



LNG Facility Construction, Operation, or Modification Regulations

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Citation

These Regulations may be cited as the Applications For Authorization To Construct, Operate, Or Modify LNG Facilities, 2024.

1 Introduction

1.1 Scope and Objectives

- 1) In the exercise of the powers conferred upon it by section 8(3)(c) of the Natural Gas Act, 2024, the Utilities Regulation and Competition Authority (“URCA”) hereby issues these Regulations with the purpose to establish the filing requirements that an applicant must follow to obtain authorization for the siting, construction and/or operation of an LNG facility.

1.2 Application

- 2) These Regulations shall apply to any person to site, construct, or operate facilities which are to be used for the import of liquified natural gas from a foreign country or to amend an existing authorization, including the modification of existing authorized facilities.

1.3 Entry into effect

- 3) These Regulations shall come into effect on the date of their publication in accordance with section 15(1)(a) of the Natural Gas Act, 2024.

1.4 Definitions

- 4) In these Regulations, any word or expression to which a meaning has been assigned in the Natural Gas Act, 2024 has the meaning so assigned and, unless the context otherwise requires, the following terms will have the following meanings:

“Application for preliminary review of proposed projects” (APRPR) as required by regulation 4 of the Environmental Impact Assessment Regulations, 2020.

“Certificate of Environmental Clearance” (CEC) has the meaning established by Section 11 of the Environmental Planning and Protection Act of 2019 and it is granted pursuant to regulation 10 of the Environmental Impact Assessment Regulations, 2020.

“Critical Energy Infrastructure Information” (CEII) means specific engineering, vulnerability, or detailed design information about proposed or existing critical infrastructure that:

- (1) Relates details about the production, generation, transportation, transmission, or distribution of energy;
 - (2) Could be useful to a person in planning an attack on critical infrastructure;
 - (3) Is exempt from mandatory disclosure under the Freedom of Information Act, 2017 as amended;
- and

(4) Does not simply give the general location of the critical infrastructure.

“Department of Environmental Planning and Protection” (DEPP) means the Bahamas Department of Environmental Planning and Protection.

“LNG Terminal” means all natural gas facilities located onshore or in the territorial sea that are used to receive, unload, load, store, transport, gasify, liquefy, or process natural gas that is imported to The Bahamas from a foreign country, but does not include:

(1) Waterborne vessels used to deliver natural gas to or from any such facility; or

“Person” means any individual, firm, estate, trust, partnership, association, company, joint-venture, corporation, Bahamas governmental unit or instrumentality thereof, charitable, educational or other institution, and others, including any officer, director, owner, employee, or duly authorized representative of any of the foregoing.

“Port Department” (BPD) means the Bahamas Port Department.

“Resource agency” means any agency exercising administration over the areas of recreation, fish and wildlife, water resource management, or cultural or other relevant resources where the facilities or services for which a certificate or abandonment is proposed are or will be located.

“Territorial Sea” of the Bahamas has the meaning defined by the Archipelagic Waters and Jurisdiction Act Ch 282.

“URCA” is The Bahamas Utilities Regulation and Competition Authority.

“Waterway Suitability Assessment” (WSA) means a document used by the U.S. Coast Guard in assessing the suitability of a waterway for LNG marine traffic pursuant to 33 CFR 127.007. The Preliminary WSA initiates the process of analyzing the safety and security risks posed by proposed LNG tanker operations to a port and waterways, and the Follow-On WSA provides a detailed analysis of the same issues.

1.1 Interpretation

5) In these Regulations, unless the contrary appears:

- a) headings are for convenience only and do not affect interpretation;
- b) a reference to a statute or other law includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them;
- c) words in the singular include the plural and vice versa;
- d) words importing persons include a body whether corporate, politic, or otherwise;
- e) where a word or phrase is defined, its other grammatical forms have a corresponding meaning;
- f) mentioning anything after include, includes or including does not limit what else might be included;
- g) words and expressions which are not defined have the meanings given to them in the Comms Act;
- h) reference to a person shall include firms or companies; and

- i) cross references are marked with an open parenthesis. It is expressly stated that the use of an open parenthesis in these cross references bears no legal interpretation. The sole legally pertinent element is the reference number.

