

118TH CONGRESS  
2D SESSION

# S. 5290

To address the effect of litigation on applications to export liquefied natural gas, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

SEPTEMBER 25, 2024

Mr. CRUZ (for himself and Mr. CORNYN) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

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## A BILL

To address the effect of litigation on applications to export liquefied natural gas, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Protect LNG Act of  
5 2024”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

8 (1) COVERED APPLICATION.—The term “cov-  
9 ered application” means an application for—

1 (A) an authorization to export natural gas  
2 under section 3(a) of the Natural Gas Act (15  
3 U.S.C. 717b(a)); or

4 (B) an authorization to site, construct, ex-  
5 pand, or operate a covered facility under section  
6 3(e) of the Natural Gas Act (15 U.S.C.  
7 717b(e)).

8 (2) COVERED FACILITY.—The term “covered  
9 facility” means a liquefied natural gas facility for  
10 which a proposal to site, construct, expand, or oper-  
11 ate is required to be approved by—

12 (A) the Secretary; and

13 (B)(i) the Federal Energy Regulatory  
14 Commission; or

15 (ii) the Maritime Administration.

16 (3) SECRETARY.—The term “Secretary” means  
17 the Secretary of Energy.

18 **SEC. 3. EFFECT OF LITIGATION ON APPLICATIONS TO EX-**  
19 **PORT LIQUEFIED NATURAL GAS.**

20 (a) EFFECT OF LITIGATION.—A civil action relating  
21 to an environmental review under the Natural Gas Act (15  
22 U.S.C. 717 et seq.) or the National Environmental Policy  
23 Act of 1969 (42 U.S.C. 4321 et seq.) with respect to a  
24 covered facility shall not affect the validity of a permit,

1 license, or approval issued to the covered facility that is  
2 the subject of the civil action.

3 (b) REMAND; PROCESSING OF COVERED APPLICA-  
4 TIONS.—If, in a civil action described in subsection (a),  
5 the environmental review for a permit, license, or approval  
6 issued to the covered facility that is the subject of the civil  
7 action is found by the applicable court to violate the Nat-  
8 ural Gas Act (15 U.S.C. 717 et seq.) or the National Envi-  
9 ronmental Policy Act of 1969 (42 U.S.C. 4321 et seq.)—

10 (1) notwithstanding chapter 5 or 7 of title 5,  
11 United States Code (commonly referred to as the  
12 “Administrative Procedure Act”), the applicable  
13 court shall not set aside or vacate the permit, li-  
14 cense, or approval issued to the covered facility but  
15 instead remand the matter to the relevant Federal  
16 agency to resolve the violation; and

17 (2) the relevant Federal agency shall continue  
18 to process all covered applications.

19 **SEC. 4. ACTION ON COVERED APPLICATIONS.**

20 (a) JUDICIAL REVIEW.—Except for review in the Su-  
21 preme Court of the United States, the court of appeals  
22 of the United States for the circuit in which a covered  
23 facility is, or will be, located pursuant to a covered applica-  
24 tion shall have original and exclusive jurisdiction over any

1 civil action for the review of an order issued by a Federal  
2 agency with respect to the covered application.

3 (b) EXPEDITED REVIEW.—The applicable United  
4 States Court of Appeals under subsection (a) shall—

5 (1) set any civil action brought under this sub-  
6 section for expedited review; and

7 (2) set the action on the docket as soon as  
8 practicable after the filing date of the initial plead-  
9 ing.

10 (c) TRANSFER OF EXISTING ACTIONS.—In the case  
11 of a covered application for which a petition for review  
12 has been filed as of the date of enactment of this Act,  
13 the petition shall be—

14 (1) on a motion by the applicant, transferred to  
15 the court of appeals of the United States in which  
16 the covered facility that is the subject of the covered  
17 application is, or will be, located; and

18 (2) adjudicated in accordance with this section.

19 (d) LIMITATION ON CLAIMS.—Notwithstanding any  
20 other provision of law, a claim arising under Federal law  
21 seeking judicial review of a permit, license, or approval  
22 issued by a Federal agency for a covered facility pursuant  
23 to a covered application shall be barred unless the claim  
24 is filed not later than 90 days after publication of a notice  
25 in the Federal Register announcing that the permit, li-

1 cense, or approval is final pursuant to the law under which  
2 the agency action is taken, unless a shorter time is speci-  
3 fied in the Federal law pursuant to which judicial review  
4 is allowed.

5 (e) SAVINGS CLAUSE.—Nothing in this section estab-  
6 lishes a right to judicial review or places any limit on filing  
7 a claim that a person has violated the terms of a permit,  
8 license, or approval.

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