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

JAX LNG, LLC	)	**Docket No. 24-73-LNG**

REQUEST OF JAX LNG, LLC
FOR REHEARING AND CLARIFICATION

Pursuant to Section 590.501 of the Administrative Procedures with respect to the import and export of natural gas of the Department of Energy ("DOE"),1 JAX LNG, LLC ("JAX") hereby respectfully requests rehearing and clarification of DOE/FECM Order No. 5233 issued in the above-captioned proceeding on December 23, 2024. That order granted JAX long-term authorization to export liquefied natural gas ("LNG") both (i) to any country with which the United States has, or in the future may enter into, a free trade agreement requiring national treatment for trade in natural gas ("FTA countries") and (ii) to any other country with which trade is not prohibited by U.S. law or policy ("non-FTA countries") pursuant to DOE's "small-scale" exports rule.2 JAX's request here focuses on DOE's discussion and holding in Order No. 5233 regarding the transfer of LNG to a ship for use as a marine fuel, specifically when transferred from a bunkering vessel.

As JAX explained in its July 25, 2024, Application initiating this proceeding, "JAX has existing operations in which it loads LNG onto bunkering vessels, which are not large bulk-carrier LNG tankers used to transport LNG to foreign markets but rather are relatively small vessels that perform ship-to-ship transfers of LNG for use as marine fuel. The bunkering vessels that historically have loaded at the JAX dock have had capacity of 5,500 cubic meters (1.45 million gallons). Typically, the transfer by the bunkering vessels occurs in U.S. or international waters."3 Contractually, JAX hires bunkering vessels to

1 10 C.F.R. § 590.501 (2024).

2 *See* 10 C.F.R. §590.208(a) (2023); *Small-Scale Natural Gas Exports*, Final Rule, 83 Fed. Reg. 35106 (July 25, 2018).

3 JAX Application at 6-7.

transport LNG from the JAX facility for delivery to its domestic and international customer vessels on behalf of JAX. The bunkering vessels are U.S.-flagged and Jones Act compliant and are owned by Polaris New Energy, an affiliate of Seaside LNG (a 50% co-owner of JAX). Once the bunkering vessel is alongside the customer's vessel, it transfers the LNG marine fuel into the receiving vessel's fuel tanks in a ship-to-ship transfer. As the LNG passes the receiving vessel's fuel manifold so does the title of the LNG.

JAX's bunkering customers have a variety of ships registered both domestically and internationally that require LNG as marine fuel. These include cruise ships, car carriers, petroleum tankers, and container ships. The global use of LNG as a marine fuel is in high demand and customers have asked JAX to deliver LNG in ship-to-ship bunkering transactions in ports outside the U.S.: those requests led JAX to submit its Application for an export authorization.

In that Application, JAX expressed its view that when the transfer of LNG by the bunkering vessels occurs in U.S. or international waters, it would not constitute an export for purposes of Section 3 of the Natural Gas Act ("NGA").4 JAX requested "that DOE clarify when issuing the requested export authorization whether LNG transferred by a bunkering vessel at an international port of call should be treated as an export, whether such treatment is not required, or otherwise provide guidance regarding how bunkering operations should be reported to DOE."5

In Order No. 5233, DOE stated that its "practice to date has been that a ship-to-ship transfer of LNG from a bunkering vessel to another ship does not constitute an 'export' under NGA section 3 if the receiving ship is registered in the United States (i.e., a U.S.-flag ship)."6 Conversely, it concluded that "a ship-to-ship transfer of U.S.-sourced LNG — whether the transfer occurs in U.S. waters, international waters, or at an international port in a foreign country — will constitute an 'export' under NGA section 3

4 *Id.* at 7.

