

Calendar No. 412

115TH CONGRESS }
2d Session }

SENATE

{ REPORT
115-248

SMALL SCALE LNG ACCESS ACT OF 2017

MAY 10, 2018.—Ordered to be printed

Ms. MURKOWSKI, from the Committee on Energy and Natural Resources, submitted the following

R E P O R T

[To accompany S. 1981]

[Including cost estimate of the Congressional Budget Office]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 1981) to amend the Natural Gas Act to expedite approval of exports of small volumes of natural gas, and for other purposes, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

PURPOSE

The purpose of S. 1981 is to amend the Natural Gas Act (NGA) to expedite approval of exports of small volumes of natural gas, and for other purposes.

BACKGROUND AND NEED

The Department of Energy exercises regulatory authority under the section 3 of the NGA to review and approve applications for the export of natural gas. Section 3(a) of the NGA provides, *inter alia*, that no person shall export natural gas from the United States to a foreign country without first having secured an order authorizing it to do so. It also requires that the Secretary of Energy issue the order authorizing the export unless he finds the export will not be consistent with the public interest.

Section 3(c) of the NGA currently provides a statutory determination that exports of natural gas to any nation with which there is in effect a free trade agreement requiring national treatment for trade in natural gas are in the public interest, eliminating any need for the Secretary of Energy to make that determination

on a case-by-case basis. In addition, section 3(c) requires the Secretary to issue an order for the export of natural gas to nations with which there is a free trade agreement in effect “without modification or delay.”

Legislation is needed to extend the statutory public interest determination and the requirement that an export order be granted without modification or delay to exports of small volumes of natural gas to any nation not subject to trade sanctions. The bill is intended to enable U.S. exports to compete more effectively to serve emerging markets for liquefied natural gas (LNG).

The growth in natural gas production, including from shale, has reduced natural gas prices for domestic consumers and provided an opportunity for LNG exports. The United States currently has two major LNG export terminals operating, five under construction, and four more that are fully permitted. The International Energy Agency projects that by 2022, the United States will have the capacity to become the world’s second largest exporter of LNG, just behind Australia, and ahead of Qatar. Although some are concerned that exporting too much domestic natural gas may increase costs for domestic consumers, to date additional demand for natural gas exports appears to have been met by a commensurate increase in supply.

LNG exports from the United States can provide a diversity of supply, for example, in Central and Eastern Europe (where Russia is often the sole supplier), the Caribbean countries, Central and South America, and in Asia. Cargoes of LNG from the first operating export terminal, Sabine Pass, for example, have been delivered to two dozen nations in Latin America, Europe, Asia and the Middle East. In addition, Poland’s state-owned gas company recently signed a five-year deal to buy LNG from Sabine Pass.

LEGISLATIVE HISTORY

S. 1981 was introduced by Senators Cassidy and Rubio on October 18, 2017, and referred to the Senate Energy and Natural Resources Committee. The Subcommittee on Energy held a hearing on S. 1981 on December 5, 2017.

A companion measure, H.R. 4370, was introduced in the House of Representatives by Representative Yoho, on November 9, 2017, and referred to the House Committee on Energy and Commerce.

The Committee on Energy and Natural Resources met in open business session on March 8, 2018, and ordered S. 1981 favorably reported.

COMMITTEE RECOMMENDATION

The Committee on Energy and Natural Resources, in open business session on March 8, 2017, by a majority vote of a quorum present, recommends that the Senate pass S. 1981.

The roll call vote on reporting the measure was 13 yeas, 10 nays, as follows:

YEAS	NAYS
Ms. Murkowski	Ms. Cantwell
Mr. Barrasso	Mr. Wyden *
Mr. Risch *	Mr. Sanders *
Mr. Lee	Ms. Sanders

Mr. Flake	Mr. Heinrich *
Mr. Daines	Ms. Hirono *
Mr. Gardner	Mr. King
Mr. Alexander *	Ms. Duckworth
Mr. Hoeven	Ms. Cortez Masto
Mr. Cassidy	Ms. Smith *
Mr. Portman *	
Mrs. Capito	
Mr. Manchin	

* Indicates vote by proxy

SECTION-BY-SECTION ANALYSIS

Section 1. Short title

Section 1 contains the short title.

Section 2. Expedited approval of export of certain volumes of natural gas

Section 2 amends section 3(c) of the NGA (15 U.S.C. 717b(c)), which currently deems licenses to import or export natural gas to a nation with which there is a free trade agreement in effect to be consistent with the public interest and requires the Secretary of Energy to grant them without modification or delay.

Section 2 redesignates section 3(c) of the NGA as paragraph (1) and adds two new paragraphs. New paragraph (2) provides that any application for the exportation of natural gas in a volume that is equal to or less than 51.1 billion cubic feet per year of natural gas, shall be deemed to be consistent with the public interest and shall be granted without modification or delay, without regard to whether there is a free trade agreement in effect with the nation to which the natural gas will be exported.

