

UNITED STATES OF AMERICA
DEPARTMENT OF ENERGY
OFFICE OF FOSSIL ENERGY AND CARBON MANAGEMENT

COVE POINT LNG, LP)	DOCKET NO. 24-30-LNG
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ORDER GRANTING BLANKET AUTHORIZATION
TO EXPORT PREVIOUSLY IMPORTED LIQUEFIED NATURAL GAS
BY VESSEL TO FREE TRADE AGREEMENT AND
NON-FREE TRADE AGREEMENT NATIONS

DOE/FECM ORDER NO. 5142

JULY 3, 2024

I. INTRODUCTION

On April 18, 2024, Cove Point LNG, LP (Cove Point) filed an Application¹ with the Department of Energy's (DOE) Office of Fossil Energy & Carbon Management (FECM) under section 3 of the Natural Gas Act (NGA).² Cove Point requests authorization to export liquefied natural gas (LNG) previously imported into the United States from foreign sources in a volume equivalent to 70 billion cubic feet (Bcf) of natural gas on a cumulative basis for a two-year period commencing on the earlier of July 8, 2024, or the date of issuance of the new authorization.³ Cove Point seeks to export this LNG by vessel, on a spot or short-term basis, from the Cove Point Terminal (Terminal), located in Calvert County, Maryland.⁴

Cove Point seeks to export this LNG to any country with the capacity to import LNG via ocean-going carrier and with which trade is not prohibited by U.S. law or policy.⁵ This includes both countries with which the United States has entered into a free trade agreement (FTA) requiring national treatment for trade in natural gas (FTA countries),⁶ and any other country with which trade is not prohibited by U.S. law or policy (non-FTA countries).⁷ Cove Point states that it seeks the authorization solely to export LNG previously imported by vessel at the Terminal

¹ Cove Point LNG, LP, Application for Blanket Authorization to Export Previously Imported Liquefied Natural Gas by Vessel from the Cove Point Terminal in Calvert County, Maryland, Docket No. 24-30-LNG (Apr. 18, 2024) [hereinafter App.].

² 15 U.S.C. § 717b. The authority to regulate the imports and exports of natural gas, including LNG, under section 3 of the NGA has been delegated to the Assistant Secretary for FECM in Redelegation Order No. S4-DEL-FE1-2023, issued on April 10, 2023.

³ See App. at 1-2, 8, 16. As noted below, Cove Point's current blanket authorization expires July 7, 2024.

⁴ See *id.* at 1, 8.

⁵ *Id.* at 2.

⁶ 15 U.S.C. § 717b(c). The United States currently has FTAs requiring national treatment for trade in natural gas with Australia, Bahrain, Canada, Chile, Colombia, Dominican Republic, El Salvador, Guatemala, Honduras, Jordan, Mexico, Morocco, Nicaragua, Oman, Panama, Peru, Republic of Korea, and Singapore. FTAs with Israel and Costa Rica do not require national treatment for trade in natural gas.

⁷ See *id.* § 717b(a).

from foreign sources.⁸ Cove Point is requesting this authorization on its own behalf and as agent for other entities that hold title to the LNG at the time of export.⁹

In this Order, DOE grants Cove Point’s Application and authorizes the requested export of previously imported LNG in a volume equivalent to 70 Bcf of natural gas on a cumulative basis over the requested two-year period.

Specifically, DOE grants the FTA portion of the Application under NGA section 3(c).¹⁰ Section 3(c) was amended by section 201 of the Energy Policy Act of 1992 (Pub. L. 102-486) to require that FTA applications “shall be deemed to be consistent with the public interest” and granted “without modification or delay.”¹¹ The FTA portion of the Application falls within NGA section 3(c) and, therefore, DOE approves the requested FTA authorization without modification or delay. Accordingly, none of the public interest analysis discussed below applies to the FTA authorization.