2 General

2.1 Purpose and intent of rules

- 6) Every applicant shall file all pertinent data and information necessary for a full and complete understanding of the proposed project, including its effect upon applicant's present and future operations and whether, and at what docket, applicant has previously applied for authorization to serve any portion of the market contemplated by the proposed project and the nature and disposition of such other project.
- 7) Every requirement of these Regulations shall be considered as a forthright obligation of the applicant which can only be avoided by a definite and positive showing that the information or data called for by the applicable rules is not necessary for the consideration and ultimate determination of the application.
- 8) These Regulations will be strictly applied to all applications as submitted and the burden of adequate presentation in intelligible form as well as justification for omitted data or information rests with the applicant.

2.2 Notice requirements

- 9) All applications filed under these Regulations are subject to the following landowner notification requirements:
 - a) For all applications filed which include construction of facilities, the applicant shall make a good faith effort to notify all affected landowners and towns, communities and governmental agencies involved in the project:
 - i) By courier, sent within three (3) business days following the date URCA issues a notice of the application; or
 - ii) By hand, within the same time period; and
 - iii) By publishing notice twice of the filing of the application, no later than fourteen (14) days after the date that a docket number is assigned to the application, in a daily or weekly newspaper of general circulation where the project is located.
 - b) "Affected landowners" for the purposes of this section includes owners of property, whose property:
 - i) Is directly affected (i.e., crossed or used) by the proposed activity, including all facility sites (including compressor stations, well sites, and all above-ground facilities), rights of way, access roads, pipe and contractor yards, and temporary workspace;
 - ii) Abuts either side of an existing right-of-way or facility site owned in fee by any utility company, or abuts the edge of a proposed facility site or right-of-way which runs along a property line in the area in which the facilities would be constructed, or contains a residence within fifty (50) feet of the proposed construction work area;

- iii) Is within one-half mile of proposed compressors or their enclosures or LNG facilities; or
 - iv) Is within the area of proposed new storage fields or proposed expansions of storage fields, including any applicable buffer zone.
- c) The notice shall include:
- i) The application/reference/docket number of the filing;
 - ii) The most recent edition of URCA's pamphlet that explains URCA's certificate process and addresses the basic concerns of landowners. Except: pipelines are not required to include the pamphlet in notifications of abandonments or in the published newspaper notice. Instead, they should provide the title of the pamphlet and indicate its availability at the URCA's Internet address;
 - iii) A description of the applicant and the proposed project, its location (including a general location map), its purpose, and the timing of the project;
 - iv) A general description of what the applicant will need from the landowner where the project is approved, and how the landowner may contact the applicant, including a local or toll-free phone number and a name of a specific person to contact who is knowledgeable about the project;
 - v) A brief summary of what rights the landowner has at URCA and in proceedings under the eminent domain rules. Except: pipelines are not required to include this information in the published newspaper notice. Instead, the newspaper notice should provide URCA's Internet address and the telephone number for the URCA's corresponding office;
 - vi) Information on how the landowner can get a copy of the application from the company or the location(s) where a copy of the application may be found as specified in section 2.3; and
 - vii) A copy of URCA's notice of application, specifically stating the date by which timely motions to intervene are due, together with URCA's information sheet on how to intervene in URCA proceedings. Except: pipelines are not required to include the notice of application and information sheet in the published newspaper notice. Instead, the newspaper notice should indicate that a separate notice is to be mailed to affected landowners and governmental entities.
- d) Where the notice is returned as undeliverable, the applicant will make a reasonable attempt to find the correct address and notify the landowner.
- e) Within thirty (30) calendar days of the date the application was filed, applicant shall file an updated list of affected landowners, including information concerning notices that were returned as undeliverable.
- f) Where paragraph 9)c) of this section requires an applicant to reveal Critical Energy Infrastructure Information (CEII), to any person, the applicant shall follow the following procedure:
- i) The applicant shall omit the CEII from the information made available and insert the following in its place:
 - (1) A statement that CEII is being withheld;

