

AMENDED IN SENATE MAY 24, 2007

AMENDED IN SENATE APRIL 16, 2007

**SENATE BILL**

**No. 412**

---

---

**Introduced by Senator Simitian**

February 21, 2007

---

---

An act to *amend, repeal, and add Sections 25302 and 25303 of, and to add Chapter 6.5 (commencing with Section 25571) to Division 15 of the Public Resources Code, relating to energy.*

LEGISLATIVE COUNSEL'S DIGEST

SB 412, as amended, Simitian. State Energy Resources Conservation and Development Commission: ~~liquefied natural gas terminals.~~ *gas.*

~~The existing~~

*(1) The Warren-Alquist State Energy Resources Conservation and Development Act establishes the State Energy Resources Conservation and Development Commission (Energy Commission) and requires the commission to prepare a biennial integrated energy policy report containing specified information related to major energy trends and issues facing the state, as well as a biennial energy policy review. The act requires the commission to certify sufficient sites and related facilities that are required to provide a supply of electricity sufficient to accommodate projected demand for power statewide.*

*This bill would enact the Liquefied Natural Gas ~~Terminal~~ Project Evaluation Act and would require, upon the adoption of the integrated energy policy report on November 1, 2007, the ~~commission~~ Energy Commission, in consultation with the Public Utilities Commission and the State Air Resources Board, to ~~make a liquefied natural gas (LNG) needs~~ adopt and submit to the Legislature and the Governor, on or before July 1, 2008, the LNG Needs Evaluation Report of 2008 that is*

*to be an addendum to that integrated energy policy and would contain an assessment study that assesses demand and supply for of natural gas and alternatives to natural gas to meet energy demands, and to determine the number of LNG terminals, if any, needed to meet the state's projected natural gas demand. The act would require the LNG needs assessment study to be completed no later than November 1, 2008, and incorporated into the commission's biennial integrated energy policy report supplies that includes, a greenhouse gas emission evaluation, a finding on whether California's projected natural gas demand through the year 2017 can be met without the importation of liquified natural gas (LNG) from a terminal or facility, the impact of reducing electricity derived from coal, and the impacts of new fossil fuel infrastructures. The commission would be required to solicit public comments in the preparation of the report and to hold 2 public hearings, one in Los Angeles and other in the San Francisco Bay area to consider the results of the LNG needs assessment study and to provide an opportunity for public comment. All costs of the LNG needs assessment study for the implementation of these requirements, including costs for any temporary personnel or consultants, would be funded from fees charged to persons or entities applying for permits to build and operate a LNG terminal. The commission would be required to provide a notice of hearing to the Public Utilities Commission, the State Air Resources Board, and the chairpersons of the specified committees of the Legislature.*

*The bill would prohibit the ~~commission~~ Public Utilities Commission from issuing a certificate to build and operate a ~~authorizing an entity under its jurisdiction to enter into a contract with an entity to supply LNG terminal unless the proposed facility meets certain criteria, findings, and determinations to the state.~~ The Governor and state and local officials would be prohibited from issuing a permit to construct or operate, or both construct and operate, a LNG facility within the state or a pipeline from a LNG facility outside the state to an existing instate natural gas pipeline until the LNG Needs Evaluation Report of 2008 has been adopted. By requiring a local official to determine whether the LNG Needs Evaluation Report of 2008 has been adopted, the bill would increase the level of service provided by a local agency, thereby imposing a state-mandated local program.*

*The bill would prohibit a state or local entity from approving a project to construct or operate a facility to import LNG to the state unless the project applicant files with the Energy Commission a specified memorandum of understanding between the project applicant and the*

*United States Department of Defense. On or after January 1, 2008, a state or local agency would be prohibited from approving or carrying out a project involving the construction or operation of an onshore or offshore facility or terminal to import natural gas into the state if either of the specified conditions is met. By requiring a local agency to determine whether a specified condition is met before approving these projects, the bill would increase the level of service provided by a local agency, thereby imposing a state-mandated local program.*

~~The ~~commission~~ Energy Commission would be required by February 1, 2008, to create a matrix on its Internet Web site and to require an applicant for a certificate to build and operate a LNG terminal to provide the commission with updated information at least once every month containing specified information related to the construction and operation of an LNG facility project and would require quarterly updates.~~

~~The bill would require the Governor to disapprove an applicant for a license pursuant to the Governor's authority under the federal Deepwater Port Act of 1974, to construct and operate a liquefied natural gas terminal unless the project meets this act's requirements. The bill would prohibit the Governor from allowing a permit to build or operate a LNG terminal or to connect to infrastructure located within the state unless the commission certifies that this act's requirements have been met.~~

~~The bill would provide that these requirements are applicable to every LNG terminal to be constructed or operating in California, irrespective of whether an application has been submitted for the construction or operation of the terminal to any federal, state, or local entity prior to January 1, 2008.~~

*This bill would establish, on September 1, 2008, the Renewable Energy and Fossil Fuel Assessment Council consisting of specified members. The council, instead of the Energy Commission, would be required to compile and adopt the biennial integrated energy policy report and biennial energy policy review. The council, in its adoption of the integrated energy policy report, would be required to include an LNG need evaluation report containing specified information. The council would be required to solicit public comments in the preparation of the report and to hold 2 public hearings, one in Los Angeles and the other in the San Francisco Bay area to consider the results of the report and to provide an opportunity for public comment.*

(2) *The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.*

*This bill would provide that no reimbursement is required by this act for a specified reason.*

Vote: majority. Appropriation: no. Fiscal committee: yes.  
 State-mandated local program: ~~no~~-yes.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. The Legislature finds and declares all of the
- 2 following:
- 3 (a) It is the policy of the state to meet California’s energy growth
- 4 by optimizing energy conservation and resource efficiency and by
- 5 reducing per capita demand to ensure a clean, safe, and reliable
- 6 supply of energy for California.
- 7 (b) It is the policy of the state to be sensitive to the impact of
- 8 the state’s energy policy on global climate change and
- 9 ~~environmental impacts in host countries that export natural gas.~~
- 10 *to conduct life-cycle energy analyses in determining the*
- 11 *composition of the state’s energy portfolio.*
- 12 (c) It is the policy of the state to accelerate the use of renewable
- 13 energy resources wherever feasible and to ensure a diverse and
- 14 affordable portfolio of fuel sources to minimize the opportunity
- 15 for supply interruptions.
- 16 (d) The state has a critical role in decisions regarding the siting
- 17 and design of new onshore and offshore infrastructure for the
- 18 importation of liquefied natural gas that results in impacts to public
- 19 health, safety, and the environment.
- 20 (e) Laws and regulations enacted by the state to address
- 21 consumer, community, public health, safety, and environmental
- 22 impacts of new onshore and offshore imported liquefied natural
- 23 gas infrastructure, where more protective, should not be preempted
- 24 by weaker, less protective federal laws and regulations.
- 25 ~~(f) Decisions regarding the importation of liquefied natural gas~~
- 26 ~~should be based on a comprehensive review of current and~~
- 27 ~~projected natural gas supply and demand in California, and~~
- 28 ~~alternative sources of supply.~~