New paragraph (3) provides a statutory determination that the export will be consistent with the public interest and requires that an application be granted without modification or delay in paragraph (1) (as redesignated) and new paragraph (2) shall not apply to exports to any nation that is subject to sanctions that are imposed by the United States.

COST AND BUDGETARY CONSIDERATION

The following estimate of the costs of this measure has been provided by the Congressional Budget Office:

S. 1981 would require the Department of Energy (DOE) to approve any application to export less than 51.1 billion cubic feet of natural gas in a year to any non-sanctioned country with which the United States does not have an applicable free trade agreement (FTA). That volume represents roughly 1 percent of total approved natural gas exports to non-FTA countries to date. From 2012 through 2017, DOE received eight applications to export natural gas to non-FTA countries in amounts at or below the bill's threshold. CBO expects that expediting the applications would reduce the time to approve them by several months, which could increase both the number of applications and the volume of gas exported. However, based on information provided by individuals working in the gas industry, CBO estimates those effects would be small.

Changes in the price of gas, in the production of gas on federal lands, or a combination of the two could change the payments associated with the production of gas on federal lands. (Those payments are recorded as decreases in direct spending.) CBO expects that any additional demand for gas exports under the bill would be met by a commensurate increase in supply, which would result in no significant change in the price of gas. In addition, CBO expects that any increase in the production of gas would probably occur in states that accounted for more than 80 percent of gas exports over the 2012–2016 period. Because those states, including Michigan, Texas, and New York, contain only small amounts of federal land (between 0.5 percent and 10 percent of the total land area in each state), we estimate that any increase in the production of gas on federal lands would be small.

Because enacting S. 1981 could decrease direct spending from payments associated with the production of gas on federal lands pay-as-you-go procedures apply. However, CBO estimates that any such effects would not be significant in any year. Enacting the bill would not affect revenues.

CBO estimates that enacting S. 1981 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2029.

The CBO staff contact for this estimate is Jeff LaFave. The estimate was approved by H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis.

REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out S. 1981.

The bill is not a regulatory measure in the sense of imposing Government-established standards or significant economic responsibilities on private individuals and businesses.

No personal information would be collected in administering the program. Therefore, there would be no impact on personal privacy.

Little, if any, additional paperwork would result from the enactment of S. 1981 as ordered reported.

CONGRESSIONALLY DIRECTED SPENDING

S. 1981, as ordered reported, does not contain any congressionally directed spending items, limited tax benefits, or limited tariff benefits as defined in rule XLIV of the Standing Rules of the Senate.

EXECUTIVE COMMUNICATIONS

The testimony provided by the Department of Energy at the December 5, 2017, hearing on S. 1981 follows:

TESTIMONY OF UNDER SECRETARY MARK MENEZES, U.S.
DEPARTMENT OF ENERGY, BEFORE THE U.S. SENATE
COMMITTEE ON ENERGY AND NATURAL RESOURCES, SUB-
COMMITTEE ON ENERGY

S. 1981—Small Scale LNG Access Act of 2017

Currently, all exports of natural gas, regardless of quantity, are subject to review and approval by the Department through its regulatory authority under the Natural Gas Act (NGA). Applications are made under NGA Section 3(a) for exports of natural gas to non-free trade agreement countries or NGA Section 3(c) for exports of natural gas to free trade agreement countries. This bill amends Section 3(c) to expedite approval of exports of small volumes of natural gas. The effect of this bill would be to have qualifying applications granted automatically, 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. The Department looks forward to working with the Committee to determine the technical aspects of the bill.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by S. 1981, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in *italic*, existing law in which no change is proposed is shown in roman):

THE NATURAL GAS ACT

Act of June 21, 1938, as amended

* * * * *

EXPORTATION OR IMPORTATION OF NATURAL GAS; LNG TERMINALS

SEC. 3.

(a) * * *

[(c) For purposes of] (c) *EXPEDITED APPLICATION AND APPROVAL PROCESS.*—

(1) *FREE TRADE AGREEMENTS IN EFFECT.*—*For purposes of* subsection (a), the importation of the natural gas referred to in subsection (b), or the exportation of natural gas to a nation with which there is in effect a free trade agreement requiring national treatment for trade in natural gas, shall be deemed to be consistent with the public interest, and applications for such

importation or exportation shall be granted without modification or delay.

(2) *SMALL-SCALE NATURAL GAS EXPORTS.*—For purposes of subsection (a), any application for the exportation of natural gas in a volume that is equal to or less than 51,100,000,000 cubic feet per year of natural gas shall be—

(A) *deemed to be consistent with the public interest; and*

(B) *granted without modification or delay.*

(3) *EXCLUSIONS.*—Paragraphs (1) and (2) shall not apply to any nation subject to sanctions imposed by the United States.

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