



Ross E. Eisenberg

Vice President

Energy & Resources Policy

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U.S. Department of Energy (FE-34)
Office of Regulation and International Engagement
Office of Fossil Energy
P.O. Box 44375
Washington, DC 20026-4375

**RE: Comments on the Notice of Availability of the 2014 EIA LNG Export Study
and the 2015 LNG Export Study**

The National Association of Manufacturers (NAM), the largest manufacturing association in the United States representing nearly 14,000 small, medium and large manufacturers in every industrial sector and in all 50 states, submits the following comments on the Department of Energy's (DOE) two studies on liquefied natural gas (LNG) exports: the 2014 Energy Information Administration (EIA) LNG Export Study and the 2015 LNG Export Study.

Abundant domestic natural gas resources are fueling a renaissance in U.S. manufacturing. The NAM is pleased to see both studies conclude that LNG exports will result in net economic benefits, echoing similar findings by the DOE when it analyzed the issue in 2012. Equally reassuring is the conclusion in both studies that domestic supply can easily meet increased global demand for U.S. natural gas, as opposed to displacing demand from U.S. energy consumers.

The DOE states that it plans to use the two studies to assess whether exporting 12 to 20 billion cubic feet per day (Bcf/d) of LNG would affect the public interest, and to inform the DOE's determination of the public interest in each of 29 listed non-FTA export proceedings on the DOE's docket. It bears repeating that it is not the DOE's job to affirmatively prove that each license would be in the public interest. Rather, Section 3 of the Natural Gas Act creates a rebuttable presumption that each license is in the public interest and places the burden of proof on parties opposing the application to export to prove otherwise.¹ That being said, the two

¹ In the 75 years since this law was enacted, courts have consistently interpreted this language to mean that, unlike other sections of the Natural Gas Act, Section 3 (which governs exports) creates a presumption in favor of granting *Leading Innovation. Creating Opportunity. Pursuing Progress.*

studies do provide support for the rebuttable presumption, given that they find net benefits to the economy. Moreover, the EIA study found that energy-related CO₂ emissions remained below 2005 levels in each year of the projection period across all pairings of scenarios and baselines.

Manufacturers believe principles of free trade and open markets should govern whether companies are able to move forward and construct LNG export terminals on U.S. soil. The law requires the DOE to make an up-or-down national interest determination for each LNG project on a case-by-case basis. Each project deserves the fairness of an up-or-down decision in a prompt fashion. Manufacturers appreciate efforts made by the DOE to increase the speed with which it processes LNG export licenses, and encourages the agency to continue to process these permits in an expeditious fashion.

Sincerely,

A handwritten signature in blue ink, appearing to read "Ross Eisenberg", is centered below the word "Sincerely,".

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the requested authority, with the burden of rebuttal placed not on the Agency but on those members of the public who seek to prove that exportation will not be in the public interest. *See, e.g., Cia Mexicana de Gas v. FPC*, 167 F.2d 804 (5th Cir. 1948) (“[a]n export (or import) permit (under section 3), on the other hand, must be issued unless the commission makes a negative finding . . .”); *West Virginia Pub. Serv. Comm’n v. DOE*, 681 F.2d 847, 856 (D.C. Cir. 1982) (holding that “section 3 sets out a general presumption favoring such authorization” which “differs significantly from other sections of the NGA which condition agency approval upon a positive finding that the proposed activity will be in the public interest”); and *Panhandle Producers and Royalty Owners Ass’n v. ERA*, 822 F.2d 1105, 1111 (D.C. Cir. 1987) (“ERA ‘shall issue . . . (an import authorization) order upon application, unless . . . it finds that the proposed exportation or importation will not be consistent with the public interest’ . . . A presumption favoring import authorization, then, is completely consistent with, if not mandated by, the statutory directive”).