5 *Id.*

6 DOE/FECM Order No. 5233 at 8 (internal footnote omitted). The Order does not cite any precedent or prior DOE rulings reflecting its prior practice.

if the receiving ship is registered to a foreign country."[7] Disagreeing with JAX's stated view regarding transfers occurring in U.S. or international waters, DOE explained that "the registration (or 'flag') of the ship receiving the U.S.-sourced LNG from the bunkering vessel determines whether the LNG constitutes an 'export' under NGA section 3—not the physical location where the ship-to-ship transfer occurs."[8] DOE added that "to the extent that JAX's existing operations involve 'load[ing] LNG onto bunkering vessels … that perform ship-to-ship transfers of LNG for use as marine fuel,' this activity falls under DOE's jurisdiction (and thus would need to be reported pursuant to this Order going forward) if the receiving ship is registered to a foreign country."[9]

As a result of these rulings, DOE has asserted the full panoply of its Section 3 natural gas export regulation over the ship-to-ship transfer of LNG for use as a marine fuel from a bunkering vessel to foreign-flagged ships regardless of the location of the transfer. The regulatory requirements include not only monthly transactional reporting but also the requirements to file contracts and to include specified language in contracts. To JAX's knowledge, no other company or facilities engaged in such bunkering activities are currently subject to such DOE export regulation, which could potentially put JAX at a commercial disadvantage.

II. Specification of Errors

In accordance with Section 590.501(b) of DOE's regulations, JAX provides the following concise statement of the alleged errors in Order No. 5233. The grounds upon which JAX's rehearing request are based are set forth in detail in the next section of the request.

1. The DOE erred in concluding that the ship-to-ship transfer of LNG from a bunkering vessel to another ship that will utilize it as marine fuel constitutes an export of natural gas from the United States to a foreign country (the applicable standard in NGA Section 3) regardless of where the transfer occurs.

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7 *Id.*

8 *Id.* at n. 45.

9 *Id.* at 8-9 (internal footnote omitted).

2. The DOE erred in concluding that a ship-to-ship transfer of LNG from a bunkering vessel to another ship, regardless of where the transfer occurs, includes elements of both shipment from the United States and "subsequent entry into commerce at the destination, where the destination is a foreign country" (the standard for an export articulated in the Order).
3. The DOE erred in treating a foreign-registered vessel as, in effect, a foreign country for purposes of applying NGA Section 3.
4. The DOE's decision to treat transfers of LNG from a bunkering vessel to a vessel using the LNG as a marine fuel, regardless of the location of the transfer, was arbitrary and capricious, not the product of reasoned decision-making, and unsupported by substantial evidence, and the DOE failed to consider the relevant factors and to articulate a connection between the facts found and the decision made.

II. Request for Rehearing

NGA Section 3 requires authorization to "export any natural gas from the United States to a foreign country."[10] The DOE in Order No. 5233 notably did not mention the crucial last phrase of the statute: "to a foreign country." Still, the Order does incorporate this concept by explaining that "[t]he definition of 'export'… ordinarily contains both the elements of shipment from the United States and subsequent entry into commerce at the destination, where the destination is a foreign country."[11] Immediately after providing that definition, DOE announced, without further explanation, that a ship-to-ship transfer of LNG constitutes an export if the receiving ship is registered to a foreign country.[12] The conclusion does not follow logically from the definition, and DOE's reasoning is difficult to understand. The LNG involved in a ship-to-ship transfer in U.S. or international waters is destined only for the fuel

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10 15 U.S.C. § 717b(a).

11 Order No. 5233 at 8 & n. 44 (citing Webster's Revised Unabridged Dictionary (1913) (definition of "export" is "[t]o carry or send abroad, or out of a country, especially to foreign countries, as merchandise or commodities in the way of commerce"), https://www.websters1913.com/words/Export).

12 *Id.* at 8.

tank of a vessel for the purpose of generating power for ship services and propulsion. Thus, the LNG does ***not*** reach any foreign country and certainly does not "enter into commerce" in a foreign country.

