

UNITED STATES OF AMERICA

DEPARTMENT OF ENERGY

OFFICE OF FOSSIL ENERGY AND CARBON MANAGEMENT

SIERRA CLUB, CENTER FOR BIOLOGICAL)
DIVERSITY, DELAWARE RIVERKEEPER)
NETWORK, FRIENDS OF THE EARTH,)
ENVIRONMENT AMERICA)

ORDER DENYING PETITION FOR RULEMAKING
ON EXPORTS OF LIQUEFIED NATURAL GAS

JULY 18, 2023

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FREQUENTLY USED ACRONYMS

APA	Administrative Procedure Act
Bcf/d	Billion Cubic Feet per Day
Bcf/yr	Billion Cubic Feet per Year
DOE	U.S. Department of Energy
EIA	U.S. Energy Information Administration
FE	Office of Fossil Energy (prior to July 4, 2021)
FECM	Office of Fossil Energy and Carbon Management
FERC	Federal Energy Regulatory Commission
FTA	Free Trade Agreement
GHG	Greenhouse Gas
LNG	Liquefied Natural Gas
MARAD	Maritime Administration
NEPA	National Environmental Policy Act
NGA	Natural Gas Act

I. INTRODUCTION AND BACKGROUND

Section 553(e) of the Administrative Procedure Act (APA) provides that “[e]ach agency shall give an interested person the right to petition for the issuance, amendment, or repeal of a rule.”¹ On April 8, 2013, several environmental organizations—including Sierra Club, Center for Biological Diversity, Delaware Riverkeeper Network, Friends of the Earth, and Environment America (collectively, Petitioners)—submitted to the Department of Energy’s (DOE) Office of Fossil Energy (now the Office of Fossil Energy and Carbon Management)² a “Petition for Rulemaking Regarding Natural Gas Export Policy” (Rulemaking Petition or 2013 Petition)³ under APA section 553(e). Petitioners ask DOE “to promulgate new regulations or guidance defining the process by which it will consider applications to export liquefied natural gas (LNG)”⁴ under NGA section 3. We note that Petitioners’ arguments apply only to “non-FTA” exports of LNG—that is, exports to countries with which the United States has not entered into a free trade agreement (FTA) requiring national treatment for trade in natural gas, and with which trade is not prohibited by U.S. law or policy (non-FTA countries), under NGA section 3(a).⁵

¹ 5 U.S.C. § 553(e). A “rule” means “the whole or a part of an agency statement of general or particular applicability and future effect designed to implement, interpret, or prescribe law or policy” *Id.* § 551(4).

² The Office of Fossil Energy (FE) changed its name to the Office of Fossil Energy and Carbon Management (FECM) on July 4, 2021. The authority to regulate the imports and exports of natural gas, including liquefied natural gas, under section 3 of the Natural Gas Act (NGA), 15 U.S.C. § 717b, has been delegated to the Assistant Secretary for FECM in Redefinition Order No. S4-DEL-FE1-2023, issued on April 10, 2023.

³ Sierra Club, *et al.*, Petition for Rulemaking Regarding Natural Gas Export Policy (Apr. 8, 2013), https://www.energy.gov/sites/default/files/2023-07/04.08.2013_Sierra%20Club%20Petition%20for%20Rulemaking%20Regarding%20Nat%20Gas%20Export%20Policy_0.pdf [hereinafter Pet.]. The Rulemaking Petition was also filed on behalf of Catskill Citizens for Safe Energy, Earthworks, Lower Susquehanna Riverkeeper, and Rogue Riverkeeper.

⁴ Pet. at 1. This Order focuses on exports of U.S. LNG in keeping with the focus of the Petition. *See id.* at 3. We note, however, that two proceedings have involved other types of natural gas proposed for export—compressed natural gas (CNG) and compressed gas liquid (CGL).

⁵ 15 U.S.C. § 717b(a). Petitioners’ arguments do not apply to exports of LNG to FTA countries under NGA section 3(c), 15 U.S.C. § 717b(c), or to “small-scale natural gas exports” under DOE’s regulations. Section 3(c) of the NGA, as amended by section 201 of the Energy Policy Act of 1992 (Pub. L. 102-486), requires that applications to export natural gas, including LNG, to FTA countries “shall be deemed to be consistent with the public interest” and

Petitioners state that DOE’s “current guidelines” for evaluating exports of LNG—referred to as the 1984 Policy Guidelines⁶—were designed to regulate imports of natural gas into the United States.⁷ Petitioners assert that the 1984 Policy Guidelines are thus “very ill-suited to manage the serious questions raised by large-scale LNG exports,”⁸ which DOE began to authorize from the lower-48 states in 2011.⁹ Petitioners ask DOE to develop “modern policy guidelines” through public notice and comment that “articulate DOE’s policy orientation” on exports of domestically produced LNG and “the factors which [DOE] will primarily consider in individual export dockets.”¹⁰

DOE has directly addressed the substance of Petitioners’ arguments in numerous non-FTA authorizations over the years,¹¹ beginning with an order issued only weeks after the Rulemaking Petition was filed in 2013.¹² Nonetheless, on October 27, 2022, Petitioners submitted a letter to DOE “to remind the Department of this long-outstanding petition for

granted “without modification or delay.” 15 U.S.C. § 717b(c). Therefore, DOE has no discretion in evaluating applications for FTA exports. Additionally, since 2018, qualifying “small-scale natural gas exports” to non-FTA countries are deemed to be consistent with the public interest under NGA section 3(a) and are thus outside the scope of Petitioners’ arguments. See 10 C.F.R. §§ 590.102(p), 590.208(a); see also U.S. Dep’t of Energy, Small-Scale Natural Gas Exports; Final Rule, 83 Fed. Reg. 35,106 (July 25, 2018).

⁶ U.S. Dep’t of Energy, New Policy Guidelines and Delegations Order Relating to Regulation of Imported Natural Gas, 49 Fed. Reg. 6684 (Feb. 22, 1984) [hereinafter 1984 Policy Guidelines].

⁷ Pet. at 1.

⁸ *Id.*; see also *id.* at 7.

⁹ See *Sabine Pass Liquefaction, LLC*, DOE/FE Order No. 2961, Docket No. 10-111-LNG, Opinion and Order Conditionally Granting Long-Term Authorization to Export Liquefied Natural Gas from Sabine Pass LNG Terminal to Non-Free Trade Agreement Nations (May 20, 2011). DOE had previously approved exports of LNG from Alaska, but this Order focuses on exports of U.S. LNG produced from the lower-48 states. Because there is no natural gas pipeline interconnection between Alaska and the lower-48 states, DOE generally views those LNG export markets as distinct.

¹⁰ Pet. at 19-20.

¹¹ For purposes of this Order, DOE uses the terms “authorization” and “order” interchangeably.

¹² See *Freeport LNG Expansion L.P., et al.*, DOE/FE Order No. 3282, Docket No. 10-161-LNG, Order Conditionally Granting Long-Term, Multi-Contract Authorization to Export Liquefied Natural Gas by Vessel from the Freeport LNG Terminal on Quintana Island, Texas to Non-Free Trade Agreement Nations, at 106-09 (May 17, 2013); see *infra* § IV.B.

rulemaking” (2022 Reminder Letter).¹³ In the 2022 Reminder Letter, Petitioners contend that “DOE has not directly responded” to the Rulemaking Petition, that this delay is “unreasonable and unexplained,” and that DOE’s actions in the intervening years since the Rulemaking Petition was filed “confirm that such a rulemaking [evaluating exports of LNG] remains sorely needed.”¹⁴

Most recently, on March 13, 2023, Petitioners filed a Petition for Writ of Mandamus (Mandamus Petition)¹⁵ in the U.S. Court of Appeals for the District of Columbia Circuit (D.C. Circuit or the Court). In the Mandamus Petition, Petitioners ask the Court to issue a writ of mandamus compelling DOE to respond to the Rulemaking Petition—specifically, “to issue an order that grants or denies [the] 2013 Petition.”¹⁶ Petitioners and DOE subsequently filed a joint motion asking the Court to hold this mandamus proceeding in abeyance until July 18, 2023, which the Court granted on April 25, 2023.¹⁷

As set forth below, Petitioners have not amended the Rulemaking Petition since it was filed in April 2013, at a time when DOE’s LNG export program was still in its infancy.¹⁸ In the

¹³ Letter from Sierra Club, *et al.*, to Secretary Granholm, U.S. Dep’t of Energy, at 2 (Oct. 27, 2022), https://www.energy.gov/sites/default/files/2023-07/10.27.22_Sierra%20Club%20letter%202013%20petition.pdf [hereinafter 2022 Reminder Ltr.]. On the same day, additional organizations submitted a joint letter to the Secretary of Energy urging DOE to accept Petitioners’ 2013 request for a rulemaking, among other action. *See* Letter from Public Citizen, Inc., *et al.*, to Secretary Granholm, U.S. Dep’t of Energy, at 1 (Oct. 27, 2022).

¹⁴ 2022 Reminder Ltr. at 1.

¹⁵ *In re: Sierra Club, et al.*, Petition for Writ of Mandamus, No. 23-1065 (D.C. Cir. Mar. 13, 2023) [hereinafter Mandamus Petition], https://www.energy.gov/sites/default/files/2023-07/03.13.2023_In%20re%20Sierra%20Club%20Petition%20for%20Writ%20of%20Mandamus%20No%2023-1065_0.pdf.

¹⁶ *Id.* at 11; *see also id.* at 10, 25.

¹⁷ *See In re: Sierra Club, et al.*, Order, No. 23-1065 (D.C. Cir. Apr. 25, 2023), https://www.energy.gov/sites/default/files/2023-07/04.25.2023_In%20re%20Sierra%20Club%20Order%20No%2023-1065.pdf.

