



AMERICAN PETROLEUM INSTITUTE

March 12, 2020

U.S. Department of Energy (FE-34)  
Attn: Term Extension—Proposed Policy Statement  
Office of Regulation, Analysis, and Engagement  
Office of Fossil Energy  
P.O Box 44375  
Washington, DC 20026-4375

**SUBJECT: *Proposal to Extend Standard Term of Non-FTA Authorizations* — Comments of the American Petroleum Institute**

These comments are submitted by the American Petroleum Institute (API) in response to the Department of Energy’s (DOE) proposal to extend natural gas export authorization to non-free trade agreement countries through the year 2050 (herein, the “proposed extension”), as published in the *Federal Register* on February 11, 2020. For the reasons discussed below, API strongly supports this proposal.

**I. Statement of Interest**

API is a national trade association that represents over 625 companies involved in all aspects of the oil and natural gas industry. API’s members include owners and operators of liquefied natural gas (LNG) import and export facilities in the United States and around the world, as well as owners and operators of LNG vessels, global LNG traders, and manufacturers of essential technology and equipment used throughout the LNG value chain. API members also have extensive experience with the drilling and completion techniques used in shale gas development and in producing America’s natural gas resources in a safe and environmentally responsible manner.

**II. Proposed Extension More Accurately Reflects Realities of the Market**

API believes the proposed extension more accurately reflects the realities of the global LNG market. Specifically, it more closely aligns the export authorizations with the expected operational lifespan of LNG export facilities, and in doing so, ensures that U.S. LNG exporters remain competitive in meeting consumers’ demands.

As DOE notes in the *Federal Register* notice, the typical lifespan of an LNG export terminal is 30 to 50 years. LNG projects are highly capital intensive and require a considerable amount of planning and construction time. For such projects to be successful, developers must be reasonably certain the project can remain in operation long enough to recover those costs and generate a return. This policy wisely aligns the export authorization period with the expected lifespan of the assets.

API also commends DOE for considering the changing preferences of LNG buyers when proposing this policy. As the global LNG market expands, many LNG buyers have expressed interest in a variety of contracting options, including contracts that extend beyond the 20-year timeline currently authorized by DOE. The inability of U.S. LNG exporters to offer longer-term contracts is worrisome, as it could potentially erode U.S. competitiveness with other LNG suppliers.

For example, just this past December, Canada's energy regulator granted that country's first 40-year LNG export license. Other exporting countries—including Russia—place few limitations on a project's authorized operational timeline. Thus, API agrees with DOE that the proposed extension affords U.S. developers more flexibility in responding to LNG buyers, and levels the playing field in competing with other global suppliers.

### **III. DOE's Proposed Extension Policy is in the Public Interest**

DOE's most recent studies, and those conducted by numerous others, demonstrate that the proposed policy would benefit the U.S. as a whole. API also agrees with DOE that recent studies and projections—especially those done by DOE itself—establish a clear and sufficient rationale for the proposed extension. As DOE notes, two of the factors it considers when reviewing export applications are the domestic demand for natural gas and whether exports pose a threat to domestic natural gas supplies.

DOE has evaluated this question multiple times, publishing detailed and comprehensive studies in 2012, 2014 and 2015. All these studies—as well as many additional studies completed by other entities—found that U.S. LNG exports represent a net benefit to the U.S. economy and do not pose a threat to domestic natural gas supply.

More recently, in 2018, DOE completed its most comprehensive study to date on the impact of U.S. LNG exports. The results were entirely consistent with an API study published in 2017, the key findings of which include:

- Increased LNG export volumes equivalent to as much as 16 bcf/d in 2040 could support between 220,000 to 452,000 additional jobs and add \$50 to \$73 billion to the U.S. economy.
- The potential global market is now estimated to be 32 Tcf by 2040, which is much bigger than the 22 Tcf estimated in 2013.
- Increased LNG exports are estimated to have a minimal effect on the domestic price of natural gas. Projected price impacts of LNG exports are anticipated to be half of earlier estimates due to efficiency gains and advances in energy production technology.

Just as significantly, the DOE's *2018 LNG Export Study* was unique in that it covered an expanded time period. Whereas prior LNG Export Studies covered 20-year terms, the 2018 study examined a 30-year period, from 2020 through 2050. Like the studies before it, it showed that market-determined levels of LNG exports over this period would result in net economic benefits to the United States. Consequently, API agrees that the results of the *2018 LNG Export Study* clearly support the extension of DOE export authorizations to 2050 (i.e., the timeframe covered by the study).

#### **IV. Under the Proposed Policy Statement, Opt-ins for Existing Authorization Holders Should Not Be Subject to Additional Review Under the National Environmental Policy Act**

DOE states that it takes no position on whether the voluntary opt-in applications submitted by existing authorization holders to extend export terms through December 31, 2050, would be subject to additional reviews under the National Environmental Policy Act ("NEPA").<sup>1</sup> As DOE notes, in order to obtain a non-FTA authorization, DOE conducts a NEPA review to assess potential environmental impacts associated with the authorization.<sup>2</sup> API believes that, if the Proposed Policy Statement is adopted, voluntary opt-in applications should not be subject to further NEPA review.