DOE utilized the same dictionary definition of "export" provided in Order No. 5233 in a 2018 advisory opinion issued to JAX's co-owner Pivotal LNG, Inc. ruling that shipments of LNG delivered to the U.S. Naval Station Guantanamo Bay would not constitute an export under NGA Section 3.[13] DOE reasoned there that the LNG "would not be introduced into commerce in Cuba" because it would be consumed and used at the Naval Station over which the U.S. exercises exclusive jurisdiction.[14] In the same way, LNG consumed and used on-board a marine vessel is not introduced into commerce in a foreign country. Moreover, in contrast with Order No. 5233, DOE in its Guantanamo ruling provided no suggestion that the flag of the vessel transporting the LNG to Cuba would have any relevance: thus, under that advisory ruling, the LNG could have been transported to Cuba via a foreign-flagged vessel, yet there would not any be jurisdictional-export because the LNG would not be introduced into commerce in a foreign country.

The focus on the registration of a vessel in Order No. 5233 also seems contrary to a fundamental aspect of DOE's regulation of natural gas exports: the distinction between exports to FTA countries and non-FTA countries.[15] The distinction of course turns on the foreign country into which the natural gas enters commerce, not on the flag-registration of a carrier transporting the LNG to that destination. That is, the use of an LNG carrier flagged in an FTA country surely does not render the export an FTA transaction if the LNG is transported to a non-FTA country; and vice versa, *i.e.*, a non-FTA flagged carrier delivering LNG to an FTA country is part of an FTA export.

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13 Letter dated July 16, 2018 counsel for Pivotal LNG from DOE Deputy Secretary Bennett, available at: https://www.energy.gov/sites/prod/files/2018/07/f53/Pivotal_Advisory%20Opinion07_16_18.pdf.

JAX mentioned the prospect of it delivering LNG for use at the Guantanamo Naval Station, and its understanding that it would not constitute a Section 3 export, in its Application. JAX Application at 3 & n. 8. DOE did not expressly address the issue in Order No. 5233 however.

14 *Id.*

15 This distinction, of course, arises from the statute itself, with Section 3(c) providing that applications to export natural gas to FTA countries "shall be deemed to be consistent with the public interest" and granted "without modification or delay. 15 U.S.C. § 717b(c).

DOE's decision in Order No. 5233 that a ship-to-ship transfer of LNG constitutes an export if the receiving ship is registered to a foreign country appears implicitly to be based on the theory that a foreign flagged vessel is equivalent to a foreign nation. That theory, however, is contrary to basic U.S. law, at least with respect to transfers occurring at U.S. ports or in U.S. waters where foreign-flagged ships are governed by U.S. law. For instance, when the Supreme Court ruled that the Americans with Disabilities Act applies to foreign-flagged cruise shippers in U.S. waters, it explained that "This Court has long held that general statutes are presumed to apply to conduct that takes place aboard a foreign-flag vessel in United States territory if the interests of the United States or its citizens, rather than interests internal to the ship, are at stake…. The general rule that United States statutes apply to foreign-flag ships in United States territory is subject only to a narrow exception."16 The first case offered in a string citation provided by the Supreme Court (omitted from that quotation) showing that it has "long held" this position was the Court's 1923 ruling that Prohibition applied to foreign-flagged vessel in U.S. ports and waters.17 The Supreme Court observed in that case that the contention that the U.S. law covers foreign ships within U.S. waters would fail "if it were true that a ship is a part of the territory of the country whose flag she carries" (omitted from that quotation) just before rejecting that view as "a fiction."18 The Supreme Court further explained:

> the defendants [who sought exemption from Prohibition] refer to the statement sometimes made that a merchant ship is a part of the territory of the country whose flag she flies. But this, as has been aptly observed, is a figure of speech, a metaphor…. The jurisdiction which it is intended to describe arises out of the nationality of the ship, as established by her domicile, registry and use of the flag, and partakes more of the characteristics of personal than of territorial sovereignty.19

16 *Spector v. Norwegian Cruise Line Ltd.*, 545 U.S. 119, 130 (2005). The referenced narrow exception relates to the regulation of matters that involve only the internal order and discipline of the vessel itself. *See id.*

17 *Id.*, *citing Cunard S.S. Co. v. Mellon*, 262 U.S. 100, 127 (1923). Even at that time, the Court explained, citing even older precedent, that "It now is settled in the United States and recognized elsewhere that the territory subject to its jurisdiction includes the land areas under its dominion and control, the ports, harbors, bays and other enclosed arms of the sea along its coast and a marginal belt of the sea extending from the coast line outward a marine league, or three geographic miles." *Cunard*, 262 U.S. at 124*Id.* at 123.