DOE has reviewed the non-FTA portion of the Application under NGA section 3(a).¹² On May 23, 2024, DOE published a notice of the non-FTA portion of the Application in the *Federal Register* (Notice of Application).¹³ The Notice of Application called on interested persons to submit protests, motions to intervene, notices of intervention, requests for additional procedures, and written comments by June 24, 2024. DOE received no filings in response to the Notice of Application, and therefore the non-FTA portion of the Application is uncontested under DOE’s regulations.¹⁴

⁸ App. at 2.

⁹ *See id.*

¹⁰ 15 U.S.C. § 717b(c).

¹¹ *Id.*

¹² *Id.* § 717b(a).

¹³ Cove Point LNG, LP; Application for Blanket Authorization to Export Previously Imported Liquefied Natural Gas to Non-Free Trade Agreement Countries on a Short-Term Basis, 89 Fed. Reg. 45,650 (May 23, 2024) [hereinafter Notice of App.].

¹⁴ *See* 10 C.F.R. § 590.102(b).

DOE has reviewed the record for the non-FTA portion of this proceeding under NGA section 3(a) and grants the requested non-FTA authorization, as set forth below.

II. BACKGROUND

Applicant. Cove Point is a Delaware limited partnership with its principal place of business in Lusby, Maryland.¹⁵ Cove Point states that it owns and operates both the Cove Point Terminal and associated interstate pipeline facilities that extend approximately 88 miles from the Terminal to interconnections with three other interstate pipelines.¹⁶

Cove Point's general partner is BHE GT&S LLC (BHE GT&S), a Delaware limited liability company with its principal place of business in Richmond, Virginia.¹⁷ BHE GT&S, a wholly-owned subsidiary of Berkshire Hathaway Energy Company, also owns 75% of Cove Point's limited partnership interest.¹⁸ The remaining 25% of Cove Point's limited partnership interest is owned by Bowie Acquisitions LLC, an affiliate of Brookfield Asset Management Inc.¹⁹

Procedural History. Since 2017, Cove Point (either as Cove Point or under a prior corporate name) has held a two-year blanket authorization to export LNG previously imported from foreign sources from the Terminal.²⁰ Most recently, in DOE/FECM Order No. 4849, DOE authorized Cove Point to export previously imported LNG in a volume equivalent to 70 Bcf of natural gas over a two-year term commencing on July 8, 2022, and extending through July 7,

¹⁵ App. at 3.

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ *See id.*

²⁰ *See* DOE/FE Order Nos. 4046 (Docket No. 16-205-LNG) and 4508 (Docket No. 19-156-LNG), and DOE/FECM Order No. 4849 (Docket No. 22-22-LNG); *see also* App. at 6-7. Cove Point also holds two long-term authorizations to export domestically produced LNG from the Terminal to FTA and non-FTA countries, respectively. *See id.* at 4-5.

2024.²¹ Cove Point is authorized to export this LNG, on its own behalf or as agent for other entities, by vessel to both FTA and non-FTA countries.²²

Additionally, on December 15, 2022, DOE issued DOE/FECM Order No. 4940, authorizing Cove Point to import LNG from various international sources by vessel in a total volume equivalent to 36 Bcf of natural gas for a two-year term commencing on March 1, 2023, and extending through February 28, 2025.²³ Under the terms of that authorization, Cove Point may import the LNG at any LNG receiving facility in the United States and its territories.²⁴

III. DESCRIPTION OF REQUEST

Cove Point requests authorization to export previously imported LNG on a spot or short-term basis in a volume equivalent to 70 Bcf of natural gas cumulatively over a two-year period beginning on the earlier of July 8, 2024, or the date of issuance of the new authorization.²⁵ Cove Point seeks to export this LNG from the Cove Point Terminal to FTA and non-FTA countries, both on its own behalf and as an agent for other entities.²⁶ Cove Point states that it will comply with all DOE requirements for exporters and agents.²⁷ Cove Point further states that, when acting as agent, it will register with DOE each LNG title holder for which it seeks to export LNG as agent, and will comply with other registration requirements as set forth in recent DOE orders.²⁸

²¹ *Cove Point LNG, LP*, DOE/FECM Order No. 4849, Docket No. 22-22-LNG, Order Granting Blanket Authorization to Export Previously Imported Liquefied Natural Gas By Vessel to Free Trade Agreement and Non-Free Trade Agreement Nations (July 8, 2022).

