency(s) name and permit/approvals:	
12. AS A RESULT OF PROPOSED ACTION WILL EXISTING PERMIT/APPROVAL REQUIRE MODIFICATION? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
I CERTIFY THAT THE INFORMATION PROVIDED ABOVE IS TRUE TO THE BEST OF MY KNOWLEDGE	
Applicant/sponsor name: NYSDEC-Division of Environmental Remediation Robert W. Schick, Division Director	Date: April 30, 2013
Signature: _____ /S/ _____	

If the action is in the Coastal Area, and you are a state agency, complete the Coastal Assessment Form before proceeding with is assessment

PART II – IMPACT ASSESSMENT (To be completed by Lead Agency)

A. DOES ACTION EXCEED ANY TYPE I THRESHOLD IN 6 NYCRR, PART 617.4? If yes, coordinate the review process and use the FULL EAF. <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
B. WILL ACTION RECEIVE COORDINATED REVIEW AS PROVIDED FOR UNLISTED ACTIONS IN 6 NYCRR, PART 617.6? If No, a negative declaration may be superseded by another involved agency. <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
C. COULD ACTION RESULT IN ANY ADVERSE EFFECTS ASSOCIATED WITH THE FOLLOWING: (Answers may be handwritten, if legible) C1. Existing air quality, surface or groundwater quality or quantity, noise levels, existing traffic pattern, solid waste production or disposal, potential for erosion, drainage or flooding problems? Explain briefly: No. C2. Aesthetic, agricultural, archaeological, historic, or other natural or cultural resources; or community or neighborhood character? Explain briefly: No. C3. Vegetation or fauna, fish, shellfish or wildlife species, significant habitats, or threatened or endangered species? Explain briefly: No. C4. A community's existing plans or goals as officially adopted, or a change in use or intensity of use of land or other natural resources? Explain briefly: No. C5. Growth, subsequent development, or related activities likely to be induced by the proposed action? Explain briefly: No. C6. Long term, short term, cumulative, or other effects not identified in C1-C5? Explain briefly: No. C7. Other impacts (including changes in use of either quantity or type of energy? Explain briefly: No.	
D. WILL THE PROJECT HAVE AN IMPACT ON THE ENVIRONMENTAL CHARACTERISTICS THAT CAUSED THE ESTABLISHMENT OF A CRITICAL ENVIRONMENTAL AREA (CEA)? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If Yes, explain briefly:	
E. IS THERE, OR IS THERE LIKELY TO BE, CONTROVERSY RELATED TO POTENTIAL ADVERSE ENVIRONMENTAL IMPACTS? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If Yes, explain briefly:	

PART III - DETERMINATION OF SIGNIFICANCE (To be completed by Agency)

INSTRUCTIONS: For each adverse effect identified above, determine whether it is substantial, large, important or otherwise significant. Each effect should be assessed in connection with its (a) setting (i.e. urban or rural); (b) probability of occurring; (c) duration; (d) irreversibility; (e) geographic scope; and (f) magnitude. If necessary, add attachments or reference supporting materials. Ensure that explanations contain sufficient detail to show that all relevant adverse impacts have been identified and adequately addressed. If question d of part ii was checked yes, the determination of significance must evaluate the potential impact of the proposed action on the environmental characteristics of the CEA.

<input type="checkbox"/> Check this box if you have identified one or more potentially large or significant adverse impacts which MAY occur. Then proceed directly to the FULL EAF and/or prepare a positive declaration.	
<input checked="" type="checkbox"/> Check this box if you have determined, based on the information and analysis above and any supporting documentation, that the proposed action WILL NOT result in any significant adverse environmental impacts AND provide, on attachments as necessary, the reasons supporting this determination.	
_____ New York State Department of Environmental Conservation Name of Lead Agency	_____ April 30, 2013 Date
_____ Robert W. Schick Print or Type Name of Responsible Officer in Lead Agency	_____ Director, Division of Environmental Remediation Title of Responsible Officer
_____ /S/ Signature of Responsible Officer in Lead Agency	_____ /S/ Signature of Preparer (If different from responsible officer)

NEW YORK STATE DEPARTMENT OF STATE
COASTAL MANAGEMENT PROGRAM

Coastal Assessment Form

A. INSTRUCTIONS (Please print or type all answers)

1. State agencies shall complete this CAF for proposed actions which are subject to Part 600 of Title 19 of the NYCRR. This assessment is intended to supplement other information used by a state agency in making a determination of significance pursuant to the State Environmental Quality Review Act (see 6 NYCRR, Part 617). If it is determined that a proposed action will not have a significant effect on the environment, this assessment is intended to assist a state agency in complying with the certification requirements of 19 NYCRR Section 600.4.
2. If any question in Section C on this form is answered "yes", then the proposed action may affect the achievement of the coastal policies contained in Article 42 of the Executive Law. Thus, the action should be analyzed in more detail and, if necessary, modified prior to either (a) making a certification of consistency pursuant to 19 NYCRR Part 600 or, (b) making the findings required under SEQ, 6 NYCRR, Section 617.11, if the action is one for which an environmental impact statement is being prepared. If an action cannot be certified as consistent with the coastal policies, it shall not be undertaken.
3. Before answering the questions in Section C, the preparer of this form should review the coastal policies contained in 19 NYCRR Section 600.5. A proposed action should be evaluated as to its significant beneficial and adverse effects upon the coastal area.