¹⁸ The 2022 Reminder Letter does not purport to amend the Rulemaking Petition. Petitioners “summarize some of the subsequent developments” in the 2022 Reminder Letter but state that they “stand by the 2013 petition as-filed.” 2022 Reminder Ltr. at 2. Additionally, the Mandamus Petition refers only to the Rulemaking Petition. *See, e.g.*, Mandamus Petition at 1 (“Petitioners now implore this Court to issue a writ of mandamus compelling DOE to respond to their 2013 Petition.”); *id.* at 9 n.15 (stating that the 2022 Reminder Letter “did not present an additional petition for rulemaking; rather, the letter made clear that the signers were seeking action on the initial 2013 petition”).

10 years since the Rulemaking Petition was filed, the U.S. LNG export market has grown rapidly in both size and complexity, and it continues to evolve. Over this time period, and continuing today, DOE has developed a robust regulatory program for reviewing non-FTA export applications through informal adjudications under the public interest standard of NGA section 3(a),¹⁹ as well as through numerous regulatory actions and technical analyses.²⁰ Additionally, DOE has successfully defended its decision-making process under both NGA section 3(a) and the National Environmental Policy Act (NEPA)²¹ in legal challenges brought by Petitioner Sierra Club.²²

After carefully considering Petitioners' request, DOE is denying the Rulemaking Petition. As discussed below, DOE has reasonably exercised its discretion to implement its LNG export program through a combined approach of individual adjudications and export-focused regulatory actions, rather than a single rulemaking of broad applicability.²³ DOE's existing LNG export regulatory program is responsive to Petitioners' principal concerns—namely because, since 2013, DOE *has*, in fact, established a decision-making process under NGA section 3(a) that “respond[s] to the complex issues raised by LNG export and appropriately serve[s] the Natural Gas Act,” as Petitioners request.²⁴ Finally, DOE finds that its adjudicatory approach to non-FTA applications allows DOE to maintain important flexibility to consider developing facts and

¹⁹ Under the APA, when a statute does not require an agency adjudication to be determined “on the record” under 5 U.S.C. § 554 (*i.e.*, a formal adjudication), the adjudication is considered informal.

²⁰ As set forth *infra* § III.A., NGA section 3(a) establishes a public interest standard by stating that DOE “shall issue [an authorizing] order upon application, unless after opportunity for hearing, [the Secretary of Energy] finds that the proposed exportation or importation will not be consistent with the public interest.” 15 U.S.C. § 717b(a). *See also* 42 U.S.C. § 7151(b) (transferring natural gas importation & exportation authority from the former Federal Power Commission to the Secretary of Energy).

²¹ 42 U.S.C. § 4321 *et seq.*

²² *See infra* § IV.C.2.

²³ We note that, since the Rulemaking Petition was filed, DOE has undertaken two rulemakings involving non-FTA exports of LNG, but Petitioners appear to be seeking a broader rulemaking “defining the process” by which DOE considers non-FTA export applications. Pet. at 1; *see infra* § III.B and Appendix at 30.

²⁴ Pet. at 12.

circumstances in the U.S. and global LNG export markets, as well as evolving considerations related to the environment, global energy security, and other matters bearing on the public interest. For these reasons and those set forth below, DOE has determined that a rulemaking for LNG exports is not necessary at this time.

II. SUMMARY OF PETITION FOR RULEMAKING

In the Rulemaking Petition filed on April 8, 2013, Petitioners assert that the 1984 Policy Guidelines must be revised because they are insufficient to address questions concerning exports of LNG.²⁵ According to Petitioners, by relying on the 1984 Policy Guidelines, “DOE’s decisionmaking on export still appears to be rooted in the 1980s, and [in] a policy document designed to speed *imports*.”²⁶

Petitioners maintain that (as of the date of the Rulemaking Petition) “DOE is ... considering whether to permit all or a portion of a proposed 28.30 billion cubic feet per day [(Bcf/d)]” equivalent of LNG exports to non-FTA countries,²⁷ and has issued “only [one] license decision to date, *Sabine Pass*,” in which DOE “has affirmed that the import guidelines ‘will be applied to natural gas export applications.’”²⁸ Petitioners point to the “scope and magnitude” of the potential impacts of exporting LNG and state that such impacts will vary based on the amount of LNG exports that DOE approves.²⁹ Petitioners therefore assert that the “open question” demanding a policy response is, “How *will* DOE structure its decisionmaking around

²⁵ *Id.* at 4 (quoting section title); *see also id.* at 5-7.

²⁶ *Id.* (emphasis in original).

²⁷ *Id.* at 4 & n.3 (citing DOE/FE, *Applications Received by DOE/FE to Export Domestically Produced LNG from the Lower 48 States* (Apr. 2, 2013), http://fossil.energy.gov/programs/gasregulation/reports/summary_lng_applications.pdf).

²⁸ *Id.* at 4 (citing *Sabine Pass Liquefaction, LLC*, DOE/FE Order No. 2961).

²⁹ *Id.* at 5.

these potentially enormously consequential [LNG export] projects?”³⁰ According to Petitioners, “that question remains very much unanswered.”³¹

Addressing potential economic impacts associated with exporting LNG, Petitioners argue that the 1984 Policy Guidelines were designed to avoid “harm to U.S. consumers from overly-expensive imported [natural] gas caused by extensive domestic price controls and poorly-drawn contracts.”³² Petitioners state that such concerns are inapplicable here, as “[n]o one is concerned that DOE will set export price contracts at a level which would harm U.S. citizens.”³³ Rather, they maintain that the relevant question for DOE in the context of LNG exports is how demand for LNG will affect U.S. consumers “if exports compete against U.S. needs for natural gas without further oversight.”³⁴ Petitioners assert that DOE must articulate in a “public proposal” whether it believes that potential price increases to U.S. consumers from the export of LNG “can be balanced by other factors,” and that it must seek public comment on its position.³⁵

Petitioners also argue that the 1984 Policy Guidelines offer no guidance on related market considerations, such as “the relative importance of the domestic manufacturing sector and the natural gas export sector, or whether harm to some domestic actors can still be in the ‘public interest.’”³⁶ Petitioners acknowledge DOE’s two-part study published in 2012 (the 2012 LNG Export Study) that analyzed the economic impacts of U.S. LNG exports,³⁷ but they urge DOE to

³⁰ Pet. at 5 (emphasis in original).

³¹ *Id.*

³² *Id.* at 7.

³³ *Id.*

³⁴ *Id.*

³⁵ *Id.* at 9.

³⁶ Pet. at 10.

³⁷ See U.S. Dep’t of Energy, Notice of Availability of 2012 LNG Export Study and Request for Comments, 77 Fed. Reg. 73,627 (Dec. 11, 2012), http://energy.gov/sites/prod/files/2013/04/f0/fr_notice_two_part_study.pdf.

open a “formal docket” in which to consider the 2012 LNG Export Study and to respond to the many public comments submitted to address the Study.³⁸

Turning to environmental considerations, Petitioners argue that large-scale LNG exports implicate the following four environmental and public health issues:

- (i) The need for a careful environmental review of the infrastructure associated with liquefying natural gas for export (specifically, the associated terminals, liquefaction plants, pipelines, and compressors);
- (ii) The environmental consequences of increased natural gas production from unconventional sources, which likely will be extracted through the fracking process;
- (iii) The likelihood of export-driven shifts in the domestic natural gas market for electric utilities, such that utilities will be more likely to use coal over natural gas in their power plants, thus increasing carbon dioxide emissions; and
- (iv) The “net climate and environmental impact” of using LNG given its life-cycle emissions of greenhouse gases (GHGs), which may put the public at risk.³⁹

Petitioners state that these issues are at the center of the export policy debate, but that the 1984 Policy Guidelines do not provide meaningful guidance on how to address them.⁴⁰

Next, Petitioners claim that the 1984 Policy Guidelines do not address important process questions for non-FTA export applications. Specifically, they contend that protests of LNG export applications are expected to “carry a very high burden of proof,” in conflict with the NGA’s focus on protecting the public interest.⁴¹ According to Petitioners, DOE “has an independent duty to carefully weigh export applications on a full record—even if a given proceeding lacks an assiduous protestor.”⁴² Petitioners emphasize that DOE should “clarify how

³⁸ Pet. at 19.

³⁹ *Id.* at 10; *see also id.* at 7-8.

⁴⁰ *Id.* at 11.

⁴¹ *Id.*

⁴² *Id.* at 12.

it will weigh the evidence before it, and what sorts of evidence it will require” in reaching a decision on a non-FTA application.⁴³

Petitioners further contend that DOE should implement a new rulemaking or adopt new policy guidelines rather than addressing LNG export issues in “case-by-case adjudications.”⁴⁴ Petitioners claim that DOE’s decisions in individual export proceedings “provide a poor venue to enunciate and explore policy changes,”⁴⁵ and are not “open to many important interests or for general public comment.”⁴⁶ In their view, “[a]lthough DOE could, in principle, ... enunciate a shift in policy through an order in such a proceeding, it is, at bottom, an awkward setting, one that discourages full discussion and durable settlement of these large issues.”⁴⁷

Finally, Petitioners assert that further guidance is needed on DOE’s process for monitoring non-FTA exports of LNG to protect the public interest.⁴⁸ Petitioners acknowledge DOE’s statements in *Sabine Pass* (DOE/FE Order No. 2961) that DOE “intend[s] to monitor ... conditions in the future” to ensure that exports of LNG “do not subsequently lead to a reduction in the supply of natural gas needed to meet essential domestic needs.”⁴⁹ Petitioners state, however, that DOE’s monitoring conditions are rooted in the 1984 Policy Guidelines, and thus “only obliquely touch on other possible reasons to restrict or modify exports,” such as environmental concerns (including the global climate crisis) and harms to the domestic industrial

⁴³ *Id.*

⁴⁴ Pet. at 13.

⁴⁵ *Id.*

⁴⁶ *Id.* at 16.

⁴⁷ *Id.* (arguing that, “[a]s adjudicatory proceedings, they afford no obvious opportunity for DOE to publicly announce, and seek comment upon, a shift in policy.”).

⁴⁸ *See id.* at 18.