1 ~~(g) Construction and operation of liquefied natural gas onshore~~  
2 ~~and offshore infrastructure could commence after completion of~~  
3 ~~a rigorous evaluation that analyzes the need for additional supplies~~  
4 ~~of natural gas and the relative merits of pending and future~~  
5 ~~proposals with respect to business, consumer, community, public~~  
6 ~~health, safety, and environmental impacts.~~

7 *(f) The possible importation of liquefied natural gas should be*  
8 *reviewed as part of the state's integrated energy policy report,*  
9 *which contains an overview of major energy trends and issues*  
10 *facing the state, including, but not limited to, supply, demand,*  
11 *pricing, reliability, efficiency, conservation, and impacts on public*  
12 *health and safety, the economy, resources, and the environment.*

13 *SEC. 2. Section 25302 of the Public Resources Code is*  
14 *amended to read:*

15 25302. (a) Beginning November 1, 2003, and every two years  
16 thereafter, the commission shall adopt an integrated energy policy  
17 report. This integrated report shall contain an overview of major  
18 energy trends and issues facing the state, including, but not limited  
19 to, supply, demand, pricing, reliability, efficiency, *conservation*  
20 *and renewable energy supplies*, and impacts on public health and  
21 safety, the economy, resources, and the environment. Energy  
22 markets and systems shall be grouped and assessed in three  
23 subsidiary volumes:

24 (1) Electricity and natural gas markets.

25 (2) Transportation fuels, technologies, and infrastructure.

26 (3) Public interest energy strategies.

27 (b) The commission shall compile the integrated energy policy  
28 report prepared pursuant to subdivision (a) by consolidating the  
29 analyses and findings of the subsidiary volumes in paragraphs (1),  
30 (2), and (3) of subdivision (a). The integrated energy policy report  
31 shall present policy recommendations based on an indepth and  
32 integrated analysis of the most current and pressing energy issues  
33 facing the state. The analyses supporting this integrated energy  
34 policy report shall explicitly address interfuel and intermarket  
35 effects to provide a more informed evaluation of potential tradeoffs  
36 when developing energy policy across different markets and  
37 systems.

38 (c) The integrated energy policy report shall include an  
39 assessment and forecast of system reliability and the need for  
40 resource additions, efficiency, and conservation that considers all

1 aspects of energy industries and markets that are essential for the  
2 state economy, general welfare, public health and safety, energy  
3 diversity, and protection of the environment. This assessment shall  
4 be based on determinations made pursuant to this chapter.

5 (d) Beginning November 1, 2004, and every two years thereafter,  
6 the commission shall prepare an energy policy review to update  
7 analyses from the integrated energy policy report prepared pursuant  
8 to subdivisions (a), (b), and (c), or to raise energy issues that have  
9 emerged since the release of the integrated energy policy report.  
10 The commission may also periodically prepare and release  
11 technical analyses and assessments of energy issues and concerns  
12 to provide timely and relevant information for the Governor, the  
13 Legislature, market participants, and the public.

14 (e) In preparation of the report, the commission shall consult  
15 with the following entities: the Public Utilities Commission, the  
16 Office *Division* of Ratepayer Advocates, the State Air Resources  
17 Board, the Electricity Oversight Board, the Independent System  
18 Operator, the Department of Water Resources, the California  
19 Consumer Power and Conservation Financing Authority, the  
20 Department of Transportation, *the California Coastal Commission*,  
21 *the State Lands Commission*, and the Department of Motor  
22 Vehicles, and any federal, state, and local agencies it deems  
23 necessary in preparation of the integrated energy policy report. To  
24 assure collaborative development of state energy policies, these  
25 agencies shall make a good faith effort to provide data, assessment,  
26 and proposed recommendations for review by the commission.

27 (f) The commission shall provide the report to the Public  
28 Utilities Commission, the Office of Ratepayer Advocates, the State  
29 Air Resources Board, the Electricity Oversight Board, the  
30 Independent System Operator, the Department of Water Resources,  
31 the California Consumer Power and Conservation Financing  
32 Authority, *the California Coastal Commission*, *the State Lands*  
33 *Commission*, and the Department of Transportation. For the  
34 purpose of ensuring consistency in the underlying information that  
35 forms the foundation of energy policies and decisions affecting  
36 the state, those entities shall carry out their energy-related duties  
37 and responsibilities based upon the information and analyses  
38 contained in the report. If an entity listed in this subdivision objects  
39 to information contained in the report, and has a reasonable basis

1 for that objection, the entity shall not be required to consider that  
2 information in carrying out its energy-related duties.

3 (g) The commission shall make the report accessible to state,  
4 local, and federal entities and to the general public.

5 (h) *This section shall become inoperative on September 1, 2008,*  
6 *and, as of January 1, 2009, is repealed, unless a later enacted*  
7 *statute, that becomes operative on or before January 1, 2009,*  
8 *deletes or extends the dates on which it becomes inoperative and*  
9 *is repealed.*

10 SEC. 3. *Section 25302 is added to the Public Resources Code,*  
11 *to read:*

12 25302. (a) *Beginning September 1, 2008, there is hereby*  
13 *established the Renewable Energy and Fossil Fuel Assessment*  
14 *Council consisting of the following members:*

15 (1) *The Secretary of the California Environmental Protection*  
16 *Agency.*

17 (2) *The Secretary of the Resources Agency.*

18 (3) *The chairperson of the commission.*

19 (4) *The Chairperson of the State Air Resources Board.*

20 (5) *The President of the Public Utilities Commission.*

21 (6) *A Member of the Senate, who shall be appointed by the*  
22 *Senate Committee on Rules and serve as an ex officio nonvoting*  
23 *member.*

24 (7) *A Member of the Assembly, who shall be appointed by the*  
25 *Speaker of the Assembly and serve as an ex officio nonvoting*  
26 *member.*

27 (b) *Beginning November 1, 2009, and every two years thereafter,*  
28 *the council shall adopt an integrated energy policy report. This*  
29 *integrated report shall contain an overview of major energy trends*  
30 *and issues facing the state, including, but not limited to, supply,*  
31 *demand, pricing, reliability, efficiency, conservation and renewable*  
32 *energy supplies, and impacts on public health and safety,*  
33 *greenhouse gas emissions on a life-cycle emissions basis, the*  
34 *economy, resources, and the environment. Energy markets and*  
35 *systems shall be grouped and assessed in three subsidiary volumes*  
36 *as follows:*

37 (1) *Electricity and natural gas markets.*

38 (2) *Transportation fuels, technologies, and infrastructure.*

39 (3) *Public interest energy strategies.*

1 (c) The council shall compile the integrated energy policy report  
2 prepared pursuant to subdivision (b) by consolidating the analyses  
3 and findings of the subsidiary volumes in paragraphs (1), (2), and  
4 (3) of subdivision (b). The integrated energy policy report shall  
5 present policy recommendations based on an in-depth and  
6 integrated analysis of the most current and pressing energy issues  
7 facing the state. The analyses supporting this integrated energy  
8 policy report shall explicitly address interfuel and intermarket  
9 effects to provide a more informed evaluation of potential tradeoffs  
10 when developing energy policy across different markets and  
11 systems.

12 (d) The integrated energy policy report shall include an  
13 assessment and forecast of system reliability and the need for  
14 resource additions, efficiency, and conservation that considers all  
15 aspects of energy industries and markets that are essential for the  
16 state economy, general welfare, public health and safety, energy  
17 diversity, and protection of the environment. This assessment shall  
18 be based on determinations made pursuant to this chapter.

