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U.S. Repeals Longstanding Ban on Export of Crude Oil

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Effective immediately and subject to limited restrictions, U.S. producers may begin exporting crude oil to overseas customers.

On December 18, 2015, the President signed into law the massive Consolidated Appropriations Act of 2016, H. R. 2029, which previously passed both Houses of Congress with large bi-partisan majorities. An important part of this act is a provision that repeals the 1975 law that generally prohibited the export of crude oil produced in the United States.

In 1975, in the wake of the Arab oil embargo, the Congress enacted the Energy Policy and Conservation Act. Section 103 of that law, which was codified at 42 USC Section 6212 (entitled "Domestic use of energy supplies and related materials and equipment"), directed the President to promulgate rules prohibiting the export of crude oil and natural gas produced in the United States, subject to a few statutory exceptions related to the President's authority regarding national security and national policy matters. The rules implementing the crude oil export ban are located in the Export Administrative Regulations of the Department of Commerce located at 15 CFR Part 754, and presently require a license to export crude oil to all destinations, including Canada. The 1975 law was not, however, interpreted generally to prohibit the export of refined petroleum products manufactured in the United States, and a thriving export trade has resulted.

By repealing Section 103 of the Energy Policy and Conservation Act, the Congress has virtually eliminated all of these export restrictions. The new provisions are located in the Consolidated Appropriations Act at Section 101 of Division O, Title I, "Oil Exports, Safety Valve and Maritime Security." Section 101 (a) repeals Section 103 of the 1975 Act. Section 101 (b) establishes a National Policy on Oil Export Restrictions, by providing that "no official of the Federal Government shall impose or enforce any restriction on the export of crude oil," subject to the follow-on provisions of Sections 101(c) and (d). Subsection (c), entitled a "Savings Clause," provides that nothing in Section 101 limits the authority of the President under existing law to impose sanctions prohibiting exports to any person or government that is designated as a state sponsor of terrorism. In addition, Subsection (d) authorizes the President to impose short-term crude oil export licenses (for no more than one year) if the President determines and declares that a national emergency exists or the national interest requires such a limitation, or the Secretary of Commerce, in consultation with the Secretary of Energy, finds that the export of crude oil is having adverse economic consequences in the United States. These short-term export licenses may be renewed for an additional one-year term.

By its terms, the removal of the export ban takes effect immediately, but the revisions and amendment of the existing crude oil export rules are likely to take some time.

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