⁴⁹ *Id.* (quoting, in part, *Sabine Pass*, DOE/FE Order No. 2961, at 32-33).

sector.⁵⁰ Therefore, Petitioners assert that DOE should explain how any modified policy for LNG exports affects its monitoring and enforcement criteria.⁵¹

In sum, Petitioners ask DOE to:

(1) “Grant no more licenses for LNG export to non-Free Trade Agreement nations until it has completed a final revision of its policy guidelines, focusing on LNG export”;

(2) Conduct a notice-and-comment process to develop new natural gas export policy guidelines that would “specifically and carefully articulate DOE’s policy orientation on export, and the factors which [DOE would] primarily consider in individual [LNG] export dockets”; and

(3) “Support the development of these guidelines with a thorough, careful, economic study and ... a full programmatic Environmental Impact Statement.”⁵²

III. STATUTORY AND REGULATORY FRAMEWORK

A. DOE’s Export Authority Under Section 3(a) of the Natural Gas Act

DOE is responsible for authorizing exports of domestically produced natural gas, including LNG, to foreign countries under NGA section 3.⁵³ For applications to export natural gas to non-FTA countries, NGA section 3(a) sets forth the following standard of review:

[N]o person shall export any natural gas from the United States to a foreign country or import any natural gas from a foreign country without first having secured an order of the [Secretary of Energy] authorizing it to do so. The [Secretary] shall issue such order upon application, unless, after opportunity for hearing, [the Secretary] finds that the proposed exportation or importation will not be consistent with the public interest. The [Secretary] may by [the Secretary’s] order grant such application, in whole or in part, with such modification and upon such terms and conditions as the [Secretary] may find necessary or appropriate.⁵⁴

⁵⁰ Pet. at 18.

⁵¹ See *id.*

⁵² *Id.* at 20; see also *id.* at 19 (stating that a programmatic EIS would “fully consider[] the environmental and public health impacts of possible levels of LNG export”).

⁵³ 15 U.S.C. § 717b.

⁵⁴ *Id.* § 717b(a).

DOE, as affirmed by the D.C. Circuit (*see infra* § IV.C.2), has consistently interpreted this provision as creating a rebuttable presumption that a proposed export of natural gas is in the public interest.⁵⁵ Accordingly, DOE’s longstanding practice is to conduct an informal adjudication of each non-FTA export application that includes notice and an opportunity for any person to submit a protest, comments, and/or a motion to intervene (or notice of intervention, as applicable) (described in further detail in Section III.C below) and to grant the application, unless DOE finds that the proposed exportation will not be consistent with the public interest.⁵⁶

Before reaching a final decision on any non-FTA application, DOE must also comply with NEPA.⁵⁷ Typically, the federal agency responsible for permitting the export facility—either the Federal Energy Regulatory Commission (FERC) or the U.S. Department of Transportation Maritime Administration (MARAD)—serves as the lead agency in the NEPA review process, and DOE serves as a cooperating agency. In certain circumstances, DOE may serve as the lead agency in the NEPA review process or conduct its own NEPA analysis on the proposed exports of LNG. Whether conducted by FERC, MARAD, or DOE, these LNG-related NEPA proceedings often involve public comment on the draft NEPA document, among other opportunities for public participation.⁵⁸

B. DOE’s Regulatory Framework for Evaluating Non-FTA Export Applications

Although NGA section 3(a) establishes a broad public interest standard and a

⁵⁵ See *Sierra Club v. U.S. Dep’t of Energy*, 867 F.3d 189, 203 (D.C. Cir. 2017) [hereinafter *Sierra Club I*] (“We have construed [NGA section 3(a)] as containing a ‘general presumption favoring [export] authorization.’”) (quoting *W. Va. Pub. Serv. Comm’n v. U.S. Dep’t of Energy*, 681 F.2d 847, 856 (D.C. Cir. 1982)); see also *Ctr. for Biological Diversity v. FERC*, 67 F.4th 1176, 1188 (D.C. Cir. 2023) (same).

⁵⁶ See *Sierra Club I*, 867 F.3d at 203 (“there must be ‘an affirmative showing of inconsistency with the public interest’ to deny the application” under NGA section 3(a)) (quoting *Panhandle Producers & Royalty Owners Ass’n v. Econ. Regulatory Admin.*, 822 F.2d 1105, 1111 (D.C. Cir. 1987)).

⁵⁷ See *Sierra Club I*, 867 F.3d at 192. DOE’s authorization is solely with respect to the export (or import) of natural gas and does not extend to authorization over the siting, construction, and operation of the liquefaction and export facilities. See, e.g., *Sierra Club v. Fed. Energy Regulatory Comm’n*, 827 F.3d 36, 40 (D.C. Cir. 2016).

⁵⁸ See, e.g., Appendix at 35-36 (referencing public comment opportunities in DOE’s NEPA-led proceedings).

presumption favoring export authorizations, the statute does not define “public interest” or identify criteria that must be considered in evaluating the public interest. DOE’s prior non-FTA decisions have looked to certain principles established in the 1984 Policy Guidelines mentioned above.⁵⁹ The stated goals of the 1984 Policy Guidelines are to minimize federal control and involvement in energy markets and to promote a balanced and mixed energy resource system.⁶⁰ As Petitioners note, the 1984 Policy Guidelines were originally written to apply to imports of natural gas.⁶¹ In 1999, however, DOE held in DOE/FE Order No. 1473 that, “[w]hile those [1984 Policy] guidelines deal specifically with imports, *the principles are applicable to exports as well.*”⁶² Thus, DOE has long considered the 1984 Policy Guidelines in reviewing applications for exports of natural gas, including LNG. For example, in its non-FTA authorizations, DOE explains that it “continues to subscribe to the principle set forth in [the] 1984 Policy Guidelines that, under most circumstances, the market is the most efficient means of allocating natural gas supplies.”⁶³

Additionally, in Order No. 1473, DOE stated that it was guided by DOE Delegation Order No. 0204-111, which directed the regulation of exports of natural gas “based on a consideration of the domestic need for the gas to be exported and such other matters as [DOE] finds in the circumstances of a particular case to be appropriate.”⁶⁴ Although DOE Delegation

⁵⁹ See, e.g., *Freeport LNG Expansion, L.P., et al.*, DOE/FECM Order No. 4961, at 26-27, 54-55, 71.

⁶⁰ See 1984 Policy Guidelines, 49 Fed. Reg. at 6685.

⁶¹ *Id.* at 6684-85.

⁶² *Phillips Alaska Natural Gas Corp., et al.*, DOE/FE Order No. 1473, Docket No. 96-99-LNG, Order Extending Authorization to Export Liquefied Natural Gas from Alaska (Apr. 2, 1999), at 14 (emphasis added) (citing *Yukon Pac. Corp.*, DOE/FE Order No. 350, Order Granting Authorization to Export Liquefied Natural Gas From Alaska, 1 FE ¶ 70,259, at 71,128 (1989)).

⁶³ *Freeport LNG Expansion, L.P., et al.*, DOE/FECM Order No. 4961, at 71; see also *infra* at 25.

⁶⁴ DOE Delegation Order No. 0204-111 (Feb. 22, 1984), at 1 (¶ (b)); see also 1984 Policy Guidelines, 49 Fed. Reg. at 6690 (incorporating DOE Delegation Order No. 0204-111). Although this Delegation Order references the Administrator of the Economic Regulatory Administration, we note that, in 1989, the Assistant Secretary for Fossil Energy (now Fossil Energy and Carbon Management) assumed the Administrator’s delegated responsibilities. See Applications for Authorization to Construct, Operate, or Modify Facilities Used for the Export or Import of Natural

Order No. 0204-111 is no longer in effect,⁶⁵ DOE has developed, through adjudicatory precedent, a number of “other matters”—both environmental and non-environmental factors—that it considers when reviewing an application to export LNG to non-FTA countries under NGA section 3(a).

Thus, contrary to Petitioners’ suggestion in the Rulemaking Petition, DOE’s review of non-FTA applications is not governed solely or even predominantly by the 1984 Policy Guidelines. For at least the last decade, DOE’s review has included (and continues to include) an evaluation of: (i) the domestic need for the LNG proposed to be exported, (ii) whether the proposed exports pose a threat to the security of domestic natural gas supplies, (iii) whether the arrangement is consistent with DOE’s policy of promoting market competition, and (iv) any other factors bearing on the public interest as determined by DOE—which, to date, has included a variety of economic, environmental, and international considerations (discussed in Section III.C below).⁶⁶

C. Evidence Considered in Each Non-FTA Application Proceeding

To conduct this review, DOE has explained that it relies on record evidence developed in each application proceeding.⁶⁷ As part of this evidence, DOE has developed studies and other technical analyses through extensive public processes to establish a baseline understanding of

Gas, 62 Fed. Reg. 30,435, 30,437 n.15 (June 4, 1997) (citing DOE Delegation Order No. 0204-127, 54 Fed. Reg. 11,436 (Mar. 20, 1989)).

⁶⁵ DOE Delegation Order No. 0204-111 was later rescinded by DOE Delegation Order No. 00-002.00 (¶ 2) (Dec. 6, 2001), and DOE Redelegation Order No. 00-002.04 (¶ 2) (Jan. 8, 2002).

⁶⁶ See, e.g., *Sabine Pass Liquefaction, LLC*, DOE/FECM Order No. 4800, Docket No. 19-125-LNG, Order Granting Long-Term Authorization to Export Liquefied Natural Gas to Non-Free Trade Agreement Nations, at 28 (Mar. 16, 2022).

