

**Testimony of Assistant Secretary Steven Winberg
U.S. Department of Energy
Before the
U.S. House of Representatives Committee on Energy and Commerce,
Subcommittee on Energy
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Introduction

Chairman Upton, Ranking Member Rush, and Members of the Subcommittee, it is an honor to appear before you on behalf of the Administration. This is my first opportunity to testify before Congress as the Assistant Secretary for Fossil Energy, and I appreciate the opportunity to share the Department's views on natural gas exports from the United States. Today, I will provide general and technical comments on two bills that pertain to the Department's authority under the Natural Gas Act to regulate natural gas exports.

DOE's Statutory Authority

DOE's authority to regulate the export of natural gas arises under section 3 of the Natural Gas Act (NGA), 15 U.S.C. § 717b. This authority is vested in the Secretary of Energy and has been delegated to the Assistant Secretary for Fossil Energy.

Section 3(a) of the NGA sets forth the standard for review of most LNG export applications:

[N]o person shall export any natural gas from the United States to a foreign country or import any natural gas from a foreign country without first having secured an order of the [Secretary of Energy] authorizing it to do so. The [Secretary] shall issue such order upon application, unless after opportunity for hearing, [he] finds that the proposed exportation or importation will not be consistent with the public interest. The [Secretary] may by [the Secretary's] order grant such application, in whole or part, with such modification and upon such terms and conditions as the [Secretary] may find necessary or appropriate.

The Department has consistently interpreted Section 3(a) as creating a rebuttable presumption that a proposed export of natural gas is in the public interest. Under this provision, DOE performs a thorough public interest analysis before acting on applications to export natural gas to non-free trade agreement countries.

In the Energy Policy Act of 1992, Congress introduced section 3(c) to the NGA. Section 3(c) created a different standard of review for applications to export natural gas to those countries with which the United States has in effect a free trade agreement requiring national treatment for trade in natural gas. Section 3(c) requires such applications to be deemed consistent with the public interest and granted without modification or delay.

DOE Authorizations to Export Natural Gas

Since January 2017, DOE has granted authority to export natural gas to two world-scale liquefied natural gas (LNG) projects – Golden Pass Products in Texas and Delfin LNG, which is proposed for offshore Louisiana – as well as Eagle LNG's small-scale Maxville, Florida project and additional capacity at the proposed Lake Charles LNG project. In total, DOE has authorized 21.35 billion cubic feet per day of natural gas under section 3(a) for export to anywhere in the world not prohibited by U.S. law or policy.

Approximately 10 billion cubic feet per day of LNG export capacity is in various states of construction and operation across six large LNG export projects in Texas, Louisiana, Georgia, and Maryland. One facility in the lower-48 States, Cheniere Energy's Sabine Pass facility, has been exporting LNG since February 2016. Over 700 billion cubic feet of U.S. natural gas has been exported as LNG from Sabine Pass since it began operations. U.S. LNG exports have already had a global reach, and cargos have landed in Europe, Asia, Africa, the Middle East, South America, North America, and the Caribbean – 26 different countries in all.

H.R. 4605 Unlocking Our Domestic LNG Potential Act

Through amendments to section 3 of the NGA, this bill would remove DOE's authority in regulating natural gas trade for the United States. Currently under the NGA, DOE has authority over imports and exports of natural gas as a commodity. The Federal Energy Regulatory Commission (FERC) has authority over the siting, construction, and operation of interstate natural gas pipelines and LNG terminals. The bill appears to make no modifications to FERC's jurisdiction under the NGA.

Under current law, LNG export project sponsors submit applications to both FERC and DOE, and most projects require the completion of an environmental impact statement (EIS) under the provisions of the National Environmental Policy Act. In these cases, FERC is the lead agency for preparing the EIS and DOE is a cooperating agency. Separate from the FERC reviews, DOE conducts a public

interest review under section 3(a) of the NGA to evaluate whether the proposed export is inconsistent with the public interest.

The bill would also add language to the NGA identifying the President's authorities under a number of statutes to restrict trade based on certain criteria. This text appears to be similar to section 101(c) of the Consolidated Appropriations Act, 2016, regarding crude oil exports.

H.R. 4606 Ensuring Small Scale LNG Certainty and Access Act

As discussed above, all exports of natural gas, regardless of quantity, are subject to review and approval by DOE through its regulatory authority under the NGA. This bill amends Section 3(c) to expedite approval of imports and exports of small volumes of natural gas. The effect of this bill would be to have qualifying applications granted without modification or delay, saving several months of review time at a minimum.

This bill appears to be similar to the volume criteria DOE laid out in a recent DOE Notice of Proposed Rulemaking (NOPR) concerning small-scale natural gas exports published on September 1, 2017. The NOPR sought to revise DOE's regulations in 10 CFR 590 concerning its role in administering the NGA. DOE's NOPR proposed that natural gas export applications to non-free trade agreement countries that proposed to export up to and including 0.14 billion cubic feet per day (or 51.75 billion cubic feet per year) would be deemed to be consistent with the public interest.

Conclusion

When it comes to fossil fuels, the United States has become the world's largest combined producer of oil and natural gas, resulting in an abundance of reliable and affordable energy resources available for domestic use and for export. In 2017, the United States was a net exporter of natural gas for the first time on an annual basis since 1957, with net exports averaging 0.4 billion cubic feet per day. Overall, the Energy Information Administration forecasts net natural gas exports to average 2.3 billion cubic feet per day in 2018 and 4.6 billion cubic feet per day in 2019. We continue to support expeditious approval of natural gas exports, which provide both economic and strategic benefits to the United States and our allies.

The Department appreciates the ongoing bipartisan efforts to address our nation's energy challenges, and looks forward to working with the Committee on the legislation on today's agenda and any future legislation.

Thank you again for the opportunity to be here today, and I look forward to your questions.