UNITED STATES OF AMERICA

DEPARTMENT OF ENERGY

HYDROCARBONS AND GEOTHERMAL ENERGY OFFICE

VENTURE GLOBAL CP2 LNG, LLC	)	DOCKET NO. 21-131-LNG

ORDER DENYING REQUEST FOR REHEARING OF FINAL ORDER GRANTING LONG-TERM AUTHORIZATION TO EXPORT LIQUEFIED NATURAL GAS TO NON-FREE TRADE AGREEMENT COUNTRIES

DOE/HGEO ORDER NO. 5264-B

MARCH 26, 2026

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FREQUENTLY USED ACRONYMS

AEO	Annual Energy Outlook
Bcf/d	Billion Cubic Feet per Day
Bcf/yr	Billion Cubic Feet per Year
CX	Categorical Exclusion
DOE	U.S. Department of Energy
EA	Environmental Assessment
EIS	Environmental Impact Statement
E.O.	Executive Order
FE	Office of Fossil Energy (prior to July 4, 2021)
FECM	Office of Fossil Energy and Carbon Management (from July 4, 2021, through November 19, 2025)
FERC	Federal Energy Regulatory Commission
FID	Final Investment Decision
FTA	Free Trade Agreement
GDP	Gross Domestic Product
GHG	Greenhouse Gas
HGEO	Hydrocarbons and Geothermal Energy Office (as of November 20, 2025)
LNG	Liquefied Natural Gas
mtpa	Million Metric Tons per Annum
NGA	Natural Gas Act
NRDC	Natural Resources Defense Council

I. INTRODUCTION AND BACKGROUND

A. Application Proceeding

On December 2, 2021, Venture Global CP2 LNG, LLC (CP2 LNG) filed an application (Application)[1] with the Department of Energy's (DOE) Office of Fossil Energy and Carbon Management (now known as the Hydrocarbons and Geothermal Energy Office)[2] under section 3 of the Natural Gas Act (NGA).[3] CP2 LNG supplemented the Application on December 17, 2021.[4]

CP2 LNG requested long-term, multi-contract authorization to export domestically produced liquefied natural gas (LNG) in a volume equivalent to 1,446 billion cubic feet (Bcf) per year (Bcf/yr) of natural gas (3.96 Bcf per day (Bcf/d)), or approximately 28 million metric tons per annum (mtpa) of LNG.[5] CP2 LNG sought to export this LNG by vessel from the CP2 LNG Project (Project), which is currently under construction on the east side of the Calcasieu Ship Channel and the nearby Monkey Island, in Cameron Parish, Louisiana.[6]

CP2 LNG requested to export the LNG to: (i) any country with which the United States has entered into a free trade agreement (FTA) requiring national treatment for trade in natural

[1] Venture Global CP2 LNG, LLC, Application for Long-Term, Multi-Contract Authorization to Export Liquefied Natural Gas to Free Trade Agreement and Non-Free Trade Agreement Nations, Docket No. 21-131-LNG (Dec. 2, 2021) [hereinafter CP2 LNG App.].
[2] The Office of Fossil Energy (FE) changed its name to the Office of Fossil Energy and Carbon Management (FECM) on July 4, 2021. Subsequently, on November 20, 2025, FECM changed its name to the Hydrocarbons and Geothermal Energy Office (HGEO). In this Order, DOE uses the acronym in effect at the time of each order or action discussed.
[3] 15 U.S.C. § 717b. The authority to regulate the imports and exports of natural gas, including liquefied natural gas, under section 3 of the NGA has been delegated to the Assistant Secretary for FECM (now the Assistant Secretary for HGEO) in Redelegation Order No. S4- DEL-FE1-2023, issued on April 10, 2023.
[4] Venture Global CP2 LNG, LLC, Supplement to Application, Docket No. 21-131-LNG (Dec. 17, 2021) [hereinafter CP2 LNG Supp.].
[5] CP2 LNG App. at 2. For purposes of this Order, DOE uses the terms "authorization" and "order" interchangeably.
[6] *Id.* at 1.

gas (FTA countries), under NGA section 3(c);[7] and (ii) any other country with which trade is not prohibited by U.S. law or policy (non-FTA countries), under NGA section 3(a).[8] On April 22, 2022, in DOE/FECM Order No. 4812, DOE granted the FTA portion of the Application in the requested volume of 1,446 Bcf/yr of natural gas for a term extending through December 31, 2050.[9]

1. Conditional Order

On March 19, 2025, in DOE/FECM Order No. 5264, DOE conditionally granted the non-FTA portion of CP2 LNG's Application, as supplemented (Conditional Order),[10] under NGA section 3(a) and DOE's regulation governing conditional orders, 10 C.F.R. § 590.402.[11]