⁶⁷ See, e.g., *Freeport LNG Expansion, L.P., et al.*, DOE/FECM Order No. 4961, Docket No. 21-98-LNG, Order Granting Long-Term Authorization to Export Liquefied Natural Gas to Non-Free Trade Agreement Nations, at 51-52 (Mar. 3, 2023).

potential economic, life cycle greenhouse gas (GHG),⁶⁸ and upstream environmental impacts of export authorizations. These materials, which DOE has updated when appropriate, are described in detail in each non-FTA authorization⁶⁹ and are summarized below and in the Appendix to this Order.⁷⁰

Additionally, since 2011, DOE has provided notice of each non-FTA application in the *Federal Register*, together with a 60-day public comment period on the application. This 60-day comment period—double the 30-day period required under DOE’s regulations—provides maximum opportunity for any person to submit a protest, comments, and/or a motion to intervene (or notice of intervention, as applicable) on each non-FTA application in light of the significant public interest considerations involved.⁷¹ In each final order, DOE evaluates and responds to all comments, protests, and motions that are timely submitted in response to the notice of application.

Overall, the record evidence in each non-FTA application proceeding has included, but has not been limited to, the following:

- The application requesting non-FTA export authorization (and any supporting analyses provided by the applicant);

⁶⁸ DOE has explained that a life cycle analysis (or LCA) is a method of accounting for cradle-to-grave GHG emissions over a single common denominator. DOE considers GHG emissions from all processes in the LNG supply chains—from the “cradle” when natural gas is extracted from the ground, to the “grave” when electricity is used by the consumer.

⁶⁹ See, e.g., *Freeport LNG Expansion, L.P., et al.*, DOE/FECM Order No. 4961, at 9-21, 24-25.

⁷⁰ See Appendix at 31-33 (“Economic Studies” and “Environmental Studies”).

⁷¹ See 10 C.F.R. § 590.205(a) (“[G]enerally the notice [of application] shall provide a time limit of not less than thirty (30) days from the notice’s date of publication in the Federal Register for persons to file protests, comments, or a motion to intervene or notice of intervention, as applicable.”); *id.* § 590.102(m) (definition of “person”). One exception involves applications for “small-scale natural gas exports,” which are deemed to be consistent with the public interest and thus are not published in the *Federal Register* for public comment. See *supra* note 5 (citing 10 C.F.R. §§ 590.102(p), 590.208(a)). DOE also provides notice and comment for applications to amend existing non-FTA export authorizations, as well as certain other actions taken by an authorization holder, such as a notice of change in control. See, e.g., 10 C.F.R. § 590.407.

- Any protests, motions to intervene, notices of intervention, or written comments submitted by interested persons in response to the notice of the application published in the *Federal Register* (and responses thereto);
- DOE’s most recent economic study on exports of U.S. LNG, currently the 2018 LNG Export Study, which DOE commissioned to assess the effects of varying levels of LNG exports from the lower-48 states to non-FTA countries for the time period 2020-2050—specifically, (i) to evaluate the cumulative impacts of each additional non-FTA application on the U.S. natural gas markets and the U.S. economy, and (ii) to assess the likelihood of market-determined levels of LNG exports;⁷²
- DOE’s environmental study referred to as the Addendum,⁷³ which was developed in 2014 to inform DOE’s public interest evaluation on potential environmental impacts of unconventional natural gas exploration and production activities, including hydraulic fracturing;⁷⁴
- DOE’s environmental studies referred to as the 2014 Life Cycle Greenhouse Gas Report and the 2019 Update,⁷⁵ which calculated the life cycle GHG emissions for LNG exported from the United States;⁷⁶
- Any final NEPA document and related authorization for the LNG export facility issued by FERC or MARAD and/or, in certain circumstances, DOE’s own final NEPA document evaluating the potential environmental impacts of the proposed exports;⁷⁷ and

⁷² See U.S. Dep’t of Energy, Study on Macroeconomic Outcomes of LNG Exports; Notice of Availability of the 2018 LNG Export Study and Request for Comments, 83 Fed. Reg. 27,314 (June 12, 2018); U.S. Dep’t of Energy, Study on Macroeconomic Outcomes of LNG Exports; Response to Comments Received on Study, 83 Fed. Reg. 67,251 (Dec. 28, 2018). DOE conducted two economic studies on exports of LNG before the Rulemaking Petition was filed in April 2013 and has conducted three additional economic studies since 2013 (see Appendix at 31-32). The current economic study, the 2018 LNG Export Study, is thus the fifth economic study used by DOE in LNG export decisions.

⁷³ See U.S. Dep’t of Energy, Addendum to Environmental Review Documents Concerning Exports of Natural Gas From the United States, 79 Fed. Reg. 48,132 (Aug. 15, 2014); see also Office of Fossil Energy & Carbon Mgmt., Addendum to Environmental Review Documents Concerning Exports of Natural Gas From the United States, U.S. Dep’t of Energy, <https://www.energy.gov/fecm/addendum-environmental-review-documents-concerning-exports-natural-gas-united-states> (related documents).

⁷⁴ See Appendix at 32-33.

⁷⁵ See, e.g., Nat’l Energy Tech. Lab., Life Cycle Greenhouse Gas Perspective on Exporting Liquefied Natural Gas from the United States: 2019 Update (DOE/NETL-2019/2041) (Sept. 12, 2019), <https://www.energy.gov/sites/prod/files/2019/09/f66/2019%20NETL%20LCA-GHG%20Report.pdf>; U.S. Dep’t of Energy, Life Cycle Greenhouse Gas Perspective on Exporting Liquefied Natural Gas From the United States; Notice of Availability of Report Entitled Life Cycle Greenhouse Gas Perspective on Exporting Liquefied Natural Gas From the United States: 2019 Update and Request for Comments, 84 Fed. Reg. 49,278 (Sept. 19, 2019).

⁷⁶ See Appendix at 33.

⁷⁷ See *infra* note 108; see also Appendix at 33-34 (“Supplemental Environmental Impact Statement Under NEPA” and “Environmental Assessments Under NEPA”).

- Since 2021, DOE’s Marine Transport Technical Support Document, in which DOE evaluated the environmental impacts of the transport of natural gas by marine vessels adhering to applicable maritime safety regulations and established shipping methods and safety standards.⁷⁸

In each non-FTA order, DOE also considers information from the most recent long-term projections of domestic natural gas supply and demand (and other relevant data) issued by the U.S. Energy Information Administration (EIA) and evaluates that information as part of its analysis.⁷⁹

Over the last decade, DOE has issued dozens of long-term orders under this framework approving exports of LNG sourced from the United States (both the lower-48 states and Alaska)⁸⁰ to non-FTA countries under NGA section 3(a).⁸¹ Currently, 41 long-term non-FTA orders are in effect.⁸² These 41 orders authorize a cumulative volume of non-FTA exports equivalent to 47.28 Bcf/d of natural gas sourced from the lower-48 United States and 2.55 Bcf/d sourced from Alaska, or approximately 17.3 trillion cubic feet (Tcf) and 0.9 Tcf per year, respectively.⁸³

⁷⁸ U.S. Dep’t of Energy, National Environmental Policy Act Implementing Procedures, 85 Fed. Reg. 78,197, 78,200 (Dec. 4, 2020); *see also* U.S. Dep’t of Energy, Technical Support Document, Notice of Final Rulemaking, National Environmental Policy Act Implementing Procedures (10 C.F.R. Part 1021) (Nov. 2020). DOE prepared this Technical Support Document in connection with the NEPA Implementing Procedures rulemaking, which pertained to export authorizations issued under NGA section 3. *See* Appendix at 29.

⁷⁹ *See, e.g., Freeport LNG Expansion, L.P., et al.*, DOE/FECM Order No. 4961, at 56-57, 59.

⁸⁰ As noted above, this Order focuses on exports of U.S. LNG produced from the lower-48 states, but we include approved exports of LNG produced from Alaska in DOE’s cumulative total for completeness. *See supra* note 9.

⁸¹ *See Freeport LNG Expansion, L.P., et al.*, DOE/FECM Order No. 4961, at 72-76 (identifying final non-FTA authorizations sourced from the lower-48 states); *see also Alaska LNG Project LLC*, DOE/FE Order No. 3643-A, Docket No. 14-96-LNG, Final Opinion and Order Granting Long-Term Authorization to Export Liquefied Natural Gas to Non-Free Trade Agreement Nations (Aug. 20, 2020), *reh’g granted in part*, DOE/FE Order No. 3643-B (Apr. 15, 2021), *order aff’d*, DOE/FECM Order No. 3643-C (Apr. 13, 2023), *reh’g denied*, DOE/FECM Order No. 3643-D (June 14, 2023) (litigation in the D.C. Circuit ongoing).

⁸² To date, DOE has vacated nine long-term authorizations issued under NGA section 3(a)—none over the objection of the authorization holder.

⁸³ *See Freeport LNG Expansion, L.P., et al.*, DOE/FECM Order No. 4961, at 72; *see also Alaska LNG Project LLC*, DOE/FE Order No. 3643-A, at 5, 40. Following issuance of *Freeport LNG Expansion, L.P., et al.*, DOE/FECM Order No. 4961, DOE vacated one long-term non-FTA authorization at the request of the authorization holder, Eagle LNG Partners Jacksonville II LLC (0.01 Bcf/d).

IV. REASONS FOR DENIAL OF PETITION

A. DOE's Decision to Administer the Regulatory Program Primarily Through Adjudication Is Legal and Reasonable

Courts have long recognized as an “‘established principle’ ... that ‘administrative agencies should be free to fashion their own rules of procedure and to pursue methods of inquiry capable of permitting them to discharge their multitudinous duties.’”⁸⁴ In particular, courts have observed that an agency interpreting the NGA has “broad discretion ... to decide what procedures to use in fulfilling its statutory duties.”⁸⁵ Although Petitioners argue that DOE must “promulgate regulations or guidance” defining how it will evaluate non-FTA export applications under NGA section 3(a),⁸⁶ nothing in the NGA or the APA requires DOE to carry out its statutory obligations through these processes. Indeed, the D.C. Circuit has rejected arguments that agency action of broad applicability “can only take the form of a rule, and thus must be prospective only.”⁸⁷ To the contrary, the Court has stated that, “[m]ost norms that emerge from a rulemaking are equally capable of emerging (legitimately) from an adjudication ... and accordingly agencies have ‘very broad discretion whether to proceed by way of adjudication or

⁸⁴ *China Telecom (Americas) Corp. v. FCC*, 57 F.4th 256, 265 (D.C. Cir. 2022) (quoting *FCC v. Schreiber*, 381 U.S. 279, 290 (1965)).