- (2) A brief description of the omitted information that does not reveal any CEII; and
- (3) This statement: "Requests for access to CEII should be made to URCA."
- ii) The applicant, in determining whether information constitutes CEII, shall treat the information in a manner consistent with any filings that applicant has made with URCA and shall to the extent practicable adhere to any previous determinations by URCA involving the same or like information.
- iii) Where URCA determines that information is not CEII or that a requester should be granted access to CEII, the applicant will be directed to make the information available to the requester.
- iv) Nothing in this section shall be construed to prohibit any persons from voluntarily reaching arrangements or agreements calling for the disclosure of CEII.

2.3 Interventions and protest

- 10) Notices of applications, as provided by section 3.2, will fix the time within which any person desiring to participate in the proceeding may file a petition to intervene, and within which any interested regulatory agency, desiring to intervene may file its notice of intervention.
 - a) Any person filing a petition to intervene or notice of intervention shall state specifically whether he seeks formal hearing on the application.
 - b) Failure to make timely filing will constitute grounds for denial of participation in the absence of extraordinary circumstances or good cause shown.
- 11) A copy of each application, supplement and amendment thereto, including exhibits required by section 3.6, shall upon request be promptly supplied by the applicant to anyone who has filed a petition for leave to intervene or given notice of intervention.
 - a) An applicant is not required to serve voluminous or difficult to reproduce material, such as copies of certain environmental information, to all parties, as long as such material is publicly available in an accessible central location in each county throughout the project area.
 - b) An applicant shall make a good faith effort to place the materials in a public location that provides maximum accessibility to the public.
- 12) Complete copies of the application must be available in accessible central locations, either in paper or electronic format, within three (3) business days of the date a filing is issued a docket number. Within five (5) business days of receiving a request for a complete copy from any party, the applicant must serve a full copy of any filing on the requesting party. Such copy may exclude voluminous or difficult to reproduce material that is publicly available. Pipelines must keep all voluminous material on file with URCA and make such information available for inspection at buildings with public access preferably with evening and weekend business hours, such as libraries located in central locations.

2.4 Hearings

- 13) URCA will schedule each application for public hearing at the earliest date possible giving due consideration to statutory requirements and other matters pending, with notice thereof. Provided,

however, that when an application is filed less than fifteen (15) days prior to the commencement of a hearing theretofore ordered on a pending application and seeks authority to serve some or all of the markets sought in such pending application or is otherwise competitive with such pending application, URCA will not schedule the new application for hearing until it has rendered its final decision on such pending application, except when, on its own motion, or on appropriate application, it finds that the public interest requires otherwise.

- 14) Except for good cause shown, failure of an applicant to go forward on the date set for hearing and present its full case in support of its application will constitute ground for the summary dismissal of the application and the termination of the proceedings.

2.5 Transferability

- 15) Non-transferable. Authorizations under these Regulations and related facilities shall not be transferable or assignable without prior authorization from URCA.
- 16) Involuntary transfer. An URCA's order granting such authorization shall continue in effect temporarily for a reasonable time in the event of the involuntary transfer of facilities used thereunder by operation of law (including such transfers to receivers, trustees, or purchasers under foreclosure or judicial sale) pending the making of an application for permanent authorization and decision thereon, provided notice is promptly given in writing to URCA accompanied by a statement that the physical facts relating to operations of the facilities remain substantially the same as before the transfer and as stated in the initial application for such authorization.

2.6 Authorization not exclusive

- 17) No authorization granted pursuant to these Regulations shall be deemed to prevent URCA from granting authorization under these Regulations to any other person at the same general location, or to prevent any other person from making application for such authorization.

2.7 Supplemental orders

- 18) URCA also may make, at any time subsequent to the original order of authorization, after opportunity for hearing, such supplemental orders implementing its authority under section 8 of the Natural Gas Act, 2024 as it may find necessary or appropriate.