18 *Cunard*, 262 U.S. at 124.

19 *Id.* at 123.

For a more recent source, a cogent summary of the U.S. law with respect to "Jurisdiction over Vessels" is posted on the website of the National Oceanic and Atmospheric Administration.20 That summary explains, with ample legal citations, including to the two Supreme Court cases discussed above, as follows: (1) with regard to Port State Jurisdiction:

> A State may exercise jurisdiction over foreign flagged merchant vessels within its ports and internal waters. *Cunard S.S. Co. v. Mellon*, 262 U.S. 100, 124 (1923); *Benz v. Companie Naviera Hidalgo*, S.A. 353 U.S. 138, 142 (1957); *Spector v. Norwegian Cruise Line Ltd*., 545 U.S. 119, 130-31 (2005); United States Department of State, "Immunity of Uruguayan Oil Tanker Presidente Rivera" (July 13, 1989). This exercise of jurisdiction derives from the principle of territoriality, which is recognized as customary international law. *See The Schooner Exchange v. McFaddon*, 11 U.S. (7 Cranch) 116, 136 (1812)("The jurisdiction of a nation within its own territory is necessarily exclusive and absolute.");21

and (2) with regard to Territorial Sea:

> A State exercises almost complete sovereignty in its territorial sea, similar to that which it possesses over its land, internal waters, and ports. See Restatement (Third) of Foreign Relations Law § 512 (1987). This exercise of jurisdiction, like port state jurisdiction, is derived from the international law principle of territoriality, which gives a State exclusive authority to regulate persons within its borders. *See The Schooner Exchange v. McFaddon*, 11 U.S. (7 Cranch) 116, 136 (1812). Thus a State has jurisdiction over all persons and vessels in its territorial sea, without regard to the person's nationality or the vessel's flag. *Cunard S.S. Co. v. Mellon*, 262 U.S. 100, 124 (1923).

The Supreme Court's characterization of the idea that a ship is part of the country of its flag as a fiction or metaphor, lacking legal significance, corresponds well with the limited role of a ship's registration in connection with JAX's bunkering operations. The ships that JAX fuels are not a foreign state-owned vessels. The majority of the customers engage in international trade and their ships are owned by private or public companies for the purpose of transporting automobiles, passengers, and other commodities to and from the U.S. Shipowners under international law have the option to choose their "Flag Administration" for their ships. In many cases, the domicile location of the customer's company

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20 *See* NOAA, International Section, Areas of Practice, Jurisdiction Over Vessels, available at: https://www.noaa.gov/jurisdiction-over-vessels.

21 *Id.*

does not correspond with the Flag Administration of their ships or dictate where the vessel will operate or trade.

The DOE's apparent theory in Order No. 5233 that a foreign-flagged vessel constitutes a "foreign nation," thereby forming the basis for NGA Section 3 jurisdiction flies in the face of this well-established body of law. The ruling in Order No. 5233 is unreasonable especially when the ship-to-ship transfer occurs in a U.S. port or U.S. waters, where the foreign-flagged vessel is subject to U.S. jurisdiction. So, on rehearing, the DOE should reverse its assertion of Section 3 jurisdiction at a minimum with respect to ship-to-ship transfers in U.S. ports and U.S. waters. The same conclusion also should apply when the ship-to-ship transfer occurs in international waters. While the U.S. does not have territorial jurisdiction over the receiving ship in that situation, it nevertheless remains true that a ship's registration does not make it part of a foreign nation, and the LNG is not entering into commerce in a foreign nation. Just as it stated in its original Application, JAX continues to believe that whether ship-to-ship transfer from a bunkering vessel constitutes an export should be a debatable and unclear issue only with respect to transfers in international ports. JAX would not oppose a DOE decision on rehearing that limits its assertion of NGA Section 3 jurisdictional over bunkering in that situation.