⁸⁵ *Kan. Power & Light Co. v. FERC*, 851 F.2d 1479, 1484 (D.C. Cir. 1988) (citing *Vt. Yankee Nuclear Power Corp. v. Natural Res. Def. Council*, 435 U.S. 519, 543-45 (1978)) (affirming FERC orders under the NGA); *see also, e.g., Fed. Power Comm'n v. Transcontinental Gas Pipe Line Corp.*, 423 U.S. 326, 333 (1976) (observing, in the context of the NGA, that an agency may “exercise its administrative discretion in deciding how, in light of internal organizational considerations, it may best proceed to develop ... needed evidence” to support its actions, and that a “reviewing court [generally] may not . . . proceed by dictating to the agency the methods, procedures, and time dimension of the needed [evidentiary] inquiry . . . without “run[ning] the risk of propelling the court into the domain which Congress has set aside exclusively for the administrative agency.”); *N.Y. State Dep't of Env'tl. Conservation v. FERC*, 991 F.3d 439, 451 (2d Cir. 2021) (upholding FERC action in light of FERC’s “broad discretion in fashioning its own procedures” under the NGA).

⁸⁶ Pet. at 1.

⁸⁷ *Qwest Servs. Corp. v. FCC*, 509 F.3d 531, 536 (D.C. Cir. 2007) (rejecting argument that the Federal Communications Commission was required to implement a rulemaking, rather than undertaking an adjudication, to take action under the APA and the Communications Act of 1934, as amended).

rulemaking.”⁸⁸ Just weeks ago, the D.C. Circuit reiterated that an agency “is not precluded from announcing new principles in an adjudicative proceeding.”⁸⁹

Additionally, the NGA provides DOE with broad discretion to determine whether a proposed non-FTA export will (or will not) be “consistent with the public interest.”⁹⁰ A public interest standard in a statute, such as NGA section 3(a), is an “instrument for the exercise of discretion by the expert body which Congress has charged to carry out its legislative policy.”⁹¹ In exercising this discretion, a regulatory approach to developing LNG export policy based on case-by-case adjudication of export applications—supplemented with discrete rulemakings, policy statements, and technical analyses, where appropriate⁹²—has allowed DOE more flexibility than a broad rulemaking alone would provide.⁹³ With each new non-FTA application under review, DOE is able to take into account new or different facts, the latest supply and demand data, technical analyses, developments in energy security in the United States and abroad, changes in NEPA guidance, and other considerations that bear on the public interest as the U.S. and global LNG export markets rapidly develop.

Indeed, DOE is continuing to make necessary developments to its LNG export-specific policies, as shown most recently by its issuance on April 26, 2023, of both a policy statement on

⁸⁸ *Id.* (citing *NLRB v. Bell Aerospace Co.*, 416 U.S. 267, 294-95 (1974), and quoting *Time Warner Entertainment Co. v. FCC*, 240 F.3d 1126, 1141 (D.C. Cir. 2001)); see also *Nat’l Biodiesel Bd. v. EPA*, 843 F.3d 1010, 1016 (D.C. Cir. 2016) (dismissing petition for review where, in relevant part, EPA did not err in approving a plan via informal adjudication due to agencies’ broad discretion to take action through adjudication or rulemaking).

⁸⁹ *ITServe All., Inc. v. U.S. Dep’t of Homeland Security*, No. 22-5074, slip op. at 11 (D.C. Cir. June 27, 2023) (quoting *NLRB*, 416 U.S. at 294).

⁹⁰ 15 U.S.C. § 717b(a).

⁹¹ *FCC v. WNCN Listeners Guild, et al.*, 450 U.S. 582, 593 (1981) (quoting *FCC v. Pottsville Broad. Co.*, 309 U.S. 134, 138 (1940)); see also *Syracuse Peace Council v. FCC*, 867 F.2d 654, 658 (D.C. Cir. 1989) (“In making a public interest judgment under the [Act], the [FCC] is exercising both its congressionally-delegated power and its expertise; it clearly enjoys broad deference on issues of both fact and policy.”).

⁹² As noted above (but not acknowledged by Petitioners in their 2022 Reminder Letter), DOE undertook two notice-and-comment rulemakings involving non-FTA exports of LNG in 2018 and 2020, respectively. See *supra* note 23; see also Appendix at 29.

⁹³ See, e.g., *Qwest Servs. Corp.*, 509 F.3d at 536 (upholding the FCC’s decision to split a proceeding “into a dual one, half rulemaking and half adjudication”).

export commencement deadlines in non-FTA orders⁹⁴ and a request for information on opportunities to reduce GHG emissions and other air pollutants associated with exports of U.S. LNG.⁹⁵ In other words, DOE has not simply continued to apply the 1984 Policy Guidelines but has continued through adjudications and other agency actions to update and develop its interpretation of the NGA's public interest standard. DOE's continuing development of LNG export policy has accounted for changes in environmental, energy, economic, and other relevant considerations.

As explained below, the flexibility of this approach has proven to be instrumental in allowing DOE, during this period of change and growth in the global LNG market, to incorporate over time the very policy factors that Petitioners raise in their Rulemaking Petition.⁹⁶

B. DOE Has Considered—and Rejected—Petitioners' Arguments Since May 2013

DOE agrees with Petitioners that as of April 8, 2013, when the Rulemaking Petition was filed, its LNG export regulatory program was still relatively new. At that time, DOE had issued only one final long-term non-FTA export authorization—to Sabine Pass Liquefaction, LLC, in DOE/FE Order No. 2961-A, in a volume equivalent to 2.2 Bcf/d of natural gas.⁹⁷ Other non-FTA export applications were then pending, and DOE expected that more applications would be filed imminently. To better inform its public interest review of these applications, DOE had

⁹⁴ U.S. Dep't of Energy, Policy Statement on Export Commencement Deadlines in Authorizations to Export Natural Gas to Non-Free Trade Agreement Countries, 88 Fed. Reg. 25,272 (Apr. 26, 2023).

⁹⁵ U.S. Dep't of Energy, Notice of Request for Information (RFI) on Opportunities to Reduce Greenhouse Gas Emissions and Other Air Pollutants Associated With U.S. Liquefied Natural Gas (LNG) Exports, 88 Fed. Reg. 25,393 (Apr. 26, 2023).

⁹⁶ See *infra* § IV.D.

⁹⁷ *Sabine Pass Liquefaction, LLC*, DOE/FE Order No. 2961-A, Docket No. 10-111-LNG, Final Opinion and Order Granting Long-Term Authorization to Export Liquefied Natural Gas from Sabine Pass LNG Terminal to Non-Free Trade Agreement Nations (Aug. 7, 2012), *reh'g denied*, DOE/FE Order No. 2961-B (Jan. 25, 2013). Subsequent amendments to this order are not included here.

commissioned the 2012 LNG Export Study to evaluate the economic impacts of LNG exports and, by late 2012, published the Study for public comment.⁹⁸

On May 17, 2013—only weeks after Petitioners filed the Rulemaking Petition—DOE issued a second long-term non-FTA authorization that marked a major milestone in DOE’s articulation of its policy on LNG exports. Specifically, in DOE/FE Order No. 3282, DOE conditionally authorized Freeport LNG Expansion, L.P., *et al.* (Freeport) to export LNG to non-FTA countries in a volume equivalent to 1.4 Bcf/d of natural gas.⁹⁹ The *Freeport* order included a lengthy section responding to the public comments filed by Sierra Club, Delaware Riverkeeper Network, and other stakeholders on the 2012 LNG Export Study.¹⁰⁰ Together with the *Sabine Pass* order, the *Freeport* order established many of DOE’s regulatory and policy determinations for long-term non-FTA exports that continue today.

Notably, in the *Freeport* order, DOE addressed comments filed on the 2012 LNG Export Study by Petitioner Sierra Club and others that DOE’s “past [] approach to [natural] gas import questions [in the 1984 Policy Guidelines] does not translate to gas export”¹⁰¹ and, therefore, DOE must undertake a rulemaking or other public process to establish criteria for making a public interest determination under NGA section 3(a). Upon review of these arguments—the same arguments presented in the Rulemaking Petition—DOE concluded in May 2013 that “we do not find it is necessary or appropriate to delay issuance of this order to augment the record, either through a rulemaking or public hearing.”¹⁰² DOE reasoned that the record in the Freeport proceeding was “adequate to support the action ... in this order” and that the order “sets out the

⁹⁸ See *supra* note 37.

⁹⁹ See *Freeport LNG Expansion L.P., et al.*, DOE/FE Order No. 3282, at 122 (Ordering Para. A).

¹⁰⁰ See *id.* at 56-109. DOE received over 188,000 initial comments and over 2,700 reply comments on the 2012 LNG Export Study, of which approximately 800 were unique. See *id.* at 4.

¹⁰¹ Sierra Club, Comments on 2012 LNG Export Study, at 4 (Jan. 24, 2013) (filed jointly with Petitioners Delaware Riverkeeper Network and the Center for Biological Diversity).

¹⁰² *Freeport LNG Expansion L.P., et al.*, DOE/FE Order No. 3282, at 108-09.

reasons that support each of [DOE’s] determinations.”¹⁰³ DOE also emphasized its “broad discretion to decide what procedures to use in fulfilling its statutory responsibilities under the NGA.”¹⁰⁴

In the intervening 10 years, parties to numerous non-FTA export proceedings (including Sierra Club and the Industrial Energy Consumers of America (IECA)) have continued to make arguments consistent with those presented in the Rulemaking Petition, but DOE’s position has remained the same. Most recently, in a non-FTA order issued to the Freeport entities on March 3, 2023, DOE stated that it “reject[s] Sierra Club/[Natural Resources Defense Council’s] and IECA’s arguments that DOE should not rely on the 1984 Policy Guidelines—and DOE’s long-standing regulatory framework—in reviewing [the] Application.”¹⁰⁵

C. DOE Has Developed and Expanded Its Regulatory Program for LNG Exports Since 2013

DOE has taken numerous regulatory actions addressing Petitioners’ concerns since the Rulemaking Petition was filed.¹⁰⁶ Below, we provide a brief summary of these developments, as well as relevant judicial precedent.