As an initial matter, the Council on Environmental Quality ("CEQ") recently issued a Notice of Proposed Rulemaking to update its regulations for implementing the procedural provisions of NEPA.<sup>3</sup> In the preamble to its proposed rule, CEQ notes that the proposal is intended to "facilitate more efficient, effective, and timely" decision-making, as well as "reduce paperwork and delays[.]"<sup>4</sup> These goals are consistent with related Administration policy, including Executive Order 13807, which directs CEQ and other agencies to "reduce[] unnecessary burdens and delays as much as possible[.]"<sup>5</sup>

In order to remain consistent with these goals, which have been a priority for both Democratic and Republican administrations for over a decade, and to facilitate exports of clean-burning domestic natural gas consistent with the public interest, DOE should apply categorical exclusions that already exist in regulation when considering any voluntary opt-ins. Applicable categorical exclusions include, as noted in the preamble, categorical exclusion B5.7, which applies to "[a]pprovals or disapprovals of ... amendments of existing authorizations to ... export natural gas

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<sup>1</sup> "Extending Natural Gas Export Authorizations to Non-Free Trade Agreement Countries Through the Year 2050," 85 Fed. Reg. 7,672 (Feb. 11, 2020).

<sup>2</sup> *Id.* at 7,674.

<sup>3</sup> "Update to the Regulations Implementing the Procedural Provisions of the National Environmental Policy Act," 85 Fed. Reg. 1,684 (Jan. 10, 2020).

<sup>4</sup> *Id.*

<sup>5</sup> "Establishing Discipline and Accountability in the Environmental Review and Permitting Process for Infrastructure Projects," E.O. 13807, § 5(e)(i)(D) (Aug. 15, 2017).

under section 3 of the Natural Gas Act that involve minor operational changes (such as *changes in natural gas throughput ...*[.])” (emphasis added).<sup>6</sup>

Even if DOE concluded that a particular voluntary opt-in did not qualify for a categorical exclusion, API believes that DOE’s recent “Life Cycle Greenhouse Gas Perspective on Exporting Liquefied Natural Gas from the United States: 2019 Update” would likely satisfy the requirements of any NEPA review.<sup>7</sup> This assessment, which builds on several previously-released life cycle assessments, is a “cradle-to-grave” analysis of greenhouse gas emissions associated with LNG exports over 20- and 100-year global warming potential time horizons. This extensive analysis, which API previously submitted comments on, is a more than sufficient assessment of the greenhouse gas emissions associated with U.S. LNG exports on a holistic basis, inclusive of the modest term extensions contemplated under the Proposed Policy Statement.

## **V. The Geopolitical Benefits of U.S. LNG**

API also believes the benefits of this proposed policy extend beyond the United States. The increased use of LNG offers multiple benefits to importing countries. With global emissions on the rise, increased use of U.S. natural gas around the world could help make the world’s air cleaner. Many countries rightly view natural gas as a critical fuel for the future and understand that it will play an outsized role in making their energy systems cleaner, more reliable and more efficient. The economic benefits of increased natural gas use extend to the industrial sector, where it is increasingly relied upon as a clean and efficient fuel and feedstock for a wide variety of industrial and commercial operations.

A recent and comprehensive study by the International Energy Agency (IEA) titled *The Role of Gas in Today’s Energy Transitions* found that natural gas has already played a tangible role in reducing global carbon emissions. The study estimates that, “since 2010, coal-to-gas switching has saved around 500 million tonnes of CO<sub>2</sub> — an effect equivalent to putting an extra 200 million EVs running on zero-carbon electricity on the road over the same period.”<sup>8</sup> The study is consistent with emission trends in the United States over the past decade, where the increased use of natural gas in the power sector has lowered total U.S. emissions to levels not seen in 25 years.

The IEA study is just one of many similar studies that are establishing a clear consensus on the very important role natural gas can play in reducing greenhouse gas (GHG) emissions around the world. DOE itself recently issued an in-depth study on this issue. The “Life Cycle Greenhouse Gas

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<sup>6</sup> 10 C.F.R. § 1021.410, App’x B. See also *Phillips Alaska Natural Gas Corp. and Marathon Oil Co.*, U.S. DOE 1473 (1999) (application of categorical exclusion B5.7 to extension of existing export authorization for five years upheld on grounds that “[a]pproval of an export or import application not involving new construction does not generally constitute a major Federal action significantly affecting the quality of the human environment. It is for this reason such activity has been categorically excluded from the requirement to perform an EIS. The Department is approving here the simple extension of a long-standing export, not a proposal involving the construction and operation of new LNG or alternative energy facilities.”).

<sup>7</sup> Available at <https://www.energy.gov/sites/prod/files/2019/09/f66/2019%20NETL%20LCA-GHG%20Report.pdf> (Sept. 12, 2019).

<sup>8</sup> IEA, *The Role of Gas in Today’s Energy Transitions*. July 2019. Accessed here: <https://www.iea.org/reports/the-role-of-gas-in-todays-energy-transitions>

Perspective on Exporting Liquefied Natural Gas from the United States: 2019 Update” concluded that for all scenarios examined, “the generation of power from natural gas has lower life cycle GHG emissions than power generation from regional coal.”<sup>9</sup> Specifically regarding U.S. LNG, it found “the use of U.S. LNG exports for power production in European and Asian markets will not increase GHG emissions from a life cycle perspective, when compared to regional coal extraction and consumption for power production.”<sup>10</sup>

The increased availability of U.S. LNG is not only good for the United States, but for our trading partners, as well. Increasing the global use of American-sourced natural gas enhances our national security here at home and abroad by providing a reliable alternative to our allies around the world, who would otherwise rely more heavily on foreign energy supplies.

As such, API again applauds the DOE’s continued focus on the vital issue of U.S. LNG exports and its ongoing efforts to bolster the position of the United States as a dependable LNG supplier in this rapidly expanding global market. Further, API believes that the proposed extension is a significant step towards ensuring that the regulations allowing U.S. LNG suppliers to export to non-FTA countries reflect current market dynamics, support rather than erode their competitiveness, and provide a net economic benefit to the United States.

Respectfully submitted,

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<sup>9</sup> DOE. *2019 LCA of U.S. LNG Update*. Page 21.

<sup>10</sup> DOE. *2019 LCA of U.S. LNG Update*. Page 32.