Even there, however, the transfer of LNG for use as marine fuel may not be considered a jurisdictional-export for another independent reason. As noted earlier, the Webster's Dictionary definition of "export" relied upon by DOE is "[t]o carry or send abroad, or out of a country, especially to foreign countries, *as merchandise or commodities in the way of commerce*."22 Yet, LNG used as marine fuel to power a vessel is *not* merchandise or a commodity being exported in commerce, for sale to others. In an analogous context, the Office of Trade, Regulations, and Rulings of the U.S. Customs and Border Protection ("CBP") has ruled that transferring LNG outside the U.S. three-mile territorial limit to either U.S. or foreign-flagged vessels via ship-to-ship bunkering does not violate the Jones Act where the LNG

22 Order No. 5233 at 8 & n. 44 (emphasis added).

would be used as fuel for the receiving vessel rather than transported as a commodity.[23] The CBP's reasoning for that decision drew on an earlier ruling in which it "examined the distinction between bunker fuel and cargo, stating 'bunker fuel is fuel stored on board a vessel for the use of that vessel' whereas '[f]uel carried as cargo is not necessary to the operation of the vessel that is only transporting it.'"[24] In that earlier ruling, CBP concluded that petroleum products transported between ports on a marine vessel were subject to a Harbor Maintenance Fee when transported as a "commercial cargo" but that "bunker fuel" (*i.e.,* fuel stored on a vessel for that vessel's own use) would not be.[25] The agency there referenced CBP and federal case law, multiple definitions from the maritime industry, and maritime scholarship, all drawing a distinction between, on the one hand, "commercial cargo" of fuel being transported for delivery to others and, on the other hand, fuel utilized for the vessel's own use for its operation or propulsion.[26]

Consistent with this CBP and maritime precedent, DOE could reasonably conclude that LNG loaded onto a marine vessel as bunker fuel -- i.e. for its own use as maritime fuel rather than as a "commercial cargo" to be transported elsewhere -- is not subject to its jurisdiction under NGA Section 3. Under the terms of the statute, such a transfer is not an "export to a foreign country" and, in terms of DOE's chosen definition of "export," the LNG will not enter into commerce in a foreign country. This approach would exclude from DOE's NGA authority ship-to-ship transfers of LNG by bunkering vessels regardless of where they occur, including in foreign ports.

In summary and conclusion, for all the reasons explained above, JAX submits that DOE's decision to treat transfers of LNG from a bunkering vessel to a vessel using the LNG as a marine fuel,

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23 *See* Letter dated Jan. 23, 2024, from W. Richmond Beevers, Chief, Cargo Security, Carriers and Restricted Merchandise Branch, Office of Trade, Regulations and Rulings, U.S. Customs and Border Protection, to Jeanne Grasso, Esq., H332949, available at: https://www.customsmobile.com/rulings/docview?doc_id=HQ%20H332949&highlight=HQ%20H332949.

24 *Id.,* citing HQ H250175 (May 19, 2014). That referenced CBP ruling is the Letter dated May 19, 2024, from Sandra L. Bell, Executive Director, Office of Regulations and Rulings, U.S. Customs and Border Protection, to Frank X. Dipolito, available at: https://www.customsmobile.com/rulings/docview?doc_id=HQ%20H250175&highlight=HQ%20H250175.

25 *See id.*

26 *See id.*

regardless of the location of the transfer, was arbitrary and capricious, not the product of reasoned decision-making, and unsupported by substantial evidence, and that the DOE failed to consider the relevant factors and to articulate a connection between the facts found and the decision made.[27] Accordingly, JAX respectfully urges DOE on rehearing to reverse its misguided and unsupported ruling, at a minimum with respect to ship-to-ship transfers made in U.S. ports and U.S. waters.