1. Summary of DOE’s Regulatory Actions Since 2013 Interpreting NGA Section 3(a)

Since April 2013, when the Rulemaking Petition was filed, DOE has taken numerous regulatory actions to address what Petitioners deemed the “open question”—*i.e.*, how DOE will

¹⁰³ *Id.* at 109.

¹⁰⁴ *Id.* (citing *Process Gas Consumers v. FERC*, 930 F.2d 926, 929 (D.C. Cir. 1991)); *see also supra* § IV.A.

¹⁰⁵ *Freeport LNG Expansion, L.P., et al.*, DOE/FECM Order No. 4961, at 55; *see also, e.g., Sabine Pass Liquefaction, LLC*, DOE/FECM Order No. 4800, at 45-46 (citing DOE’s discussion in *Port Arthur LNG, LLC*, DOE/FE Order No. 4372, and *Driftwood LNG LLC*, DOE/FE Order No. 4373, both issued in 2019); *see also supra* at 11-12.

¹⁰⁶ *See, e.g.,* Pet. at 13 (“DOE officials have offered public statements indicating that the agency will look beyond the [1984 Policy] guidelines, but *the only order DOE has issued* ... shows almost none of that promised broad thinking.”) (emphasis added).

structure its decision-making for exports of LNG under NGA section 3(a), consistent with the public interest.¹⁰⁷ These export-focused actions—some issued as recently as this year—include:

- Two final rules;
- Two sets of procedures;
- Five policy statements;
- Three economic studies;
- Three environmental studies (including studies addressing life cycle GHG emissions);
- One supplemental environmental impact statement under NEPA containing two additional environmental studies;¹⁰⁸
- Two environmental assessments involving exports of LNG under NEPA; and
- One request for information on opportunities to reduce GHG emissions associated with LNG exports.

These actions are identified in more detail in the Appendix to this Order.

Additionally, since the Rulemaking Petition was filed, DOE has adjudicated and granted more than 40 long-term non-FTA export applications, as well as issued several rehearing orders, that—both individually and collectively—articulate in detail how DOE evaluates the relevant facts, law, and policy considerations in determining whether an applicant’s proposed non-FTA exports are consistent with the public interest.¹⁰⁹

¹⁰⁷ *See id.* at 5.

¹⁰⁸ As noted above, DOE must comply with NEPA before reaching a final decision on any non-FTA application. The NEPA documents referenced in this list (and in the corresponding Appendix) represent NEPA documents prepared by DOE as the lead agency in export proceedings for proposed facilities not subject to either FERC or MARAD jurisdiction. This list does not include NEPA documents prepared in export proceedings led by FERC or MARAD in which DOE was (or is) a cooperating agency. We also note that DOE prepared an environmental assessment under NEPA for proposed exports of compressed natural gas (*see supra* note 4), but the non-FTA authorization in that proceeding was vacated at the request of the authorization holder, Emera CNG, LLC (Docket No. 13-157-CNG).

¹⁰⁹ *See, e.g.*, U.S. Dep’t of Energy, Office of Fossil Energy and Carbon Management, Long Term Applications Received by DOE to Export Domestically Produced LNG, CNG, CGL from the Lower-48 States (as of June 28, 2023), at 1-5 & 12, <https://www.energy.gov/sites/default/files/2023->

As shown in the Appendix, most of these regulatory actions included a public comment period. Further, for long-term non-FTA export applications (not included in the Appendix), DOE provides a 60-day period for any interested parties to comment on, intervene in, and/or protest the application.¹¹⁰ We note that certain Petitioners have submitted comments and/or protested and intervened in a variety of LNG export proceedings, with Petitioner Sierra Club being a particularly active intervenor and protestor across many different proceedings over the years—both in individual export application proceedings and in other LNG export proceedings. DOE has thus provided sufficient opportunity for interested parties to engage in a “transparent process ... to get these important decisions right,” and Petitioners’ arguments that DOE’s “judgments [about LNG exports] remain opaque” have been overtaken by DOE’s extensive public engagement with interested stakeholders over the last decade.¹¹¹

2. Summary of Judicial Decisions Since 2013 Upholding DOE’s Regulatory Framework

The Rulemaking Petition also preceded the legal challenges brought by Petitioner Sierra Club against DOE—citing many of the same issues raised in the Rulemaking Petition—in which the D.C. Circuit has affirmed DOE’s regulatory analysis and decision-making with respect to the challenged export authorizations.

Specifically, in 2015 and 2016, Sierra Club petitioned the D.C. Circuit for review of five long-term LNG export authorizations issued by DOE. The D.C. Circuit denied four of the five petitions for review: one in a published decision issued in August 2017 (*Sierra Club I*),¹¹² and

[06/Summary%20of%20LNG%20Export%20Applications_06.28.23_0.pdf](#) (column for “Non-FTA Applications” marked “Approved,” with each docket number provided).

¹¹⁰ See *supra* at 13-14 and note 71.

¹¹¹ Pet. at 12.

¹¹² *Sierra Club I*, *supra* note 55 (denying petition for review of the LNG export authorization issued to Freeport LNG Expansion, L.P., *et al.*).

three in a consolidated, unpublished opinion issued a few months later (*Sierra Club II*).¹¹³ Sierra Club withdrew its fifth and remaining petition for review.¹¹⁴

In *Sierra Club I*, Sierra Club had petitioned for review of a non-FTA export authorization issued to Freeport LNG Expansion, L.P., *et al.*, arguing that DOE fell short of its obligations under NGA section 3(a) and NEPA. The D.C. Circuit concluded that DOE had complied with both statutes in issuing the authorization.¹¹⁵ In so doing, the Court favorably reviewed DOE's public interest framework. Specifically, the Court observed that, "[f]or its 'public interest' review, [DOE] considered various factors such as domestic economic effects (*e.g.*, job creation and tax revenue ...) and foreign policy goals (*e.g.*, global fuel diversification and energy security for our foreign trading partners ...), in addition to the environmental impacts it examined through the NEPA process."¹¹⁶

The Court also upheld DOE's review of specific issues in the proceeding that Petitioners raised in their Rulemaking Petition at issue here, such as DOE's evaluation of environmental impacts stemming from export-driven natural gas production and the potential "downstream" GHG emissions resulting from the transport and usage of U.S. LNG abroad.¹¹⁷

Subsequently, in the consolidated *Sierra Club II* opinion, the D.C. Circuit ruled that "[t]he court's decision in [*Sierra Club I*] largely governs the resolution of the [three] instant cases."¹¹⁸ Upon its review of the remaining "narrow issues" in those cases (some of which were also raised in the Rulemaking Petition), the Court again rejected Sierra Club's arguments under

¹¹³ *Sierra Club v. U.S. Dep't of Energy*, 703 Fed. App'x 1 (D.C. Cir. 2017) [hereinafter *Sierra Club II*] (denying petitions for review in Nos. 16-1186, 16-1252, and 16-1253 of the LNG export authorizations issued to Dominion Cove Point LNG, LP; Sabine Pass; and Cheniere Marketing, LLC, and Corpus Christi Liquefaction, LLC, respectively).

¹¹⁴ *See Sierra Club v. U.S. Dep't of Energy*, No. 16-1426, Per Curiam Order (D.C. Cir. 2018) (granting Sierra Club's unopposed motion for voluntary dismissal).

¹¹⁵ *See Sierra Club I*, 867 F.3d at 192.

¹¹⁶ *Id.* at 203.

¹¹⁷ *Id.* at 201.

¹¹⁸ *Sierra Club II*, 703 Fed. App'x at *2.

the NGA and NEPA, and upheld DOE’s actions in issuing the non-FTA authorizations in those proceedings.¹¹⁹

DOE has explained that the D.C. Circuit’s decisions in *Sierra Club I* and *II* continue to guide its review of non-FTA applications.¹²⁰ Yet, in their 2022 Reminder Letter to DOE, Petitioners do not acknowledge these judicial decisions or their applicability to the issues raised in the Rulemaking Petition.

D. DOE’s Regulatory Program Satisfies Petitioners’ Principal Concerns

Upon review of Petitioners’ arguments, DOE concludes that its LNG export regulatory program—and, specifically, its extensive, multi-factor public interest analysis—reasonably satisfies the substantive concerns raised in the Rulemaking Petition.

First, as demonstrated above, DOE has reasonably (and repeatedly) determined that it is not necessary either to initiate a rulemaking or to develop new policy guidelines that “articulate DOE’s policy orientation on export, and the factors which it will primarily consider in individual export dockets,” as Petitioners have requested.¹²¹ In part through its adjudications of LNG export applications over the past decade, DOE has maintained the flexibility to address and incorporate the policy factors that Petitioners have highlighted and continue to support. The best way for DOE to consider and apply the public interest standard to export authorization decisions is through the informal adjudications with which DOE has significant experience and that the D.C. Circuit has upheld.

Second, Petitioners raise concerns with DOE’s 1984 Policy Guidelines—which were initially developed with a focus on natural gas imports—and ask DOE to review non-FTA

¹¹⁹ *Id.* For a more detailed discussion of *Sierra Club I* and *II*, see *Freeport LNG Expansion, L.P., et al.*, DOE/FECM Order No. 4961, at 21-24.

¹²⁰ See, e.g., *id.* at 24.

¹²¹ *Id.* at 19-20; see *supra* § IV.B.

applications under a framework “that begins with a clear export policy.”¹²² Yet, as explained herein, DOE has taken many significant actions since 2013 to develop and refine its decision-making framework under NGA section 3(a).