3 Application

3.1 Acceptance for filing or rejection of applications

- 19) Applications will be docketed when received and the applicant so advised.
- 20) Where an application patently fails to comply with applicable statutory requirements or with applicable URCA's rules, regulations, and orders for which a waiver has not been granted, URCA may reject the application within ten (10) days of filing. This rejection is without prejudice to an applicant's refiling a complete application. An application that relates to an operation, service, or construction concerning which a prior application has been filed and rejected, shall be docketed as a new application. Such new application shall state the docket number of the prior rejected application.

3.2 Notice of application

21) Notice of each application filed, except when rejected in accordance with paragraph 20) in section 3.1, will be issued within 10 business days of filing, and subsequently shall be published by the applicant in a daily or weekly newspaper in circulation in The Bahamas copies of such notice sent to all government agencies affected thereby, by electronic means where practical, otherwise by mail. Persons desiring to receive a copy of the notice of every application shall so advise URCA.

3.3 Amendments and withdrawals

22) Amendments to or withdrawals of applications may be made with URCA's permission and subject to any conditions or requirements that URCA may from time to time prescribe.

3.4 Time of filing

23) No application for authorization for LNG terminal facilities or modifications to existing LNG terminal facilities may be made before one-hundred (180) days after the date of issuance of the notice by URCA, as provided in paragraph 30) of section 3.7, of the commencement of the prospective applicant's pre-filing process under section 3.7.

3.5 Contents of application

24) Every application under these Regulations shall include, in the order indicated, the following:

a) Information regarding applicant:

i) The exact legal name of applicant;

ii) The name, title, and post office address, telephone and facsimile numbers of the person to whom correspondence in regard to the application shall be addressed;

iii) Where a corporation, the state or territory under the laws of which the applicant was organized, and the town or city where applicant's principal office is located. Where applicant company is owned wholly or in part by any foreign government entity, or directly or indirectly subsidized by any foreign government entity; or, where applicant company has any agreement for such ownership or subsidization from any foreign government, provide full details of ownership and/or subsidies.

b) Summary:

i) A detailed summary of the proposal, including descriptions of the facilities utilized in the proposed import of liquified natural gas; licenses or permits for the construction, operation, or modification of facilities in The Bahamas; and the status of any regulatory proceedings which are related to the proposal.

c) Statements:

i) A statement demonstrating that the proposal or proposed construction is not inconsistent with the public interest, including, where applicable to the applicant's operations and proposal, a demonstration that the proposal:

- (1) Will improve access to supplies of natural gas, serve new market demand, enhance the reliability, security, and/or flexibility of the applicant's pipeline system, improve the dependability of international energy trade, or enhance competition within The Bahamas for natural gas transportation or supply;
- (2) Will not impair the ability of the applicant to render transportation service in The Bahamas at reasonable rates to its existing customers; and,
- (3) Will not involve any existing contract(s) between the applicant and a foreign government or person concerning the control of operations or rates for the delivery or receipt of natural gas which may restrict or prevent other Bahamas companies from extending their activities in the same general area, with copies of such contracts; and,

3.6 Required exhibits

25) An application must include the following exhibits:

- a) Exhibit A. A certified copy of memorandum and articles of association, partnership/joint venture agreements and/or by-laws of applicant; a certificate of incumbency showing the amount and classes of capital stock; nationality of officers, directors, and stockholders, and the amount and class of stock held by each; certificate of incorporation.
- b) Exhibit B. A detailed statement of the financial and corporate relationship existing between applicant and any other person or corporation;
- c) Exhibit C. A copy of any resolution or any other document required to authorize the construction, operation or modification of the facility along with a statement, including signed opinion of counsel called to the Bar of the Commonwealth of The Bahamas, showing that the construction, operation, or modification of facilities for the import of liquified natural gas is within the authorized powers of applicant, that applicant has complied with laws and regulations of the jurisdictions in which applicant operates;
- d) Exhibit E. Evidence that an appropriate and qualified concern will properly and safely receive such LNG, including a report containing detailed engineering and design information;
- e) Exhibit G. A geographical map of a suitable scale and detail showing the physical location of the facilities to be utilized for the applicant's proposed import operations; and
- f) Exhibit H. A statement identifying each authorization that the proposal will require; the agency or officer acting pursuant to delegated authority, that will issue each required authorization; the date each request for authorization was submitted; why any request was not submitted and the date submission is expected; and the date by which final action on each authorization has been requested or is expected.