II. Request for Clarification

Prior to submitting this request for rehearing, JAX has engaged in discussions with the relevant DOE Staff seeking certain clarifications of Order No. 5233 to ensure compliance with the order. In response to JAX's request, DOE Staff confirmed on January 15, 2024 that "the ruling in DOE/FECM Order No. 5233, and any limitations or obligations it creates for JAX, are prospective only. Specifically, JAX is not required to report to DOE any bunkering activities that took place prior to the issuance of the Order on December 23, 2024."[28] The DOE Staff also stated that it is continuing to review the other requested areas of clarification.[29] JAX's appreciates the Staff's cooperation in discussing clarifications of Order No. 5233, its confirmation of the prospective-only application of the order, and its on-going consideration of JAX's other clarification requests. JAX's understanding is that Staff will consider and respond to the clarification requests regardless of this filing; but, for completeness, JAX also is incorporating its clarifications requests here.

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27 *See, e.g., Motor Vehicle Mfrs. Ass'n v. State Farm Mut. Auto. Ins. Co*., 463 U.S. 29, 43 (1983) ("Normally, an agency rule would be arbitrary and capricious if the agency. . . offered an explanation for its decision that runs counter to the evidence before the agency"); *Bowman Transp., Inc. v. Arkansas-Best Freight Sys., Inc*., 419 U.S. 281, 285-86, 95 S. Ct. 438, 442 (1974) (agency must articulate a "rational connection between the facts found and the choice made" and the agency's path must be able to be "reasonably be discerned") (quoting *Burlington Truck Lines v. United States*, 371 U.S. 156, 168 (1962) and *Colo. Interstate Gas Co. v. FPC*, 324 U.S. 581, 595 (1945)); *Balt. Gas & Elec. Co. v. NRDC*, 462 U.S. 87, 105 (1983) (the Administrative Procedure Act requires an agency to "consider[] the relevant factors and articulate[] a rational connection between the facts found and the choice made.").

28 Email to counsel for JAX from Jennifer Wade, Director Division of Regulation, Office of Regulation, Analysis, and Engagement, dated Jan. 16, 2025, responded to an email dated Jan. 15, 2025 from counsel for JAX. JAX's understanding is that both emails will be posted on DOE's website in this docket.

29 *Id.*

Certain of the clarification requests will no longer be relevant, or will have lesser significance, if DOE grants JAX's rehearing request and changes the application of its Section 3 jurisdiction over bunkering operations. Accordingly, JAX requests the clarifications in the alternative to the extent relevant depending on DOE's action on rehearing. Below JAX repeats verbatim its clarification requests previously provided to Staff (omitting the answered request regarding prospective application) while adding minor additions regarding its position for consideration by Staff.

1. The order at pages 8-9 states that "DOE's practice to date" has been that a ship-to-ship transfer of LNG from a bunkering vessel to another ship does not constitute an "export" under NGA section 3 if the receiving ship is registered in the United States, but that ship-to-ship transfers to foreign-registered ships constitute DOE-jurisdictional exports regardless of where the transfer occurs. Has that practice been articulated in any prior DOE orders or pronouncements? Has any other company engaged in similar bunkering activity obtained export authorization for it?

   JAX believes that Order No. 5233 announced a new policy with respect to ship-to-ship transfers of LNG for marine fuel. For that reason, JAX urges DOE not only to make the ruling prospective-only (as it has done) but also to consider the arguments presented in this request for rehearing and explain fully the reasons and rationale for the new assertion of its NGA Section 3 jurisdiction over bunkering.

2. If JAX were to transfer US-sourced LNG onto a foreign-registered vessel directly at its facility rather than by bunkering vessel, does DOE consider that activity an export?

   JAX believes the logic of DOE's rationale in Order No. 5233 would apply equally to direct loading of LNG onto a foreign-flagged vessel for its use as marine fuel, but that issue was not presented in JAX's Application and therefore was not addressed in Order No. 5233.