19 (e) The council shall solicit public testimony and evidence  
20 during preparation of the report.

21 (f) Prior to final adoption of the integrated energy policy report,  
22 the council shall hold two public hearings, one in Los Angeles and  
23 the other in the San Francisco Bay area, during which a draft  
24 report shall be available for at least 30 days for review and  
25 comment by the public and additional evidence and comment shall  
26 be solicited.

27 (g) The integrated energy policy report shall include a  
28 greenhouse gas emissions evaluation of California's energy use,  
29 including a life-cycle emissions analysis of the liquified natural  
30 gas, domestic natural gas supplies, coal, and other fossil fuels that  
31 are part of, or likely to become part of the portfolio of fossil fuels  
32 utilized in California for energy production.

33 (h) The integrated energy policy report shall include a finding  
34 based on the entirety of the testimony and evidence submitted as  
35 to whether natural gas supplies projected as necessary to meet  
36 California's energy needs pursuant to the integrated energy policy  
37 report of 2009 can be met without importing liquefied natural gas  
38 to a terminal or facility sited onshore or offshore of the California  
39 coast. The integrated energy policy report shall also include a  
40 finding based on the entirety of the testimony and evidence

1 *submitted as to whether California’s projected natural gas demand,*  
2 *through the year 2017, can be met without importing liquefied*  
3 *natural gas from a terminal or facility sited outside of California.*

4 *(i) Beginning November 1, 2008, and every two years thereafter,*  
5 *the council shall prepare an energy policy review to update*  
6 *analyses from the Integrated Energy Policy Report prepared*  
7 *pursuant to subdivisions (b), (c), and (d), or to raise energy issues*  
8 *that have emerged since the release of the integrated energy policy*  
9 *report. The council may also periodically prepare and release*  
10 *technical analyses and assessments of energy issues and concerns*  
11 *to provide timely and relevant information for the Governor, the*  
12 *Legislature, market participants, and the public.*

13 *(j) (1) In preparation of the report, the council shall consult*  
14 *with all of the following entities:*

15 *(A) The Public Utilities Commission.*

16 *(B) The Division of Ratepayer Advocates in the Public Utilities*  
17 *Commission.*

18 *(C) The State Air Resources Board.*

19 *(D) The Electricity Oversight Board.*

20 *(E) The Independent System Operator.*

21 *(F) The Department of Water Resources.*

22 *(G) The California Consumer Power and Conservation*  
23 *Financing Authority.*

24 *(H) The Department of Transportation.*

25 *(I) The California Coastal Commission.*

26 *(J) The State Lands Commission.*

27 *(K) Any other federal, state, and local agencies it deems*  
28 *necessary in preparation of the integrated energy policy report.*

29 *(2) To assure collaborative development of state energy policies,*  
30 *the state agencies specified in subparagraphs (A) to (J), inclusive,*  
31 *of paragraph (1) shall make a good faith effort to provide data,*  
32 *assessment, and proposed recommendations for review by the*  
33 *council.*

34 *(k) The council shall provide the report to the Public Utilities*  
35 *Commission, the Department of Ratepayer Advocates at the Public*  
36 *Utilities Commission, the State Air Resources Board, the Electricity*  
37 *Oversight Board, the Independent System Operator, the*  
38 *Department of Water Resources, the California Consumer Power*  
39 *and Conservation Financing Authority, the California Coastal*  
40 *Commission, the State Lands Commission, and the Department of*

1 *Transportation. For the purpose of ensuring consistency in the*  
2 *underlying information that forms the foundation of energy policies*  
3 *and decisions affecting the state, those entities shall carry out their*  
4 *energy-related duties and responsibilities based upon the*  
5 *information and analyses contained in the report. If an entity listed*  
6 *in this subdivision objects to information contained in the report,*  
7 *and has a reasonable basis for that objection, the entity shall not*  
8 *be required to consider that information in carrying out its*  
9 *energy-related duties.*

10 *(l) The council shall make the report accessible to state, local,*  
11 *and federal entities and to the general public.*

12 *(m) An interested person may challenge the adoption of the*  
13 *integrated energy policy report by filing a petition for a writ of*  
14 *mandate for relief pursuant to Sections 1085 and 1094.5 of the*  
15 *Code of Civil Procedure in the Superior Court of Sacramento*  
16 *County.*

17 *(n) This section shall be operative on September 1, 2008.*

18 *SEC. 4. Section 25303 of the Public Resources Code is*  
19 *amended to read:*

20 25303. (a) The commission shall conduct electricity and natural  
21 gas forecasting and assessment activities to meet the requirements  
22 of paragraph (1) of subdivision (a) of Section 25302, including,  
23 but not limited to, all of the following:

24 (1) Assessment of trends in electricity and natural gas supply  
25 and demand, and the outlook for wholesale and retail prices for  
26 commodity electricity and natural gas under current market  
27 structures and expected market conditions.

28 (2) Forecasts of statewide and regional electricity and natural  
29 gas demand including annual, seasonal, and peak demand, and the  
30 factors leading to projected demand growth including, but not  
31 limited to, projected population growth, urban development,  
32 industrial expansion and energy intensity of industries, energy  
33 demand for different building types, energy *conservation and*  
34 *efficiency*, and other factors influencing demand for electricity.  
35 With respect to long-range forecasts of the demand for natural gas,  
36 the report shall include an evaluation of average conditions, as  
37 well as best and worst case scenarios, and an evaluation of the  
38 impact of the increasing use of renewable resources on natural gas  
39 demand.

1 (3) (A) Evaluation of the adequacy of electricity and natural  
2 gas supplies to meet forecasted demand growth. Assessment of  
3 the availability, reliability, and efficiency of the electricity and  
4 natural gas infrastructure and systems including, but not limited  
5 to, natural gas production capability both in and out of state, natural  
6 gas interstate and intrastate pipeline capacity, storage and use, and  
7 western regional and California electricity and transmission system  
8 capacity and use.

9 (B) *Projected impacts from changes in California energy policy*  
10 *as mandated by statutes that became effective on and after January*  
11 *1, 2006, related to climate change including, but not limited to,*  
12 *the California Global Warming Solutions Act of 2006, Division*  
13 *25.5 (commencing with Section 38500) of the Health and Safety*  
14 *Code.*

15 (4) Evaluation of potential impacts of electricity and natural gas  
16 supply, demand, and infrastructure and resource additions on the  
17 electricity and natural gas systems, public health and safety, the  
18 economy, resources, and the environment.

19 (5) Evaluation of the potential impacts of electricity and natural  
20 gas load management efforts, including end-user response to  
21 market price signals, as a means to ensure reliable operation of  
22 electricity and natural gas systems.

