

Department of Commerce Clarifies Crude Oil Export Requirements



MAY 31, 2016

The Consolidated Appropriations Act, 2016, signed into law by the President on December 18, 2015, generally lifted restrictions on the export of crude oil from the United States. Such exports, although subject to significant exceptions, had been generally prohibited since the Energy Policy and Conservation Act of 1975.

On May 12, 2016, the Bureau of Industry and Security (BIS) in the Department of Commerce issued a clarifying final rule implementing the Consolidated Appropriations Act. In particular, that Act preceded the removal of the export ban with the phrase “notwithstanding any other provision of law.” The May 2016 notice clarifies which license and other requirements are encompassed by that phrase and therefore no longer applicable.

In particular, one of the exceptions to the previous crude oil export ban was for the export of Alaska north slope crude oil so long as the oil was transported on a U.S.-flag vessel owned and operated by qualified U.S. citizens. The exception did not require that the vessel be built in the United States.

Questions arose after the passage of the crude oil export ban removal as to whether this U.S.-flag requirement still applied to Alaskan oil. The May 12 rule makes it clear that BIS interprets the law’s phrase “notwithstanding any other provision of law” to encompass the U.S.-flag requirement which no longer applies.

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