3. Ordering Paragraph A authorizes export of natural gas "loaded into bunkering vessels for transfer as marine fuel to ships in foreign ports," though with a footnote reference to the earlier discussion in the order. Please confirm that the order authorizes transfer onto foreign-registered vessels wherever it occurs.

   While this conclusion seems clear from the full context of Order No. 5233, JAX requests DOE to confirm it as a clarification.

4. Ordering Paragraph F requires JAX to file long-term contracts associated with LNG export (interpreted to include transfer to foreign-registered vessels as a marine fuel) as well as gas supply within 30 days of execution. For any pre-existing contracts, please confirm that they may be filed in the future (within 30 days after the order, or this clarification).

   JAX believes this requested timing is consistent with DOE's confirmation that the Order is prospective and JAX intends to proceed in this manner pending guidance from DOE Staff.

5. Ordering Paragraph H requires language regarding restrictions on the purchaser reselling or transferring the LNG to others, which seem inappropriate where the purchaser of the LNG will utilize the LNG itself as a marine fuel and will not sell or transfer it to others. Is this language

needed in such contracts and, if so, must it be added through amendment to pre-existing contracts?

JAX continues to seek clarification of this point.

6. For Monthly Reporting pursuant to Ordering Paragraph K, in the case of transfer to a foreign-flagged vessel for marine fuel, should the "destination" be the nation in which the ship is registered? If JAX were to use a foreign flagged intermediary bunkering vessel, would the export be reported as to the country of registration of the bunker vessel or the country of registration of the ultimate customer vessel?

   JAX believes the destination for reporting purposes should be noted as a foreign-flagged vessel, based on the country of the flag of the ultimate customer vessel. JAX intends to proceed in this manner pending guidance from DOE Staff.

7. In one existing case, title to the LNG on a bunkering vessel is transferred to another (affiliated) entity prior to loading the LNG onto the customer's ship that will utilize it as marine fuel. Under the order, JAX may use its authorization as agent for another party that holds title to the LNG provided that it is "registered" in accordance with the order. For purposes of determining whether JAX is using the authorization on its own behalf or as agent for the intermediary, where is the determining point for title transfer – e.g., if JAX has title to the LNG as it leaves its facility and is loaded onto the vessel, is the export on its own behalf, even if another entity holds title prior to the ship-to-ship transfer? If registration is required for pre-existing activity, please confirm that it may also occur within 30 days after the order or receipt of this clarification.

   JAX continues to seek clarification of this point.

III. CONCLUSION

Wherefore, for all the foregoing reasons, JAX respectfully requests rehearing, and clarification as applicable, of Order No. 5233 as detailed above.

Respectfully submitted,

/s/ J. Patrick Nevins

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Dated: January 22, 2025

VERIFICATION

Commonwealth
~~STATE~~ OF VIRGINIA)

) SS:

COUNTY OF HENRICO)

Roger Williams, being first duly sworn on his oath deposes and says: that he is the Manager for JAX LNG, LLC; that he is duly authorized to make this Verification; that he has read the foregoing submittal and is familiar with the contests thereof; that all the statements and matters contained therein are true and correct to the best of his information, knowledge and belief; and that he is authorized to execute and file the same with the U.S. Department of Energy.

Roger Williams
Manager
JAX LNG, LLC

Sworn to and subscribed before me this 22nd day of January, 2025

Carol-Ann Marshall
Notary Public
In and For said County

My Commission Expires: May 31, 2025

CAROL-ANN MARSHALL
NOTARY PUBLIC
REGISTRATION # 7281899
COMMONWEALTH OF VIRGINIA
MY COMMISSION EXPIRES
MAY 31, 2025

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this day served the foregoing document upon each person designated on the official service list compiled for this proceeding.

Dated at Washington, D.C., this 22nd day of January, 2025.

/s/ *J. Patrick Nevins*
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