23 (6) Evaluation of whether electricity and natural gas markets  
24 are adequately meeting public interest objectives including the  
25 provision of all of the following: economic benefits; competitive,  
26 low-cost reliable services; customer information and protection;  
27 and environmentally sensitive electricity and natural gas supplies.  
28 This evaluation may consider the extent to which California is an  
29 element within western energy markets, the existence of appropriate  
30 incentives for market participants to provide supplies and for  
31 consumers to respond to energy prices, appropriate identification  
32 of responsibilities of various market participants, and an assessment  
33 of long-term versus short-term market performance. To the extent  
34 this evaluation identifies market shortcomings, the commission  
35 shall propose market structure changes to improve performance.  
36 *In proposing the market structure changes, the commission shall*  
37 *consider comments and recommendations of members of the public*  
38 *and interested agencies, including, but not limited to, federal and*  
39 *state agencies participating in the Liquefied Natural Gas*  
40 *Interagency Working Group established by the Resources Agency.*

1 (7) Identification of impending or potential problems or  
2 uncertainties in the electricity and natural gas markets, potential  
3 options and solutions, and recommendations.

4 (8) (A) Compilation and assessment of existing scientific studies  
5 that have been performed by persons or entities with expertise and  
6 qualifications in the subject of the studies, to determine the  
7 potential vulnerability, to a major disruption due to aging or a  
8 major seismic event, of large baseload generation facilities, of  
9 1,700 megawatts or greater.

10 (B) The assessment specified in subparagraph (A) shall include  
11 an analysis of the impact of a major disruption on system reliability,  
12 public safety, and the economy.

13 (C) The commission may work with other public entities and  
14 public agencies, including, but not limited to, the California  
15 Independent System Operator, the Public Utilities Commission,  
16 the Department of Conservation, and the Seismic Safety  
17 Commission as necessary, to gather and analyze the information  
18 required by this paragraph.

19 (D) Upon completion and publication of the initial review of  
20 the information required pursuant to this paragraph, the commission  
21 shall perform subsequent updates as new data or new understanding  
22 of potential seismic hazards emerge.

23 (9) *Evaluation of consumer protection including market features*  
24 *that may facilitate or impair the functioning of California's*  
25 *electricity and natural gas markets, such as the potential for*  
26 *withholding capacity, exercising market power, or otherwise*  
27 *engaging in market manipulation practices or monopolistic*  
28 *behavior.*

29 (b) Commencing November 1, 2003, and every two years  
30 thereafter, to be included in the integrated energy policy report  
31 prepared pursuant to Section 25302, the commission shall assess  
32 the current status of the following:

33 (1) The environmental performance of the electric generation  
34 facilities of the state, to include all of the following:

35 (A) Generation facility efficiency.

36 (B) Air emission control technologies in use in operating plants.

37 (C) The extent to which recent resource additions have, and  
38 expected resource additions are likely to, displace or reduce the  
39 operation of existing facilities, including the environmental  
40 consequences of these changes.

1 (2) The geographic distribution of statewide environmental,  
2 efficiency, and socioeconomic benefits and drawbacks of existing  
3 generation facilities, including, but not limited to, the impacts on  
4 natural resources including wildlife habitat, air quality, and water  
5 resources, and the relationship to demographic factors. The  
6 assessment shall describe the socioeconomic and demographic  
7 factors that existed when the facilities were constructed and the  
8 current status of these factors. In addition, the report shall include  
9 how expected or recent resource additions could change the  
10 assessment through displaced or reduced operation of existing  
11 facilities.

12 (c) In the absence of a long-term nuclear waste storage facility,  
13 the commission shall assess the potential state and local costs and  
14 impacts associated with accumulating waste at California's nuclear  
15 powerplants. The commission shall further assess other key policy  
16 and planning issues that will affect the future role of nuclear  
17 powerplants in the state. The commission's assessment shall be  
18 adopted on or before November 1, 2008, and included in the 2008  
19 energy policy review adopted pursuant to subdivision (d) of Section  
20 25302.

21 *(d) This section shall become inoperative on September 1, 2008,*  
22 *and, as of January 1, 2009, is repealed, unless a later enacted*  
23 *statute, that becomes operative on or before January 1, 2009,*  
24 *deletes or extends the dates on which it becomes inoperative and*  
25 *is repealed.*

26 *SEC. 5. Section 25303 is added to the Public Resources Code,*  
27 *to read:*

28 25303. (a) *The council shall conduct electricity and natural*  
29 *gas forecasting and assessment activities to meet the requirements*  
30 *of paragraph (1) of subdivision (b) of Section 25302, including,*  
31 *but not limited to, all of the following:*

32 (1) *Assessment of trends in electricity and natural gas supply*  
33 *and demand, and the outlook for wholesale and retail prices for*  
34 *commodity electricity and natural gas under current market*  
35 *structures and expected market conditions.*

36 (2) *Forecasts of statewide and regional electricity and natural*  
37 *gas demand including annual, seasonal, and peak demand, and*  
38 *the factors leading to projected demand growth including, but not*  
39 *limited to, projected population growth, urban development,*  
40 *industrial expansion and energy intensity of industries, energy*

1 demand for different building types, energy efficiency, and other  
2 factors influencing demand for electricity. With respect to  
3 long-range forecasts of the demand for natural gas, the report  
4 shall include an evaluation of average conditions, as well as best  
5 and worst case scenarios, and an evaluation of the impact of the  
6 increasing use of renewable resources on natural gas demand.

7 (3) (A) Evaluation of the adequacy of electricity and natural  
8 gas supplies to meet forecasted demand growth. Assessment of the  
9 availability, reliability, and efficiency of the electricity and natural  
10 gas infrastructure and systems including, but not limited to, natural  
11 gas production capability both in and out of state, natural gas  
12 interstate and intrastate pipeline capacity, storage and use, and  
13 western regional and California electricity and transmission system  
14 capacity and use.

15 (B) Projected impacts from changes in California energy policy  
16 as mandated by statutes that became effective on and after January  
17 1, 2006, related to climate change including, but not limited to,  
18 the California Global Warming Solutions Act of 2006, Division  
19 25.5 (commencing with Section 38500) of the Health and Safety  
20 Code.

21 (4) Evaluation of potential impacts of electricity and natural  
22 gas supply, demand, and infrastructure and resource additions on  
23 the electricity and natural gas systems, public health and safety,  
24 the economy, resources, and the environment.

25 (5) Evaluation of the potential impacts of electricity and natural  
26 gas load management efforts, including end-user response to  
27 market price signals, as a means to ensure reliable operation of  
28 electricity and natural gas systems.