²² *See* App. at 5, 10.

²³ *Cove Point LNG, LP*, DOE/FECM Order No. 4940, Docket No. 22-155-LNG, Order Granting Blanket Authorization to Import Liquefied Natural Gas from Various International Sources by Vessel (Dec. 15, 2022).

²⁴ *Id.*

²⁵ App. at 8, 16.

²⁶ *Id.* at 2, 8.

²⁷ *Id.* at 9.

²⁸ *See id.*

According to Cove Point, the LNG it proposes for export has been previously imported into the United States from foreign sources.²⁹ Cove Point states that the requested authorization will provide “increased flexibility to respond to market conditions and promote the maximum utilization of the Terminal” by allowing Cove Point to export this LNG “under short-term transactions, if and when operationally, contractually, and economically desirable.”³⁰ Cove Point adds that the requested authorization does not involve the construction of any new or additional facilities, or other physical modifications to the Terminal.³¹

IV. APPLICANT’S PUBLIC INTEREST ANALYSIS FOR NON-FTA AUTHORIZATION

Cove Point maintains that its requested authorization is consistent with NGA section 3(a) and DOE’s policy. In support of this argument, Cove Point asserts that the volume of previously imported foreign-sourced LNG that it proposes to export is not necessary to meet domestic needs.³² Cove Point highlights the U.S. Energy Information Administration’s (EIA) projections of U.S. natural gas production and demand in both *Annual Energy Outlook 2023* (AEO 2023) and *Annual Energy Outlook 2022* (the latter discussed in Order No. 4849).³³ For example, Cove Point states that AEO 2023 projects total production of 35.47 trillion cubic feet (Tcf) in 2024 and 35.75 Tcf in 2025,³⁴ with consumption falling to 29.65 Tcf in 2024 and 29.37 in 2025.³⁵

²⁹ *Id.* at 7-8.

³⁰ *Id.* at 8.

³¹ App. at 1.

³² *Id.* at 14.

³³ See *id.* (citing, e.g., U.S. Energy Info. Admin., *Annual Energy Outlook 2023* (Mar. 16, 2023), <https://www.eia.gov/outlooks/aeo/> (AEO 2023 Reference Case, Table 13: Natural Gas Supply, Disposition, and Prices)).

³⁴ We note that Cove Point’s statement of EIA’s projections for natural gas production set forth in the Application (at 14) and referenced above contains slight typos (35.47 Tcf for 2024 should be 35.57 Tcf, and 35.75 Tcf for 2025 should be 35.73 Tcf). We cite the correct figures *infra* in Section V.B.

³⁵ *Id.*

According to Cove Point, the conclusion based on this EIA data “is very clear that, ... in the short-term that is relevant for a blanket authorization, natural gas production will be more than sufficient to meet both the domestic consumption demand and any expected level of LNG exports,” including those for which Cove Point has requested authorization.³⁶

V. DISCUSSION AND CONCLUSIONS FOR NON-FTA AUTHORIZATION

A. Standard of Review

Section 3(a) of the NGA sets forth the applicable standard for DOE’s review of Cove Point’s requested non-FTA authorization. Section 3(a) provides:

[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 part, with such modification and upon such terms and conditions as the [Secretary] may find necessary or appropriate.³⁷

This provision creates a rebuttable presumption that a proposed export of natural gas is in the public interest.³⁸ DOE must grant such an application unless the presumption is overcome by an affirmative showing of inconsistency with the public interest.³⁹

In evaluating an export application under this standard, DOE applies the principles described in DOE’s 1984 Policy Guidelines⁴⁰ and other matters found to be appropriate to a determination of the public interest, such as the domestic need for the natural gas to be exported.

³⁶ *Id.*

³⁷ 15 U.S.C. § 717b(a).