26) The applicant may incorporate by reference any Exhibit required by paragraph 25) of this section already on file with URCA.

3.7 Pre-filing procedures for applications for authorization to site, construct, maintain, connect or modify facilities to be used for the import of liquified natural gas

27) A prospective applicant for authorization to site, construct and operate an LNG terminal facility must comply with this section's pre-filing procedures and review process. These mandatory pre-filing procedures also shall apply when URCA finds in accordance with paragraph 30)b) of this section that prospective modifications to an existing LNG terminal are modifications that involve significant state and local safety considerations that have not been previously addressed. Examples of such modifications include, but are not limited to, the addition of LNG storage tanks; increasing throughput requiring additional tanker arrivals or the use of larger vessels; or changing the purpose of the facility from peaking to base load. When a prospective applicant is required by this paragraph to comply with this section's pre-filing procedures:

- a) The prospective applicant must make a filing containing the material identified in paragraph 29) of this section and concurrently:
 - i) File a Letter of Intent pursuant to section 2.1 of the LNG Waterfront Facilities Safety Regulations, and a Preliminary Waterway Suitability Assessment (WSA) with the Bahamas Port Department (BPD). For modifications to an existing or approved LNG terminal, this requirement can be satisfied by the prospective applicant's certifying that the BPD did not require such information; and
 - ii) Compliance with all environmental laws such as a Certificate of Environmental Clearance (CEC) and make an Application for a Preliminary Review of the Proposed Project (APRPP) with the Bahamas Department for Environmental Planning and Protection (DEPP), pursuant to regulations 4 and 10 of the Environmental Impact Assessment Regulations, 2020.
- b) The prospective applicant must provide sufficient information for the pre-filing review of any pipeline or other natural gas facilities, including facilities not subject to URCA's Natural Gas Act jurisdiction, which are necessary to transport regasified LNG from the subject LNG terminal facilities to the natural gas pipeline infrastructure.

28) **Initial consultation.** The prospective applicant must first consult with URCA on the nature of the project, the content of the pre-filing request, and the status of the prospective applicant's progress toward obtaining the information required for the pre-filing request described in paragraph 29) of this section.

29) **Contents of the initial filing.** A prospective applicant's initial filing shall include the following information:

- a) A description of the schedule desired for the project including the expected application filing date and the desired date for URCA approval;
- b) A description of the zoning and availability of the proposed LNG terminal facility, and marine facility location;
- c) A detailed description of the project, including location maps and plot plans to scale showing all major plant components, that will serve as the initial discussion point for stakeholder review;
- d) A list and description of the interest of other persons and organizations who have been contacted about the project (including contact names and telephone numbers);
- e) A description of what work has already been done, e.g., contacting stakeholders, agency consultations, project engineering, route planning, environmental and engineering contractor engagement, environmental surveys/studies, and open houses. This description shall also include

the identification of the environmental and engineering firms and sub-contractors under contract to develop the project;

- f) Acknowledgement that a complete environmental report is required at the time of filing;
- g) A description of a Public Participation Plan which identifies specific tools and actions to facilitate stakeholder communications and public information, including a project website and a single point of contact. This plan shall also describe how the applicant intends to respond to requests for information from URCA and other permitting agencies;
- h) Certification that a Letter of Intent and a Preliminary WSA have been submitted to the BPD or, for modifications to an existing or approved LNG terminal, that the BPD did not require such information; and
- i) Certification that a Certificate of Environmental Clearance (CEC) and an Application for Preliminary Review of Proposed Projects (APRPP) have been submitted to the DEPP or that the DEEP did not require such information.