29 (6) Evaluation of whether electricity and natural gas markets  
30 are adequately meeting public interest objectives including the  
31 provision of all of the following: economic benefits; competitive,  
32 low-cost reliable services; customer information and protection;  
33 and environmentally sensitive electricity and natural gas supplies.  
34 This evaluation may consider the extent to which California is an  
35 element within western energy markets, the existence of  
36 appropriate incentives for market participants to provide supplies  
37 and for consumers to respond to energy prices, appropriate  
38 identification of responsibilities of various market participants,  
39 and an assessment of long-term versus short-term market  
40 performance. To the extent this evaluation identifies market

1 *shortcomings, the council shall propose market structure changes*  
2 *to improve performance. In proposing the market structure*  
3 *changes, the council shall consider comments and*  
4 *recommendations of members of the public and interested agencies,*  
5 *including, but not limited to, federal and state agencies*  
6 *participating in the Liquified Natural Gas Interagency Working*  
7 *Group established by the Resources Agency.*

8 *(7) Identification of impending or potential problems or*  
9 *uncertainties in the electricity and natural gas markets, potential*  
10 *options and solutions, and recommendations.*

11 *(8) (A) Compilation and assessment of existing scientific studies*  
12 *that have been performed by persons or entities with expertise and*  
13 *qualifications in the subject of the studies, to determine the*  
14 *potential vulnerability, to a major disruption due to aging or a*  
15 *major seismic event, of large baseload generation facilities, of*  
16 *1,700 megawatts or greater.*

17 *(B) The assessment specified in subparagraph (A) shall include*  
18 *an analysis of the impact of a major disruption on system*  
19 *reliability, public safety, and the economy.*

20 *(C) The council may work with other public entities and public*  
21 *agencies, including, but not limited to, the California Independent*  
22 *System Operator, the Public Utilities Commission, the Department*  
23 *of Conservation, and the Seismic Safety Commission as necessary,*  
24 *to gather and analyze the information required by this paragraph.*

25 *(D) Upon completion and publication of the initial review of*  
26 *the information required pursuant to this paragraph, the council*  
27 *shall perform subsequent updates as new data or new*  
28 *understanding of potential seismic hazards emerge.*

29 *(9) Evaluation of consumer protection including market features*  
30 *that may facilitate or impair the functioning of California's*  
31 *electricity and natural gas markets, such as the potential for*  
32 *withholding capacity, exercising market power, or otherwise*  
33 *engaging in market manipulation practices or monopolistic*  
34 *behavior.*

35 *(b) Commencing November 1, 2009, and every two years*  
36 *thereafter, to be included in the integrated energy policy report*  
37 *prepared pursuant to Section 25302, the council shall assess the*  
38 *current status of the following:*

39 *(1) The environmental performance of the electric generation*  
40 *facilities of the state, to include all of the following:*

1 (A) *Generation facility efficiency.*  
 2 (B) *Air emission control technologies in use in operating plants.*  
 3 (C) *The extent to which recent resource additions have, and*  
 4 *expected resource additions are likely to, displace or reduce the*  
 5 *operation of existing facilities, including the environmental*  
 6 *consequences of these changes.*

7 (2) *The geographic distribution of statewide environmental,*  
 8 *efficiency, and socioeconomic benefits and drawbacks of existing*  
 9 *generation facilities, including, but not limited to, the impacts on*  
 10 *natural resources including wildlife habitat, air quality, and water*  
 11 *resources, and the relationship to demographic factors. The*  
 12 *assessment shall describe the socioeconomic and demographic*  
 13 *factors that existed when the facilities were constructed and the*  
 14 *current status of these factors. In addition, the report shall include*  
 15 *how expected or recent resource additions could change the*  
 16 *assessment through displaced or reduced operation of existing*  
 17 *facilities.*

18 (c) *In the absence of a long-term nuclear waste storage facility,*  
 19 *the council shall assess the potential state and local costs and*  
 20 *impacts associated with accumulating waste at California’s nuclear*  
 21 *powerplants. The council shall further assess other key policy and*  
 22 *planning issues that will affect the future role of nuclear*  
 23 *powerplants in the state. The council’s assessment shall be adopted*  
 24 *on or before November 1, 2008, and included in the 2008 energy*  
 25 *policy review adopted pursuant to subdivision (i) of Section 25302.*

26 (d) *This section shall become operative on September 1, 2008.*

27 ~~SEC. 2.~~

28 SEC. 6. Chapter 6.5 (commencing with Section 25571) is added  
 29 to Division 15 of the Public Resources Code, to read:

30

31 CHAPTER 6.5. LIQUIFIED NATURAL GAS-~~TERMINAL~~ PROJECT  
 32 EVALUATION ACT

33

34 25571. This chapter shall be known and may be cited as the  
 35 Liquefied Natural Gas-~~Terminal~~ Project Evaluation Act.

36 25571.1. For purposes of this chapter, the following definitions  
 37 apply:

38 (a) “Applicant” means a person who files a request for  
 39 certification, pursuant to Chapter 6 (commencing with Section

1 25500) to build and operate ~~on an LNG terminal~~ *project* in this  
2 state.

3 (b) “Feasible” means capable of being accomplished in a  
4 successful manner within a reasonable period of time, taking into  
5 account all of the following:

6 (1) Economic, environmental, social, technological, safety, and  
7 reliability factors.

8 (2) Gas supply and demand forecasts.

9 (3) Alternative sources of ~~natural gas~~ *energy*.

10 (c) “Liquefied natural gas” or “LNG” means natural gas cooled  
11 to minus 259 degrees Fahrenheit so that it forms a liquid at  
12 approximately atmospheric pressure.

13 (d) “Liquefied natural gas terminal,” “terminal,” or “LNG  
14 terminal,” means facilities designed to receive liquefied natural  
15 gas from oceangoing vessels, including those facilities required  
16 for storage and regasification of the liquefied natural gas, *marine*  
17 *vessels associated with these facilities*, and those pipelines and  
18 facilities necessary for the transmission of the regasified natural  
19 gas to the point of interconnection with existing pipelines.

20 (e) “Person” means an individual, organization, partnership, or  
21 other business association or corporation, the federal government,  
22 the state government, any local government, and any agency or  
23 instrumentality of any of those entities.

24 (f) (1) “Life-cycle emissions analysis” means assessment of  
25 greenhouse gas emissions of energy fuel sources from the wellhead  
26 to the end use.

27 (2) For North American natural gas supplies, this analysis shall  
28 include consideration of greenhouse gas emissions from extraction  
29 at the natural gas wellhead, transportation, and combustion.

30 (3) For a liquefied natural gas project, this analysis shall  
31 include the consideration of the greenhouse gas emissions from  
32 extraction at the natural gas wellhead to the end use, including  
33 liquefaction, transportation, regasification, storage, combustion,  
34 and other relevant energy consumption.

35 25571.2. (a) Upon adoption on November 1, 2007, of the  
36 integrated energy policy report pursuant to Section 25302, the  
37 commission, in consultation with the Public Utilities Commission  
38 and the State Air Resources Board shall begin a further assessment  
39 of natural gas supplies available in California from domestic  
40 production, or imported into the state through interstate pipelines,

1 *or both domestic production and importation, as well as supplies*  
2 *available or likely to become available from foreign production*  
3 *and imported into the state through liquefied natural gas terminals*  
4 *located in California, or international pipelines from Mexico and*  
5 *Canada, or both state and international pipelines, including any*  
6 *liquefied natural gas terminal proposed to be built outside the*  
7 *state that would be the source for natural gas imported into the*  
8 *state.*

9 *(b) The assessment shall be an addendum to the Integrated*  
10 *Energy Policy Report of 2007 and shall be entitled the LNG Needs*  
11 *Evaluation Report of 2008.*

12 *(c) The commission shall solicit public testimony and evidence*  
13 *during preparation of the assessment.*

14 *(d) (1) Prior to final adoption of the LNG Needs Evaluation*  
15 *Report of 2008, the commission shall hold two public hearings,*  
16 *one in Los Angeles and the other in the San Francisco Bay area,*  
17 *during which a draft report shall be available for at least 30 days*  
18 *for review and additional evidence and testimony shall be solicited*  
19 *and accepted.*