³⁸ *See, e.g., Sierra Club v. U.S. Dep’t of Energy*, 867 F.3d 189, 203 (D.C. Cir. 2017) (citations omitted).

³⁹ *See id.* (citations omitted).

⁴⁰ U.S. Dep’t of Energy, New Policy Guidelines and Delegation Orders from Secretary of Energy to Economic Regulatory Administration and Federal Energy Regulatory Commission Relating to Regulation of Imported Natural Gas, 49 Fed. Reg. 6684 (Feb. 22, 1984).

In addition, the National Environmental Policy Act (NEPA), 42 U.S.C. § 4321 *et seq.*, requires DOE to give appropriate consideration to the environmental effects of its proposed decisions.

B. Domestic Need

Cove Point requests authorization to export LNG that was previously imported into the United States from foreign sources. Exporting this proposed volume of LNG will not reduce the availability of domestically produced natural gas. On the other hand, exporting previously imported LNG could affect the domestic natural gas market because, for the requested two-year period, the proposed exports will reduce the volume of natural gas potentially available for consumption within the United States.

DOE has issued numerous blanket authorizations to export previously imported LNG in other proceedings, including Cove Point’s existing authorization in Order No. 4849.⁴¹ These orders were based, in part, on authoritative data indicating that United States consumers have access to substantial quantities of natural gas sufficient to meet domestic demand from other competitively-priced sources. Cove Point refers to EIA’s most recent projections of natural gas production and consumption in AEO 2023.⁴² AEO 2023 projects annual domestic dry natural gas production in 2024 and 2025 of 35.57 and 35.73 Tcf, respectively, with total natural gas consumption projected to be 29.65 and 29.37 Tcf in each of the same years.⁴³

Because domestic natural gas production levels are projected to reach an amount that well exceeds the amount of natural gas proposed for short-term export in Cove Point’s

⁴¹ See *supra* at 4-5 and note 21. DOE maintains a list of its authorizations at <https://www.energy.gov/fecm/articles/electronic-docket-room-e-docket-room>.

⁴² See U.S. Energy Info. Admin., *Annual Energy Outlook 2023 Narrative*, https://www.eia.gov/outlooks/aeo/pdf/AEO2022_Narrative.pdf. EIA explained that the “National Energy Modeling System (NEMS), which we use to produce our [AEO], requires substantial updates to better model hydrogen, carbon capture, and other emerging technologies,” and that, “[t]o facilitate these model enhancements, we will not publish an AEO in 2024.” <https://www.eia.gov/outlooks/aeo/>.

⁴³ See AEO 2023 Reference Case, Table 13: Natural Gas Supply, Disposition, and Prices, *supra* note 33.

Application, we find that United States consumers will continue to have access to substantial quantities of natural gas sufficient to meet domestic demand from multiple other sources at competitive prices without drawing on the LNG that Cove Point seeks to export.

C. Other Public Interest Factors

Consistent with DOE’s Policy Guidelines and DOE precedent, DOE considers the potential effects of the proposed exports on other aspects of the public interest, as may be relevant. As noted above, DOE received no filings in response to the Notice of Application.

D. Environmental Review

DOE’s NEPA procedures provide for a categorical exclusion if neither an environmental assessment (EA) nor an environmental impact statement (EIS) is required—specifically, categorical exclusion B5.7, *Export of natural gas and associated transportation by marine vessel*.⁴⁴ On July 3, 2024, DOE issued a categorical exclusion for the non-FTA portion of Cove Point’s Application under this provision.⁴⁵

E. Conclusion

Upon review of the record, DOE finds that a grant of the uncontested non-FTA portion of Cove Point’s Application is not inconsistent with the public interest. In particular, the record shows that there is a sufficient supply of natural gas to satisfy domestic demand from multiple other sources at competitive prices without drawing on Cove Point’s proposed exports of previously imported LNG during the two-year authorization period. Further, the proposed exports of previously imported LNG qualify for a categorical exclusion under NEPA, such that

⁴⁴ See 10 C.F.R. Part 1021, Subpt. D, App. B, Categorical Exclusion B5.7.