DOE acknowledges that it continues to incorporate the core principles set forth in the 1984 Policy Guidelines into its public interest analysis—to minimize federal control and involvement in energy markets and to promote a balanced and mixed energy resource system. Specifically, DOE has explained that it “continues to subscribe to the principle set forth in [the] 1984 Policy Guidelines that, under most circumstances, the market is the most efficient means of allocating natural gas supplies.”¹²³ However, DOE has also observed that “agency intervention may be necessary to protect the public in the event there is insufficient domestic natural gas for domestic use, or as a result of other facts or circumstances beyond those presented.”¹²⁴

Third, although Petitioners urge DOE to consider a variety of economic and environmental impacts associated with the export of U.S. LNG,¹²⁵ DOE has done so through studies (and study updates) issued through extensive public proceedings in which some Petitioners submitted comments for DOE’s review.¹²⁶ DOE remains committed to conducting relevant economic and environmental analyses, including updating existing studies, as appropriate.

Fourth, Petitioners warn of DOE “rushing ahead to individual ‘case-by-case’ decisions, in the absence of any policy review.”¹²⁷ Individual adjudications—particularly those involving the opportunity for public comment, as is the case here—are not an inferior form of agency action,

¹²² Pet. at 18.

¹²³ *Freeport LNG Expansion, L.P., et al.*, DOE/FECM Order No. 4961, at 71.

¹²⁴ *Id.* (citations omitted) & n.349.

¹²⁵ *See id.* at 8-11, 15-17.

¹²⁶ *See supra* § III.C and *infra* at Appendix.

¹²⁷ Pet. at 17.

as Petitioners suggest. As discussed above, DOE has broad discretion to implement the NGA and announce new principles through case-by-case adjudications.¹²⁸ Further, there is no evidence that Petitioners' concerns have come to pass. To the contrary, DOE's cautious analytical approach since 2013 demonstrates how DOE may adjudicate individual export applications on the basis of substantial administrative records (including public comment), while also developing and applying export-related policies. As set forth above and in the Appendix, DOE has issued new rulemakings, policy statements, procedures, and other regulatory actions as warranted by circumstances over the years.¹²⁹ The adaptability of this regulatory approach is an advantage for DOE as well as for associated stakeholders, and thus outweighs any associated costs.

Fifth, we take seriously Petitioners' concern about DOE's duty to protect the public interest as exports of U.S. LNG continue in the months and years ahead. We first note that DOE makes clear in its existing non-FTA authorizations that DOE "will continue to assess the cumulative impacts of each succeeding request for export authorization on the public interest with due regard to the effect on domestic natural gas supply and demand fundamentals."¹³⁰ Specifically, in evaluating each non-FTA application, DOE reviews the cumulative amount of the non-FTA volumes approved to date against the range of scenarios analyzed in the 2018 LNG Export Study (or, for past authorizations, its predecessor studies) and supported by the most current EIA data.¹³¹ DOE also analyzes the relevant environmental and international considerations associated with each export application, including any issues raised by protestors and commenters.

¹²⁸ See *supra* § IV.A.

¹²⁹ See Appendix (identifying these regulatory actions).

¹³⁰ *Freeport LNG Expansion, L.P., et al.*, DOE/FECM Order No. 4961, at 77.

¹³¹ See, e.g., *id.* at 56-60, 62-64.

Additionally, DOE reiterates in each order that it “monitor[s] developments that could tend to undermine the public interest in grants of successive applications for exports of domestically produced LNG and ... attach[es] terms and conditions to LNG export authorizations to protect the public interest.”¹³² As one such example, each authorization holder is required as a condition of its order to provide monthly reports to DOE on its export activities, as well as semi-annual reports describing the status of its long-term contracts and the operation of its export project, to assist DOE in actively monitoring the U.S. LNG market.¹³³

In sum, upon review of the Rulemaking Petition, DOE believes that it has reasonably satisfied the substantive concerns raised in the Petition through adjudication and regulatory actions in implementing the LNG export regulatory program. Insofar as Petitioners are asking DOE to halt approval of pending applications to export LNG to non-FTA countries until DOE “complete[s] a final revision of its policy guidelines,”¹³⁴ we find that there is no factual or legal basis for such action at this time.

V. CONCLUSION

DOE has discretion under NGA section 3(a) and the APA to proceed by rulemaking or adjudication in implementing the LNG export regulatory program. Further, DOE’s Office of Fossil Energy and Carbon Management has demonstrated that it has a well-functioning adjudicatory process for evaluating applications to export LNG to non-FTA countries under NGA section 3(a), which it has implemented together with a variety of regulatory actions and technical analyses in the 10 years since the Rulemaking Petition was filed. This approach is

¹³² *Id.* at 77.

¹³³ *See id.* at 84-85 (Ordering Paras. I, K, L). Authorization holders also have a continuing obligation to notify DOE about any changes on which their authorization is based (10 C.F.R. § 590.407), including changes to their ownership (*see, e.g., Freeport LNG Expansion, L.P., et al.*, DOE/FECM Order No. 4961, at 85 (Ordering Para. J)).

¹³⁴ *Pet.* at 20; *see also id.* § II; 2022 Reminder Ltr. at 7 (stating that “[t]he undersigned remain firmly opposed to LNG exports”).

consistent with applicable legal principles, gives the public and interested stakeholders many opportunities to provide input and participate, and allows DOE the flexibility to adapt to changing economic and environmental circumstances. Precisely because the U.S. LNG market and related issues—including climate change considerations and global energy security—are dynamic, the LNG export program is best served by continuing to update the economic and environmental studies, analytical approaches, and public interest factors that DOE considers in an iterative fashion, based on developing facts and circumstances. Accordingly, DOE denies the Rulemaking Petition.¹³⁵

Issued in Washington, D.C., on July 18, 2023.

Bradford J. Crabtree Digitally signed by Bradford J.
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Brad Crabtree
Assistant Secretary
Office of Fossil Energy and Carbon Management

¹³⁵ See 5 U.S.C. § 555(e) (an agency’s notice of denial of a petition “shall be accompanied by a brief statement of the grounds for denial”). This is a final order under the NGA, subject to NGA section 19, 15 U.S.C. § 717r, and 10 C.F.R. § 590.501.

**APPENDIX: DOE’S REGULATORY ACTIONS FOR EXPORTS OF U.S. LNG
ISSUED SINCE 2013, LISTED BY CATEGORY**

This chart includes major regulatory actions taken by DOE involving exports of U.S. LNG under NGA section 3 beginning from April 8, 2013 (the date the Rulemaking Petition was filed) through the date of this Order (not including DOE’s issuance of individual non-FTA export authorizations).

For brevity, in the column “Supporting Citations/Links,” DOE provides only the final primary document(s) for the respective regulatory action, and does not include all supporting documents made available to the public (*e.g.*, notices of proposed action and draft studies).

FINAL RULES

Action	Date Issued	Description	Supporting Citations/Links
Small-Scale Natural Gas Exports	July 25, 2018	Revised DOE’s regulations to expedite the application and approval process for “small-scale” exports of natural gas to non-FTA countries (10 C.F.R. §§ 590.102(p), 590.208) <i>Included public comment</i>	83 Fed. Reg. 35,106 (July 25, 2018) https://www.govinfo.gov/content/pkg/FR-2018-07-25/pdf/2018-15903.pdf
National Environmental Policy Act Implementing Procedures	Dec. 4, 2020	Revised DOE’s NEPA procedures by (in relevant part) promulgating a revised categorical exclusion B5.7, <i>Export of natural gas and associated transportation by marine vessel</i> (10 C.F.R. Part 1021, Subpt. D, App. B, Categorical Exclusion B5.7); issued accompanying Marine Transport Technical Support Document <i>Included public comment</i>	85 Fed. Reg. 78,197 (Dec. 4, 2020) https://www.govinfo.gov/content/pkg/FR-2020-12-04/pdf/2020-26459.pdf

PROCEDURES

Action	Date Issued	Description	Supporting Citations/Links
Procedures for Liquefied Natural Gas Export Decisions	Aug. 15, 2014	Established procedures for DOE to act on applications to export LNG from the lower-48 states to non-FTA countries, suspending its practice of issuing conditional decisions <i>Included public comment</i>	79 Fed. Reg. 48,132 (Aug. 15, 2014), https://www.govinfo.gov/content/pkg/FR-2014-08-15/pdf/2014-19364.pdf
Procedures for Changes in Control Affecting Applications and Authorizations To Import or Export Natural Gas	Nov. 5, 2014	Established procedures that apply when both applicants to import or export natural gas and existing authorization holders undergo a change in their ownership or management (a “change in control”)	79 Fed. Reg. 65,541 (Nov. 5, 2014), https://www.govinfo.gov/content/pkg/FR-2014-11-05/pdf/2014-25143.pdf

POLICY STATEMENTS

Action	Date Issued	Description	Supporting Citations/Links
Policy Statement re: Long-Term Authorizations to Export Natural Gas to Non-Free Trade Agreement Countries	June 21, 2018	Affirmed DOE’s commitment to long-term authorizations to export natural gas, including LNG, to non-FTA countries	83 Fed. Reg. 28,831 (June 21, 2018), https://www.govinfo.gov/content/pkg/FR-2018-06-21/pdf/2018-13427.pdf
Policy Statement re: Eliminating the End Use Reporting Provision in Authorizations for the Export of Liquefied Natural Gas	Dec. 13, 2018	Discontinued practice, adopted in 2016, of including an “end use” reporting provision in export authorizations issued under NGA section 3; concurrently issued a blanket order removing end use provision from all export authorizations issued from Feb. 2016 through Dec. 19, 2018	83 Fed. Reg. 65,078 (Dec. 19, 2018), https://www.govinfo.gov/content/pkg/FR-2018-12-19/pdf/2018-27449.pdf