20 *(2) The commission shall provide notice of the meeting required*  
21 *pursuant to paragraph (1) to the Public Utilities Commission, the*  
22 *State Air Resources Board, and the chairpersons of the Senate*  
23 *Energy and Public Utilities Committee and the Assembly Utilities*  
24 *and Commerce Committee.*

25 *(e) On or before July 1, 2008, the commission shall adopt and*  
26 *submit to the Governor and the Legislature the LNG Needs*  
27 *Evaluation Report of 2008.*

28 *(f) The LNG Needs Evaluation Report of 2008 shall include a*  
29 *greenhouse gas emissions evaluation, including a life-cycle*  
30 *emissions analysis of LNG, domestic natural gas supplies, coal,*  
31 *and other fossil fuels that are part of, or likely to become part of*  
32 *the portfolio of fossil fuels utilized in California for electricity*  
33 *production or other uses. The LNG Needs Evaluation Report of*  
34 *2008 shall not duplicate work completed pursuant to Article 6.5*  
35 *(commencing with Section 43865) of Chapter 4 of Part 5 of*  
36 *Division 26 of the Health and Safety Code for the transportation*  
37 *sector.*

38 *(g) The LNG Needs Evaluation Report of 2008 shall include a*  
39 *finding based on the entirety of the evidence submitted as to*  
40 *whether California's projected natural gas demand, through the*

1 year 2017, can be met without importing liquefied natural gas  
2 from a terminal or facility sited onshore or offshore of the  
3 California coast. The LNG Needs Evaluation Report of 2008 shall  
4 also include a finding based on the entirety of the evidence  
5 submitted as to whether California's projected natural gas demand,  
6 through the year 2017, can be met without importing liquefied  
7 natural gas from a terminal or facility sited outside of California.

8 (h) The LNG Needs Evaluation Report of 2008 shall consider  
9 the impact of reducing electricity derived from coal pursuant to  
10 Chapter 3 (commencing with Section 8340) to Division 4.1 of the  
11 Public Utilities Code, and the potential of demand reduction  
12 opportunities, including, but not limited to, the upgrading and  
13 retrofitting of energy infrastructure, the role of renewable energy,  
14 and greater efficiency in building codes.

15 (i) The report shall include an analysis of what impact new  
16 fossil fuel infrastructure will have on investor owned utilities'  
17 mandates under any provision of law, including, but not limited  
18 to, the California Renewables Portfolio Standard Program, Article  
19 16 (commencing with Section 399.11) of Chapter 2.3 of Part 1 of  
20 Division 1 of the Public Utilities Code.

21 (j) An interested party may challenge the adoption of the LNG  
22 Needs Evaluation Report of 2008 by filing a petition for a writ of  
23 mandate for relief pursuant to Sections 1084 and 1094.5 of the  
24 Code of Civil Procedure in the Superior Court of Sacramento  
25 County.

26 (k) On and after September 1, 2008, the Renewable Energy and  
27 Fossil Fuel Assessment Council established pursuant to subdivision  
28 (a) of Section 25302 shall, in its adoption of the integrated energy  
29 policy report pursuant to subdivision (b) of Section 25302, include  
30 an LNG need evaluation report that contains all of the following:

31 (1) A greenhouse gas emissions evaluation specified in  
32 subdivision (f).

33 (2) A finding based on the entirety of the evidence submitted as  
34 to whether California's projected natural gas demand for 10 years  
35 following the adoption of the integrated energy policy report can  
36 be met without importing liquefied natural gas from a terminal or  
37 facility sited onshore or offshore of the California coast. The report  
38 shall also include a finding based on the entirety of the evidence  
39 submitted as to whether California's projected natural gas demand  
40 for 10 years following the adoption of the integrated energy policy

1 report can be met without importing liquefied natural gas from a  
2 terminal or facility sited outside of California.

3 (3) Consideration specified in subdivision (h).

4 (4) An analysis specified in subdivision (i).

5 25571.4. (a) The Public Utilities Commission shall not  
6 authorize an entity under its jurisdiction to enter into a contract  
7 with an entity to supply liquefied natural gas to California entities  
8 or consumers until the adoption of the LNG Needs Evaluation  
9 Report of 2008 pursuant to Section 25571.2.

10 (b) The Governor or a state or local official shall not issue a  
11 permit to construct, or operate, or both construct and operate, a  
12 liquefied natural gas facility in California or operate or construct  
13 a pipeline from a liquefied natural gas facility outside of  
14 California, to an existing or new instate natural gas pipeline, until  
15 the adoption of the LNG Needs Evaluation Report of 2008 pursuant  
16 to Section 25571.2.

17 25571.6. (a) On or before February 1, 2008, the commission  
18 shall create a matrix on its Internet Web site that meets all of the  
19 following requirements:

20 (1) The matrix shall be in a format that allows the public to  
21 contrast and compare the progress of each applicant for approval  
22 to build and operate a liquefied natural gas terminal in attaining  
23 each of the criteria required pursuant to this chapter.

24 (2) For each proposed land-based or offshore liquefied natural  
25 gas terminal project, the matrix shall include all of the following  
26 information:

27 (A) Project location.

28 (B) Project owner.

29 (C) Project's Internet Web site.

30 (D) Project contact.

31 (E) Average natural gas production capacity in cubic feet per  
32 day.

33 (F) The peak natural gas production capacity in cubic feet per  
34 day.

35 (G) LNG and natural gas storage capacity, if any.

36 (H) The approximate project cost.

37 (I) Projected online date.

38 (J) Any federal, state, and local permits or approvals required  
39 to site, construct, and operate the project.

1 (K) *The environmental components, such as projected air*  
2 *emissions associated with terminal operations.*

3 (L) *The status of the project.*

4 (M) *The sources of information used to create the matrix.*

5 (3) *The matrix shall also include all of the following*  
6 *information:*

7 (A) *The estimated greenhouse gas emissions on an annual basis*  
8 *from each facility, assessed on a full life-cycle emissions basis,*  
9 *LNG and natural gas storage capacity, if any.*

10 (B) *Estimates of criteria air pollutant emissions associated with*  
11 *construction and operation of the project, including emissions*  
12 *from marine vessels operating within California Coastal Waters*  
13 *as defined in Section 39037.1 of the Health and Safety Code.*

14 (C) *Proposed control technologies to minimize project air*  
15 *pollutant emissions and any other measures identified to reduce*  
16 *potential air quality impacts.*

17 (D) *A description of the quality of the imported natural gas,*  
18 *including the heating value.*

19 (E) *Estimates of water pollutant discharges associated with*  
20 *construction and operation of the project, including discharges*  
21 *from marine vessels.*

22 (F) *Proposed control technologies to minimize water pollutant*  
23 *discharges and any other measures identified to reduce potential*  
24 *water quality impacts.*

25 (G) *Description of the capacity of federal, state and local*  
26 *emergency teams to respond to an incident at the project, including*  
27 *estimates of response times and procedures for warning vessels*  
28 *in the area.*

29 (H) *Quantitative descriptions of proposed artificial lighting*  
30 *systems, including predicted visibility range and lighting*  
31 *minimization measures.*

32 (I) *Graphical depiction of proposed approach and departure*  
33 *routes for LNG carriers, and proposed measures to avoid or*  
34 *prevent collisions with protected marine species.*