30) URCA's notices

- a) When URCA finds that a prospective applicant for authority to site and construct a new LNG terminal has adequately addressed the requirements of paragraphs 27) to 29) of this section, URCA shall issue a notice of such finding. The pre-filing process shall be deemed to have commenced on the date of URCA's notice, and the date of such notice shall be used in determining whether the date an application is filed is at least one hundred eighty (180) days after commencement of the pre-filing process.
- b) When URCA finds that a prospective applicant for authority to make modifications to an existing or approved LNG terminal has adequately addressed the requirements of paragraphs 27) to 29) of this section, URCA shall issue a notice making a determination whether prospective modifications to an existing LNG terminal shall be subject to this section's pre-filing procedures and review process. Where URCA determines that the prospective modifications are significant modifications that involve state and local safety considerations, the URCA's notice will state that the pre-filing procedures shall apply, and the pre-filing process shall be deemed to have commenced on the date of the URCA's notice in determining whether the date an application is filed is at least one hundred eighty (180) days after commencement of the pre-filing process.

31) Upon URCA's issuance of a notice commencing a prospective applicant's pre-filing process, the prospective applicant must:

- a) Within seven (7) days and after consultation with URCA staff, establish the dates and locations at which the prospective applicant will conduct open houses and meetings with stakeholders (including agencies) and URCA staff.
- b) Within fourteen 14 days, contact all stakeholders not already informed about the project, including all affected landowners as defined in paragraph 9)b) of section 2.1.
- c) Within thirty (30) days, submit a stakeholder mailing list to URCA staff.
- d) On a monthly basis, file status reports detailing the applicant's project activities including surveys, stakeholder communications, and agency meetings.

- e) Be prepared to provide a description of the proposed project and to answer questions from the public at the scoping meetings held by URCA staff.
 - f) Be prepared to attend site visits and other stakeholder and agency meetings arranged by the URCA staff, as required.
 - g) Certify that a Follow-on WSA will be submitted to the BPD no later than the filing of an application with URCA (for LNG terminal facilities and modifications thereto, where appropriate). The applicant shall certify that the BPD has indicated that a Follow-On WSA is not required, where appropriate.
- 32) URCA staff involvement during the pre-filing process will be designed to fit each project and will include some or all of the following:
- a) Assisting the prospective applicant in developing initial information about the proposal and identifying affected parties (including landowners, agencies, and other interested parties).
 - b) Facilitating issue identification and resolution.
 - c) Conducting site visits, examining alternatives, meeting with agencies and stakeholders, and participating in the prospective applicant's public information meetings.

3.8 Schedule for final decisions

- 33) For an application that requires URCA's authorization, a final decision is due no later than ninety (90) calendar days after the DEPP issues its final environmental document.

4 Paper Media and Other Requirements

4.1 General Rules

- 34) Filing procedures: Applications under these Regulations must be submitted to info@urcabahamas.bs
- 35) Certification. All applications must be signed in compliance with the following:
- a) The signature on an application constitutes a certification that: The signer has read the filing signed and knows the contents of the paper copies; and, the signer possesses the full power and authority to sign the filing.
 - b) An application must be signed by one of the following:
 - i) The person on behalf of whom the application is made;
 - ii) An officer, agent, or employee of the governmental authority, agency, or instrumentality on behalf of which the filing is made; or,
 - iii) A representative qualified to practice before the Commission who possesses authority to sign.
- 36) Where to file. The paper copies and an accompanying transmittal letter must be submitted in one package to: The Chief Executive Officer, Utilities Regulation and Competition Authority, Frederick House, Frederick Street, Nassau, N.P., The Bahamas.

4.2 Reporting requirements

- 37) Each person authorized under these Regulations that is not otherwise required to file information concerning the start of construction or modification of import facilities, the completion of construction or modification, and the commencement of service must file such information with URCA within ten (10) days after such event. Each person, other than entities without pipeline capacity, must also report by March 1 of each year the estimated peak day capacity and actual peak day usage of its import facilities.