B. DESCRIPTION OF PROPOSED ACTION

1. Type of state agency action (check appropriate response):

- (a) Directly undertaken (e.g. capital construction, planning activity, agency regulation, land transaction) X
- (b) Financial assistance (e.g. grant, loan, subsidy) _____
- (c) Permit, license, certification _____

2. Chapter 892 of the Laws of 1976 added a new Article 23 Title 17 (Liquefied Natural and Petroleum Gas) to the Environmental Conservation Law. Since the release of a liquefied natural gas (LNG) safety report in 1998 and a subsequent LNG study conducted in 2011, along with the reversal of LNG moratorium (except for municipalities with populations of one million or more), it is necessary and desirable to promulgate a New York State Department of Environmental Conservation regulation to advise interested parties of criteria for safe and proper siting and operation of LNG facilities and transportation of LNG; and to provide the affected public with proper procedures and rights regarding participation in the process. Thus, the proposed action is to adopt a new regulation, Part 570, to Title 6 of the New York Codes of Rules and Regulations. Based on projections provided in the 2011 LNG Report, it is estimated that between 10 and 25 facilities (best estimate 21 facilities) will be permitted in the first five years after Part 570 is promulgated.

3. Location of action: **STATEWIDE**

County	City, Town or Village	Street or Site Description
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4. If an application for the proposed action has been filed with the state agency, the following information shall be provided:

- (a) Name of applicant: _____ N/A _____
- (b) Mailing address: _____ N/A _____
- (c) Telephone Number: Area Code _____ N/A _____
- (d) State agency application number: _____ N/A _____

5. Will the action be directly undertaken, require funding, or approval by a federal agency?

Yes ____ No X If yes, which federal agency? _____

C. COASTAL ASSESSMENT (Check either "YES" or "NO" for each of the following questions)

1. Will the proposed activity be located in, or contiguous to, or have a significant effect upon any of the resource areas identified on the coastal area map:

- | | <u>YES</u> | <u>NO</u> |
|--|------------|-----------|
| (a) Significant fish or wildlife habitats?..... | __ | <u>X</u> |
| (b) Scenic resources of statewide significance?..... | __ | <u>X</u> |
| (c) Important agricultural lands?..... | __ | <u>X</u> |

2. Will the proposed activity have a significant effect upon:

- | | | |
|---|----|----------|
| (a) Commercial or recreational use of fish and wildlife resources?..... | __ | <u>X</u> |
| (b) Scenic quality of the coastal environment? | __ | <u>X</u> |
| (c) Development of future, or existing water dependent uses? | __ | <u>X</u> |
| (d) Operation of the State's major ports?..... | __ | <u>X</u> |
| (e) Land and water uses within the State's small harbors? | __ | <u>X</u> |
| (f) Existing or potential public recreation opportunities? | __ | <u>X</u> |
| (g) Structures, sites or districts of historic, archeological or cultural significance to the State or nation?..... | __ | <u>X</u> |

3. Will the proposed activity involve or result in any of the following:

- | | | |
|--|----|----------|
| (a) Physical alteration of two (2) acres or more of land along the shoreline, land under water or coastal waters?..... | __ | <u>X</u> |
| (b) Physical alteration of five (5) acres or more of land located elsewhere in the coastal area? | __ | <u>X</u> |
| (c) Expansion of existing public services of infrastructure in undeveloped or low density areas of the coastal area?..... | __ | <u>X</u> |
| (d) Energy facility not subject to Article VII or VIII of the Public Service Law? | __ | <u>X</u> |
| (e) Mining, excavation, filling or dredging in coastal waters?..... | __ | <u>X</u> |
| (f) Reduction of existing or potential public access to or along the shore? | __ | <u>X</u> |
| (g) Sale or change in use of state-owned lands located on the shoreline or under water?..... | __ | <u>X</u> |
| (h) Development within a designated flood or erosion hazard area? | __ | <u>X</u> |
| (i) Development on a beach, dune, barrier island or other natural feature that provides protection against flooding or erosion?..... | __ | <u>X</u> |

4. Will the proposed action be located in or have a significant effect upon an area included in an approved Local Waterfront Revitalization Program?

__ X

D. SUBMISSION REQUIREMENTS

If any question in Section C is answered "Yes", AND either of the following two conditions is met:

Section B.1(a) or B.1(b) is checked; or
Section B.1(c) is checked AND B.5 is answered "Yes",

THEN one copy of the Completed Coastal Assessment Form shall be submitted to:

New York State Department of State
Division of Coastal Resources
41 State Street, 8th Floor
Albany, New York 12231

If assistance of further information is needed to complete this form, please call the Department of State at (518) 474-6000.

E. REMARKS OR ADDITIONAL INFORMATION

Signature: _____ /S/ _____

Preparer's Name: Robert W. Schick

Title: Director, Division of Environmental Remediation

Agency: NYS Department of Environmental Conservation

Telephone Number: (518) 402-9706 Date: April 29, 2013