35 (J) *Quantitative estimates of predicted underwater noise*  
36 *emissions for construction and standard operational activities,*  
37 *including zones of influence (isopleths) for relevant sound intensity*  
38 *thresholds, quantitative estimates for LNG carrier shipping noise,*  
39 *and noise mitigation measures.*

1 (K) *Estimated seawater intake volumes for a proposed project,*  
2 *including all vessels and carrier ships associated with a proposed*  
3 *terminal.*

4 (L) *Well-supported estimates of special status biological*  
5 *resources in the area to be affected by a proposed project,*  
6 *supplemented by site-specific surveys should existing data be*  
7 *insufficient to draw sound conclusions.*

8 (M) *Any other information relevant to identifying and evaluating*  
9 *a project's potential environmental impacts.*

10 (4) *The matrix shall include information regarding features of*  
11 *each project that may facilitate or impair the functioning of*  
12 *California's natural gas markets, such as the potential for*  
13 *withholding capacity, exercising market power, or otherwise*  
14 *engaging in market manipulation practices or monopolistic*  
15 *behavior.*

16 (5) *The matrix shall be updated as information becomes*  
17 *available and no less than quarterly and shall include the major*  
18 *project components and the potential environmental impacts*  
19 *associated with each land-based and offshore liquefied natural*  
20 *gas terminal project proposal that has filed an application or has*  
21 *publicly announced plans to build a land-based or offshore*  
22 *terminal.*

23 (6) *The commission shall post a new application for approval*  
24 *to build and operate an LNG terminal in the state to the matrix*  
25 *within 30 days after the filing of the application.*

26 25571.8. *A state or local entity shall not approve a project to*  
27 *construct or operate a facility to import LNG into California unless*  
28 *the applicant files with the commission a memorandum of*  
29 *understanding with the United States Department of Defense*  
30 *indicating that the applicant has consulted with the United States*  
31 *Department of Defense and has reached agreement with the United*  
32 *States Department of Defense on means to mitigate impacts on*  
33 *United States Department of Defense operations with regard to*  
34 *impacts upon national security, including potential impacts on the*  
35 *land, sea, and airspace identified by the Department of Defense,*  
36 *any of its component armed services, or the United States Coast*  
37 *Guard, for conducting operations, training, or for the development*  
38 *and testing of weapons, sensors, and tactics.*

39 25571.10. (a) *For a project involving construction or operation*  
40 *of an onshore or offshore facility or terminal to import natural*

1 gas into the state that has not received a permit to operate by a  
2 local, state, or federal agency on or before January 1, 2008, a  
3 state or local agency shall not approve or carry out the project if  
4 either of the following conditions are met:

5 (1) The report adopted pursuant to subdivision (d) of Section  
6 25571.2 or the most recently report adopted pursuant to Section  
7 25302, contains a finding that the state's projected natural gas  
8 demand can be met without importing liquefied natural gas to an  
9 onshore or offshore terminal or facility.

10 (2) The lead agency, as defined in Section 21067, finds that the  
11 construction and operation of the project would not have the least  
12 environmental impact when compared to other known technologies  
13 for constructing and operating a liquefied natural gas terminal,  
14 including associated marine vessels, and the environmental impact  
15 report prepared pursuant to Division 13 (commencing with Section  
16 21000) for the project evaluates known alternative technologies  
17 to construct and operate a liquefied natural gas terminal, including  
18 associated marine vessels.

19 (b) This section shall not be construed as a limitation on the  
20 power of a public agency to otherwise disapprove the project  
21 pursuant to any other provision of law.

22 ~~25571.2. (a) The commission shall make a study of the need  
23 for liquefied natural gas terminals to meet the state's energy  
24 demands. This study shall be known as the LNG Needs Assessment  
25 Study and shall assess all of the following:~~

26 ~~(1) The future demand for natural gas in the state.~~

27 ~~(2) The future supply of natural gas in the state available from  
28 domestic production and imported into the state through interstate  
29 pipelines, supply available from domestic production within the  
30 state, and supply available from foreign production and imported  
31 into the state through international pipelines from Mexico and  
32 Canada, including any liquefied natural gas terminal proposed to  
33 be built outside the state that would be the source for natural gas  
34 imported into the state.~~

35 ~~(3) All supplemental sources of natural gas and natural gas  
36 alternatives that can reasonably be expected to be available to meet  
37 the projected demand for natural gas, including, but not limited  
38 to, conservation and energy efficiency programs, steps to increase  
39 production and importation of natural gas from other states,  
40 Mexico, and Canada, steps to increase available supply from~~

1 ~~federally owned or federally regulated supplies, and steps to~~  
2 ~~increase energy supplies available from renewable energy~~  
3 ~~resources, including solar, wind, geothermal, and biomass.~~

4 ~~(b) The LNG Needs Assessment Study shall determine the~~  
5 ~~projected quantity of additional natural gas necessary for the state's~~  
6 ~~expected future demand and whether it is economically feasible~~  
7 ~~to meet the state's future natural gas needs without constructing~~  
8 ~~one or more liquefied natural gas terminals.~~

9 ~~(1) The LNG Needs Assessment Study shall be commenced by~~  
10 ~~January 1, 2008, and shall be completed no later than November~~  
11 ~~1, 2008, and shall be incorporated into the integrated energy policy~~  
12 ~~report prepared pursuant to Section 25302.~~

13 ~~(e) The commission shall hold at least two public hearings to~~  
14 ~~consider the results of the LNG Needs Assessment Study and to~~  
15 ~~provide an opportunity for public comment. At least one public~~  
16 ~~hearing shall be held in any city or county that is the proposed site~~  
17 ~~for which an application for a certificate has been filed with the~~  
18 ~~commission to build and operate a liquefied natural gas terminal.~~  
19 ~~If the terminal is not proposed to be located within a city or county,~~  
20 ~~the hearings shall be in the city or county nearest the proposed~~  
21 ~~location.~~

22 ~~(d) All costs incurred by the commission for the implementation~~  
23 ~~of this chapter, including costs for any temporary personnel or~~  
24 ~~consultants, shall be funded by fees charged to persons or entities~~  
25 ~~applying for a certificate to build and operate a liquefied natural~~  
26 ~~gas terminal.~~

27 ~~(e) The commission shall make public all information required~~  
28 ~~for the LNG Needs Assessment Study using the commissions'~~  
29 ~~Internet Web site, except as follows:~~

30 ~~(1) If an applicant for a certificate that has been filed with the~~  
31 ~~commission to build and operate a liquefied natural gas terminal~~  
32 ~~claims that any data or information that the commission requires~~  
33 ~~pursuant to this section is proprietary, the applicant shall submit~~  
34 ~~to the commission a summary of that required data and information,~~  
35 ~~along with an explanation as to the proprietary nature of the~~  
36 ~~required data and information.~~

37 ~~(2) On or before 30 days after receiving a claim that data or~~  
38 ~~information is propriety pursuant to paragraph (1), the commission~~  
39 ~~shall determine whether the data and information is proprietary.~~  
40 ~~If the commission determines that the data and information is~~

1 proprietary, the summary description of that data and information  
2 shall be provided on the commissions' Internet Web site. If the  
3 commission determines that the data and information is not  
4 proprietary, and the applicant refuses to provide the full data and  
5 information, the commission shall stop all review of the project  
6 and notify any other agency authorized to review the project to  
7 stop that review.

