

Client Alert

November 2013

DOE Approves LNG Exports from Additional Terminals

Recent developments

In September, the DOE approved LNG exports from Dominion's Cove Point terminal to non-FTA countries, including Japan. This is the third authorization granted by the DOE this year, following Freeport LNG's approval in May and Lake Charles Exports, LLC's approval in August. In July, the DOE said it will not set a ceiling on the volume of LNG exports to non-FTA countries.

Summary of non-FTA long term export authority approvals granted to date

Date of DOE Approval	Company (Location)	Quantity	Status
May 20, 2011	Sabine Pass Liquefaction, LLC (Louisiana)	16 mtpa	Approved ¹
May 17, 2013	Freeport LNG (Texas)	9 mtpa	Conditionally approved ²
August 7, 2013	Lake Charles Exports, LLC (Louisiana)	15 mtpa	Conditionally approved ³
September 11, 2013	Dominion Cove Point LNG (Maryland)	5.7 mtpa	Conditionally approved ⁴

Additional applications filed for export authority

Since our last [Client Alert](#), five additional applications were filed with the DOE for approval to export LNG from the U.S. to non-FTA countries. With the recent approvals, this brings the total number of pending non-FTA applications to 22.

- On May 13, 2013, Venture Global LNG, LLC, a privately-owned Washington, D.C.-based energy developer, applied for authorization to export up to 5 mtpa of LNG from a proposed terminal in Cameron Parish, Louisiana.
- On August 23, 2013, Eos LNG LLC, a privately-owned company based in Boston, applied for authorization to export up to 12 mtpa of LNG from a proposed floating liquefied natural gas (FLNG) facility in the Port of Brownsville in Texas.
- On August 23, 2013, Barca LNG LLC, another privately-owned company based in Boston, also applied for authorization to export up to 12 mtpa of LNG from a proposed FLNG facility in the Port of Brownsville.

¹ Conditional approval subject to environmental review was granted on May 20, 2011. Final approval was granted on August 7, 2012.

² Subject to environmental review.

³ Subject to environmental review.

⁴ Subject to environmental review.

- On September 9, 2013, Cheniere Energy Inc. (NYSE: LNG) affiliate Sabine Pass Liquefaction, LLC applied for authorization to export up to an additional 6.4 mtpa of LNG from the Sabine Pass terminal in Louisiana.
- On October 11, 2013, Magnolia LNG, a subsidiary of Australia-based LNG Ltd. (ASX: LNG), applied for authorization to export up to 8 mtpa of LNG from its proposed Magnolia LNG Project in Lake Charles, Louisiana.

The above applications are expected to be considered in the order received after the other pending non-FTA applications, as set forth in the table below.

Summary of pending non-FTA long-term export authority applications

Order of precedence	Company (Location)	Quantity	Status
1	Freeport LNG Expansion (Texas)	9 mtpa	Under review
2	Cameron LNG (Louisiana)	12 mtpa	Under review
3	Jordan Cove Energy (Oregon)	6 mtpa	Under review
4	Oregon LNG (Oregon)	9.6 mtpa	Under review
5	Cheniere Marketing, LLC (Texas)	15 mtpa	Under review
6	Excelerate Liquefaction Solutions I, LLC (Texas)	10 mtpa	Under review
7	Carib Energy (Florida / Texas)	0.06 mtpa	Under review
8	Gulf Coast LNG Export (Texas)	18 mtpa	Under review
9	Southern LNG Co, L.L.C. (Georgia)	4 mtpa	Under review
10	Gulf LNG Liquefaction Co, LLC (Mississippi)	11.5 mtpa	Under review
11	CE FLNG, LLC (Louisiana)	8 mtpa	Under review
12	Golden Pass Products (Texas)	15.6 mtpa	Under review
13	Pangea LNG (North America) Holdings, LLC (Texas)	8 mtpa	Under review
14	Trunkline LNG Export, LLC (Louisiana)	15 mtpa	Under review
15	Freeport-McMoRan Energy LLC (Louisiana)	24 mtpa	Under review
16	Sabine Pass Liquefaction, LLC (Louisiana)	2.1 mtpa	Under review
17	Sabine Pass Liquefaction, LLC (Louisiana)	1.8 mtpa	Under review
18	Venture Global LNG, LLC (Louisiana)	5 mtpa ⁵	Under review
19	Eos LNG LLC (Texas)	12 mtpa	Under review
20	Barca LNG LLC (Texas)	12 mtpa	Under review
21	Sabine Pass Liquefaction, LLC (Louisiana)	6.4 mtpa	Under review
22	Magnolia LNG (Louisiana)	8 mtpa	Under review

⁵ Total amount to be exported to both FTA and non-FTA countries.

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Exports from Alaska may resume

As noted in our [July 2012 Client Alert](#), for more than 40 years the Kenai LNG Plant in Alaska was the only U.S. LNG plant with export approval until the Sabine Pass terminal received approval in 2011. Most of the LNG produced at Kenai was sold to Japanese utilities.

Earlier this year, the export license for the plant expired. ConocoPhillips (NYSE: COP), owner and operator of the plant, said it would consider resuming export operations if sufficient gas becomes available and local gas needs are met. In September, the State of Alaska asked ConocoPhillips to seek a new export license. Alaska cited new gas discoveries in the Cook Inlet and gas needs of local utilities having been met through new contracts. ConocoPhillips has not yet acted on the request.

In a related development, on September 11, 2013, Alaska signed a memorandum of understanding with the Japan Bank for International Cooperation (JBIC) to investigate financing for potential projects in Alaska, including a large-volume gas pipeline and export facility.

DOE approvals - risk for LNG buyers

LNG buyers are well aware of the risk that the DOE could modify or revoke approvals for exports to Japan. The DOE claims authority to do so under the Natural Gas Act as necessary to protect the public interest.

However, last year the DOE wrote in a letter to then Congressman Edward Markey that the "*DOE would be reluctant to withdraw or modify a previously granted authorization, except in the event of extraordinary circumstances.*" It is not clear what the DOE considers to be "extraordinary circumstances".

Even though Japanese buyers do not in general consider this risk of modification or revocation substantial, nevertheless all SPAs for LNG exported from the U.S. have provisions dealing with this risk allocation. While sellers and buyers are typically willing to bear this risk if the modification or revocation is caused by themselves, it is still a battleground as to who should bear such risk if it is caused by other parties in the supply chain, which may include the operator, other tollers, other customers of the seller, etc.

For more information, please contact [Anne Hung](#) or [Colin Cook](#).

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