Policy Statement re: Extending Natural Gas Export Authorizations to Non-Free Trade Agreement Countries Through the Year 2050	July 29, 2020	Adopted a term through December 31, 2050, as the standard export term for long-term non-FTA authorizations, discontinuing practice of issuing 20-year export terms <i>Included public comment</i>	85 Fed. Reg. 52,237 (Aug. 25, 2020), https://www.govinfo.gov/content/pkg/FR-2020-08-25/pdf/2020-16836.pdf
Policy Statement re: Including Short-Term Export Authority in Long-Term Authorizations for the Export of Natural Gas on a Non-Additive Basis	Dec. 21, 2020	Discontinued practice of issuing separate long-term and short-term authorizations for exports of natural gas, including LNG, from the same facility; established practice that DOE's long-term export authority includes authority to export the same approved volume pursuant to transactions with terms of less than two years on a non-additive basis	86 Fed. Reg. 2,243 (Jan. 12, 2021), https://www.govinfo.gov/content/pkg/FR-2021-01-12/pdf/2020-28599.pdf
Policy Statement on Export Commencement Deadlines in Authorizations to Export Natural Gas to Non-Free Trade Agreement Countries	Apr. 21, 2023	Reaffirmed DOE's seven-year deadline for authorization holders to commence exports of natural gas, including LNG, to non-FTA countries; established criteria for evaluating applications to extend export commencement deadline in non-FTA orders	88 Fed. Reg. 25,272 (Apr. 26, 2023), https://www.govinfo.gov/content/pkg/FR-2023-04-26/pdf/2023-08805.pdf

ECONOMIC STUDIES

Action	Date Issued	Description	Supporting Citations/Links
<i>Effect of Increased Levels of Liquefied Natural Gas Exports on U.S. Energy Markets</i> (2014 EIA LNG Export Study), prepared by EIA	Oct. 2014	Commissioned by DOE (following the first two economic studies issued in 2012) to evaluate how levels of LNG exports from the lower-48 states to non-FTA countries ranging from 12 to 20 Bcf/d of natural gas would affect domestic energy	https://www.eia.gov/analysis/requests/fe/pdf/lng.pdf ; <i>see also</i> 80 Fed. Reg. 81,300 (Dec. 29, 2015), https://www.govinfo.gov/content/pkg/FR-2015-12-

(Part 1 of two-part study)		markets <i>Included public comment</i>	29/pdf/2015-32590.pdf
<i>The Macroeconomic Impact of Increasing U.S. LNG Exports</i> (2015 LNG Export Study), prepared by Center for Energy Studies at Rice University Baker Institute and Oxford Economics (Part 2 of two-part study)	Oct. 29, 2015	Commissioned by DOE to evaluate macroeconomic impacts of LNG exports from the lower-48 states to non-FTA countries at levels from 12 to 20 Bcf/d of natural gas, as well as a high resource recovery case up to 28 Bcf/d, for the time period 2015-2040 <i>Included public comment</i>	https://www.energy.gov/sites/prod/files/2015/12/f27/20151113_macro_impact_of_lng_exports_0.pdf ; <i>see also</i> 80 Fed. Reg. 81,300 (Dec. 29, 2015), https://www.govinfo.gov/content/pkg/FR-2015-12-29/pdf/2015-32590.pdf
<i>Macroeconomic Outcomes of Market Determined Levels of U.S. LNG Exports</i> (2018 LNG Export Study), prepared by NERA Economic Consulting	June 7, 2018	Commissioned by DOE to assess the effects of varying levels of LNG exports from the lower-48 states to non-FTA countries for the time period 2020-2050—specifically, (i) to evaluate the cumulative impacts of each additional non-FTA application on the U.S. natural gas markets and the U.S. economy, and (ii) to assess the likelihood of market-determined levels of LNG exports <i>Included public comment</i>	https://www.energy.gov/sites/prod/files/2018/06/f52/Macroeconomic%20LNG%20Export%20Study%202018.pdf ; <i>see also</i> 83 Fed. Reg. 27,314 (June 12, 2018), https://www.govinfo.gov/content/pkg/FR-2018-06-12/pdf/2018-12621.pdf

ENVIRONMENTAL STUDIES

Action	Date Issued	Description	Supporting Citations/Links
<i>Addendum to Environmental Review Documents Concerning Exports of</i>	Aug. 11, 2014	Prepared by DOE to provide information about the potential environmental impacts of unconventional natural gas exploration and production	https://www.energy.gov/sites/prod/files/2014/08/f18/Addendum.pdf ; <i>see also</i> 79 Fed. Reg.

<p><i>Natural Gas From the United States</i></p>		<p>activities in the lower-48 states, particularly production that involves hydraulic fracturing</p> <p><i>Included public comment</i></p>	<p>48,132 (Aug. 15, 2014), https://www.energy.gov/sites/prod/files/2014/08/f18/Addonum%20FR%20Notice%2008_15_14.pdf</p>
<p><i>Life Cycle Greenhouse Gas Perspective on Exporting Liquefied Natural Gas from the United States</i> (2014 LCA GHG Report), prepared by the National Energy Technology Laboratory</p>	<p>May 29, 2014</p>	<p>Commissioned by DOE to calculate life cycle GHG emissions of U.S. LNG exported from the lower-48 states for use in electric power generation in Europe and Asia, as compared to alternative energy supplies</p> <p><i>Included public comment</i></p>	<p>https://www.energy.gov/fecm/articles/life-cycle-greenhouse-gas-perspective-exporting-liquefied-natural-gas-united-states; <i>see also</i> 79 Fed. Reg. 32,260 (June 4, 2014) https://www.govinfo.gov/content/pkg/FR-2014-06-04/pdf/2014-12927.pdf</p>
<p><i>Life Cycle Greenhouse Gas Perspective on Exporting Liquefied Natural Gas from the United States: 2019 Update</i></p>	<p>Sept. 12, 2019</p>	<p>Commissioned by DOE as an update to the 2014 LCA GHG Report—specifically, to compare life cycle GHG emissions of U.S. LNG to regional coal and other imported natural gas for electric power generation in Europe and Asia—with updates to the study inputs and methodology</p> <p><i>Included public comment</i></p>	<p>https://www.energy.gov/sites/prod/files/2019/09/f66/2019%20NETL%20LCA-GHG%20Report.pdf; <i>see also</i> 84 Fed. Reg. 49,278 (Sept. 19, 2019) https://www.govinfo.gov/content/pkg/FR-2019-09-19/pdf/2019-20230.pdf; 85 Fed. Reg. 72 (Jan. 2, 2020), https://www.govinfo.gov/content/pkg/FR-2020-01-02/pdf/2019-28306.pdf</p>

SUPPLEMENTAL ENVIRONMENTAL IMPACT STATEMENT UNDER NEPA

Action	Date Issued	Description	Supporting Citations/Links
Final Supplemental Environmental Impact Statement for the Alaska LNG Project LLC proceeding (Docket No. 14-96-LNG)	Jan. 6, 2023	Prepared, as part of a rehearing proceeding, a Final Supplemental Environmental Impact Statement (DOE/EIS-0512-S1) consisting of two environmental studies examining impacts of exports of Alaskan-sourced LNG to non-FTA countries in a volume of 2.55 Bcf/d for a term of 30 years—specifically, (i) a study examining the potential upstream environmental effects associated with incremental natural gas production on the North Slope of Alaska, (ii) a life cycle analysis calculating the GHG emissions associated with exporting the LNG by vessel from the proposed Alaska LNG Project to import markets in Asia and other regions <i>Included public comment</i>	https://www.energy.gov/nepa/articles/doeis-0512-s1-final-supplemental-environmental-impact-statement-january-6-2023 ; <i>see also</i> 88 Fed. Reg. 1,571 (Jan. 11, 2023), https://www.energy.gov/sites/default/files/2023-01/2023-00345_FE_NOA%20EIS%200512%20S1%20Alaska%20LNG%20Dkt%201496_LNG.pdf

ENVIRONMENTAL ASSESSMENTS UNDER NEPA

Action	Date Issued	Description	Supporting Citations/Links
Environmental Assessment for Energía Costa Azul, S. de R.L. de C.V. (ECA Large-Scale Project, Docket No. 18-145-LNG)	Oct. 28, 2022	Prepared an environmental assessment (DOE/EA-2193) to analyze ECA’s application to increase its approved re-exports of U.S.-sourced LNG from its proposed Large-Scale Project to be located in Mexico to non-FTA countries by an additional	https://www.energy.gov/sites/default/files/2022-10/FINAL%20Environmental%20Assessment%20-%20Energ%C3%ADa%20Costa%20Azul%2010-28-22.pdf

		161 Bcf/yr (0.44 Bcf/d) of natural gas <i>Included comment period for affected states and Indian Tribes</i>	
Environmental Assessment for Vista Pacifico LNG, S.A.P.I. de C.V. (Docket No. 20-153-LNG)	Oct. 28, 2022	Prepared an environmental assessment (DOE/EA-2192) to analyze Vista Pacifico's application to re-export U.S.-sourced LNG from its proposed VPLNG Mid-Scale Project to be located in Mexico to non-FTA countries <i>Included comment period for affected states and Indian Tribes</i>	https://www.energy.gov/sites/default/files/2022-10/FINAL%20Environmental%20Assessment%20-%20Vista%20Pacifico%2010-28-22.pdf

REQUEST FOR INFORMATION

Action	Date Issued	Description	Supporting Citations/Links
Notice of Request for Information on Opportunities to Reduce Greenhouse Gas Emissions and Other Air Pollutants Associated with U.S. Liquefied Natural Gas Exports	Apr. 21, 2023	Requested feedback from stakeholders on technologies and strategies LNG companies are deploying or could deploy to reduce GHG emissions and other air pollutants that occur during production through transportation of natural gas delivered to a liquefaction facility; at liquefaction facilities; and during the loading, transport, and delivery of LNG to a regasification facility <i>Included public comment</i>	88 Fed. Reg. 25,393 (April 26, 2023) https://www.govinfo.gov/content/pkg/FR-2023-04-26/pdf/2023-08803.pdf