8 (3) An applicant may appeal the decision of the commission on  
9 the proprietary nature of the data and information subject to this  
10 subdivision to the Superior Court in Sacramento County within  
11 30 days after a decision by the commission determining that the  
12 information requested is not proprietary in nature. The court shall  
13 review the commissions' decision on a de novo basis.

14 ~~25571.3.~~ (a) The commission, in consultation with the Public  
15 Utilities Commission, the California Coastal Commission, the  
16 State Air Resources Board, the State Water Resources Control  
17 Board, and the Department of Fish and Game shall evaluate each  
18 proposed LNG project for which a certificate has been filed with  
19 the commission to build and operate a liquefied natural gas terminal  
20 to determine whether the project meets all of the requirements  
21 specified in subdivision (b). The commission shall request the  
22 Office of Homeland Security, the Federal Energy Regulatory  
23 Commission, the Department of Defense and its component armed  
24 services, and the United States Coast Guard, to also evaluate each  
25 proposed LNG project to determine whether the project meets the  
26 requirements specified in subdivision (b).

27 (b) The commission shall not issue a certificate to build and  
28 operate a liquefied natural gas terminal in the state unless the  
29 commission determines the proposed facility meets all of the  
30 following requirements:

31 (1) The facility is necessary to meet the future energy needs of  
32 California.

33 (2) The supply of natural gas identified for use by the project  
34 is reliable and sustainable.

35 (3) The State Air Resources Board determines that the project  
36 is carbon neutral.

37 (4) The State Water Resources Control Board finds that the  
38 project will not result in decreases in water quality.

39 (5) The California Coastal Commission finds that the project  
40 will not negatively impact the coastal zone, including view sheds.

- 1     ~~(6) The project requires a coast keeper to be appointed either~~  
2 ~~separately or by identifying an existing local entity or agency to~~  
3 ~~monitor compliance with environmental laws and regulations.~~  
4     ~~(7) The coast keeper is funded by the project applicant at a level~~  
5 ~~set by the Department of Finance.~~  
6     ~~(8) The California Coastal Commission certifies that the project~~  
7 ~~is in compliance with the Marine Mammal Protection Act (Chapter~~  
8 ~~31 (commencing with Section 1361) of Title 16 of the United~~  
9 ~~States Code).~~  
10    ~~(9) The project meets design criteria to mitigate long-term~~  
11 ~~coastal impact should the project stop operating for any reason.~~  
12    ~~(10) The project meets postclosure requirements, including the~~  
13 ~~financial assurances established by the commission.~~  
14    ~~(11) The project reserves 20 percent of capacity for open source~~  
15 ~~supply of natural gas.~~  
16    ~~(12) Natural gas supply contracts for the project are transparent~~  
17 ~~and available for review by the public.~~  
18    ~~(13) If the commission determines that any of the requirements~~  
19 ~~specified in paragraphs (1) to (12), inclusive, are not feasible, the~~  
20 ~~project applicant demonstrate that it is using the best available~~  
21 ~~technology at the time the application is filed.~~  
22    ~~(14) The applicant files with the commission a memorandum~~  
23 ~~of understanding with the Department of Defense indicating that~~  
24 ~~the applicant has consulted with the Department of Defense and~~  
25 ~~has reached agreement with the Department of Defense on means~~  
26 ~~to mitigate impacts on Department of Defense operations with~~  
27 ~~regard to impacts upon national security, including potential~~  
28 ~~impacts on the land, sea, and airspace identified by the Department~~  
29 ~~of Defense, any of its component armed services, or the United~~  
30 ~~States Coast Guard, for conducting operations, training, or for the~~  
31 ~~development and testing of weapons, sensors, and tactics.~~  
32    ~~(15) The applicant enters into a contract with the state to provide~~  
33 ~~cost reimbursement for monitoring, compliance, safety,~~  
34 ~~environmental training, and emergency response requirements.~~  
35    ~~(16) The Secretary for Environmental Protection certifies that~~  
36 ~~the project contains reasonable mitigation measures to offset~~  
37 ~~impacts to low-income and minority communities that would be~~  
38 ~~affected by the project.~~  
39    ~~(17) The commission determines, based on the record, that~~  
40 ~~among the available technologies for producing natural gas through~~

1 a liquefied natural gas process, a particular technology chosen for  
2 a particular site will have the minimum adverse public health,  
3 safety, and environmental impacts among the technologies  
4 available at the time an application is received by the commission.

5 25571.4. (a) On or before February 1, 2008, the commission  
6 shall create a matrix on its Internet Web site that meets all of the  
7 following requirements:

8 (1) The matrix shall be in a format that allows the public to  
9 contrast and compare the progress of each applicant for a certificate  
10 to build and operate a liquefied natural gas terminal in attaining  
11 each of the criteria required pursuant to this chapter.

12 (2) The matrix shall be updated monthly.

13 (3) The commission shall post a new application for a certificate  
14 to build and operate an LNG terminal in the state to the matrix  
15 within 30 days after the date the commission receives an  
16 application.

17 (b) (1) Each applicant for a certificate to build and operate an  
18 LNG terminal in the state shall provide the commission updated  
19 information at least once every month regarding each of the  
20 required criteria.

21 (2) If an applicant does not provide the information specified  
22 in paragraph (1), all agencies involved in the required review of  
23 the project may discontinue the review until that information is  
24 provided.

25 25571.5. This chapter does not limit any existing authority of  
26 state government pursuant to Division 13 (commencing with  
27 Section 21000) as that division read on January 1, 2008.

28 25571.6. (a) In furtherance of, and in conformance with, the  
29 Deepwater Port Act of 1974 (33 U.S.C. Sec. 1501 et seq.), as  
30 amended, the Governor pursuant to Section 1508 of Title 33 of  
31 the United States Code shall disapprove an application for a license  
32 to build and operate a liquefied natural gas terminal unless the  
33 project meets the requirements specified in subdivision (b) of  
34 Section 25571.3.

35 (b) The Governor may not allow a permit to construct or operate  
36 an LNG terminal or to connect to infrastructure located within the  
37 state unless the commission certifies that the project meets the  
38 requirements specified in subdivision (b) of 25571.3.

39 25571.7. (a) The requirements of this chapter are applicable  
40 to every LNG terminal to be constructed or operating in the state,

1 ~~irrespective of whether an application has been submitted for the~~  
2 ~~construction or operation of the terminal to any federal, state, or~~  
3 ~~local entity prior to January 1, 2008.~~

4 ~~(b) Nothing in this chapter shall be construed as an absolute~~  
5 ~~prohibition on the construction of a LNG terminal on or off the~~  
6 ~~California coast. It is the intent of the state to facilitate a~~  
7 ~~comprehensive and efficient review of applications for liquefied~~  
8 ~~natural gas terminals and their related infrastructure in the state.~~

9 *SEC. 7. No reimbursement is required by this act pursuant to*  
10 *Section 6 of Article XIII B of the California Constitution because*  
11 *a local agency or school district has the authority to levy service*  
12 *charges, fees, or assessments sufficient to pay for the program or*  
13 *level of service mandated by this act, within the meaning of Section*  
14 *17556 of the Government Code.*

O