⁴⁵ U.S. Dep’t of Energy, Categorical Exclusion Determination, Cove Point LNG, LP, Docket No. 24-30-LNG (July 3, 2024).

no EA or EIS will be required. DOE therefore grants the non-FTA portion of Cove Point's Application, as set forth below.

VI. FINDINGS

(1) Section 3(c) of the NGA was amended by section 201 of the Energy Policy Act of 1992 (Pub. L. 102-486) to require that applications requesting authority for the export of natural gas, including LNG, to a nation with which there is in effect an FTA requiring national treatment for trade in natural gas shall be deemed consistent with the public interest and granted without modification or delay.⁴⁶ The FTA portion of Cove Point's Application falls within NGA section 3(c), as amended, and DOE therefore grants the requested authorization without modification or delay.⁴⁷

(2) With respect to the non-FTA portion of the Application, and after due consideration based on all facts and evidence of record, DOE finds that a grant of the Application is not inconsistent with the public interest under NGA section 3(a).

(3) Cove Point requests authorization to export LNG on its own behalf and as agent for other entities that hold title to the LNG at the time of export. DOE previously addressed the issue of Agency Rights in DOE/FE Order No. 2913,⁴⁸ which granted Freeport LNG Expansion, L.P. *et al.* (collectively, FLEX) authority to export LNG to FTA countries. In that order, DOE approved a proposal by FLEX to register each LNG title holder for whom FLEX sought to export LNG as agent. DOE found that this proposal was an acceptable alternative to the non-binding policy adopted by DOE in *The Dow Chemical Company*, which established that the title

⁴⁶ 15 U.S.C. § 717b(c).

⁴⁷ DOE further finds that the requirement for public notice of applications and other hearing-type procedures in 10 C.F.R. Part 590 are applicable only to applications seeking to export natural gas, including LNG, to non-FTA countries.

⁴⁸ *Freeport LNG Expansion, L.P., et al.*, DOE/FE Order No 2913, Docket No. 10-160-LNG, Order Granting Long-Term Authorization to Export Liquefied Natural Gas from Freeport LNG Terminal to Free Trade Nations (Feb. 10, 2011).

for all LNG authorized for export must be held by the authorization holder at the point of export.⁴⁹ We find that the same policy considerations that supported DOE's acceptance of the alternative registration proposal in DOE/FE Order No. 2913 apply here as well.

DOE reiterated its policy on Agency Rights procedures in other authorizations, including *Cameron LNG, LLC*, DOE/FE Order No. 3680.⁵⁰ In that order, DOE determined that, in LNG export orders in which Agency Rights have been granted, DOE shall require registration materials filed for, or by, an LNG title-holder (Registrant) to include the same company identification information and long-term contract information of the Registrant as if the Registrant had filed an application to export LNG on its own behalf.⁵¹

To ensure that the public interest is served, this authorization requires that, where Cove Point proposes to export LNG as agent for other entities who hold title to the LNG, Cove Point must register the Registrants with DOE in accordance with the procedures and requirements described herein.

ORDER

Pursuant to section 3 of the Natural Gas Act, it is ordered that:

A. Cove Point LNG, LP (Cove Point) is authorized to export LNG previously imported from foreign sources in a volume equivalent to 70 Bcf of natural gas, pursuant to transactions that have terms of not greater than two years. This authorization shall be effective for a two-year term beginning on July 8, 2024, and extending through July 7, 2026.

⁴⁹ *The Dow Chem. Co.*, DOE/FE Order No. 2859, Docket No. 10-57-LNG, Order Granting Blanket Authorization to Export Liquefied Natural Gas, at 7-8 (Oct. 5, 2010), discussed in *Freeport LNG*, DOE/FE Order No. 2913, at 7-8.

⁵⁰ *Cameron LNG, LLC*, DOE/FE Order No. 3680, Docket No. 15-36-LNG, Order Granting Long-Term, Multi-Contract Authorization to Export Liquefied Natural Gas by Vessel from the Cameron LNG Terminal in Cameron and Calcasieu Parishes, Louisiana, to Free Trade Agreement Nations (July 10, 2015).

⁵¹ *See id.* at 8-9.

B. This LNG may be exported by vessel from the Cove Point Terminal in Calvert County, Maryland, to any country with the capacity to import ocean-going LNG carriers and with which trade is not prohibited by U.S. law or policy.

C. Cove Point shall ensure that all transactions authorized by this Order are permitted and lawful under U.S. laws and policies, including the rules, regulations, orders, policies, and other determinations of the Office of Foreign Assets Control of the United States Department of the Treasury and the Federal Energy Regulatory Commission. Failure to comply with this requirement could result in rescission of this authorization and/or other civil or criminal remedies.

D. Cove Point, or others for whom Cove Point acts as agent, shall include the following provision in any agreement or other contract for the sale or transfer of LNG exported pursuant to this Order:

Customer or purchaser acknowledges and agrees that it will resell or transfer LNG purchased hereunder for delivery only to countries identified in Ordering Paragraph B of DOE/FECM Order No. 5142, issued July 3, 2024, in Docket No. 24-30-LNG, and/or to purchasers that have agreed in writing to limit their direct or indirect resale or transfer of such LNG to such countries. Customer or purchaser further commits to cause a report to be provided to Cove Point LNG, LP that identifies the country (or countries) into which the LNG was actually delivered, and to include in any resale contract for such LNG the necessary conditions to ensure that Cove Point LNG, LP is made aware of all such countries.

E. Cove Point is permitted to use its authorization in order to export previously imported LNG as agent for other entities, after registering the other entities with DOE. Registration materials shall include an acknowledgement and agreement by the Registrant to supply Cove Point with all information and copies of contracts necessary in order to permit Cove Point to register that person or entity with DOE, including: (1) the Registrant's agreement to comply with this Order and all applicable requirements of DOE's regulations at 10 C.F.R. Part 590, including but not limited to destination restrictions; (2) the exact legal name of the Registrant,

state/location of incorporation/registration, primary place of doing business, and the Registrant's ownership structure, including the ultimate parent entity if the Registrant is a subsidiary or affiliate of another entity; (3) the name, title, mailing address, e-mail address, and telephone number of a corporate officer or employee of the Registrant to whom inquiries may be directed; and (4) an acknowledgement and agreement by the Registrant to include the provision in Ordering Paragraph D in any contract for the sale or transfer of LNG exported pursuant to this Order.

F. Each registration submitted pursuant to this Order shall have current information on file with DOE. Any change in company name, contact information, or other relevant modifications shall be filed with DOE within 30 days of such change(s).

G. Cove Point shall ensure that all persons required by this Order to register with DOE have done so.

H. Monthly Reports: With respect to the exports authorized by this Order, Cove Point shall file with the U.S. Department of Energy, Office of Fossil Energy and Carbon Management, Office of Resource Sustainability, Office of Regulation, Analysis, and Engagement (FE-34), within 30 days following the last day of each calendar month, a report on Form FE-746R indicating whether exports have been made. The first monthly report required by this Order is due not later than the 30th day of the month following the month of first export. In subsequent months, if exports have not occurred, a report of "no activity" for that month must be filed. If exports have occurred, the report must provide the information specified for each applicable activity and mode of transportation, as set forth in the Guidelines for Filing Monthly Reports. These Guidelines are available at <https://www.energy.gov/fecm/guidelines-filing-monthly-reports>.

(Approved by the Office of Management and Budget under OMB Control No. 1901-0294)

I. The first monthly report required by this Order is due not later than August 30, 2024, and should cover the reporting period from July 8, 2024, through July 31, 2024.

J. All monthly report filings on Form FE-746R shall be made to the Office of Regulation, Analysis, and Engagement according to the methods of submission listed on the Form FE-746R reporting instructions available at <https://www.energy.gov/fecm/regulation>.

Issued in Washington, D.C., on July 3, 2024.

Amy R. Sweeney
Director, Office of Regulation, Analysis, and Engagement
Office of Resource Sustainability