As relevant here, DOE stated that the motions to intervene in the proceeding submitted by Sierra Club and Natural Resources Defense Council (NRDC) were granted by operation of law.[12] DOE also made preliminary findings on the non-FTA portion of the Application, which included evaluating certain arguments made by Sierra Club, NRDC, and others that opposed the Application, as well as considering CP2 LNG's Answer to the various pleadings.[13]

DOE explained, however, that it had recently undertaken a study evaluating exports of domestically produced LNG from the lower-48 states, entitled *2024 LNG Export Study: Energy,*

[7] 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.
[8] *Id.* § 717b(a); *see* CP2 LNG App. at 2, 13.
[9] *Venture Global CP2 LNG, LLC*, DOE/FECM Order No. 4812, Docket No. 21-131-LNG, Order Granting Long-Term Authorization to Export Liquefied Natural Gas to Free Trade Agreement Nations (Apr. 22, 2022) [hereinafter FTA Order].
[10] *Venture Global CP2 LNG, LLC*, DOE/FECM Order No. 5264, Docket No. 21-131-LNG, Order Conditionally Granting Long-Term Authorization to Export Liquefied Natural Gas to Non-Free Trade Agreement Nations (Mar. 19, 2025) [hereinafter Conditional Order].
[11] *See id.* at 6-8.
[12] *See id.* at 6, 37-40, 61-62 (Ordering Para. N). DOE also granted motions to intervene submitted by Public Citizen, Inc., and the Industrial Energy Consumers of America (IECA), respectively; accepted three timely-filed comments; and rejected numerous late-filed comments, among other procedural matters. *See id.* at 2-4.
[13] *See, e.g., id.* at 40-48.

Economic, and Environmental Assessment of U.S. LNG Exports (2024 LNG Export Study or 2024 Study),[14] and that the comment period on the 2024 Study would remain open until March 20, 2025.[15] DOE further stated that it sought to balance the directive in Executive Order (E.O.) 14154, *Unleashing American Energy*, to review non-FTA export applications "as expeditiously as possible,"[16] with "the importance of completing the ongoing 2024 LNG Export Study proceeding."[17]

Given these circumstances, DOE "determined that it [was] appropriate to conditionally grant the non-FTA portion of the CP2 LNG's Application."[18] DOE explained that the issues addressed in the Conditional Order "would be reexamined in a final order as informed by the 2024 LNG Export Study proceeding," along with any additional issues or considerations examined in compliance with DOE's obligations under NGA section 3(a) and the National Environmental Policy Act of 1969[19] (NEPA).[20]

2. Final Order

On May 19, 2025, DOE published a document on DOE's website entitled *Energy, Economic, and Environmental Assessment of U.S. LNG Exports: Response to Comments* (Response to Comments), in which DOE summarized and responded to the public comments

[14] U.S. Dep't of Energy, Office of Fossil Energy & Carbon Management, *Energy, Economic, & Environmental Assessment of U.S. LNG Exports* (Dec. 2024), https://fossil.energy.gov/app/docketindex/docket/index/30 [hereinafter 2024 LNG Export Study or 2024 Study] (providing links to the various study documents).
[15] *See* Conditional Order at 4-5 (noting that DOE had extended the original public comment by an additional 30 days, to March 20, 2025).
[16] Exec. Order No. 14,154 of January 20, 2025, *Unleashing American Energy*, 90 Fed. Reg. 8353, 8357 (§ 8(a)) (Jan. 29, 2025), https://www.govinfo.gov/content/pkg/FR-2025-01-29/pdf/2025-01956.pdf [hereinafter E.O. 14154]. Because DOE has jurisdiction to regulate exports of LNG under NGA section 3(a)—not approvals of export projects, which are under the jurisdiction of the Federal Energy Regulatory Commission (FERC)—DOE interprets E.O. 14154 as directing DOE to review non-FTA export applications "as expeditiously as possible."
[17] Conditional Order at 7.
[18] *Id.*
[19] 42 U.S.C. § 4321 *et seq*.
[20] Conditional Order at 5 (stating that the Conditional Order did not rely on the 2024 Study in light of the then-ongoing public comment period).

received on the 2024 Study.[21] Subsequently, on October 21, 2025, in DOE/FECM Order No. 5264-A,[22] DOE issued a final order granting the non-FTA portion of CP2 LNG's Application, as supplemented.[23] DOE explained that, with the 2024 LNG Export Study proceeding now complete, "DOE is reexamining relevant portions of the Conditional Order as previously indicated."[24]

First, DOE stated that it had conducted the 2024 Study as a comprehensive update of DOE's prior LNG studies that "aimed to capture the recent and complex dynamics of the LNG export market."[25] DOE also acknowledged that the 2024 Study included an environmental analysis, but found that "the environmental analysis . . . is not required for DOE's decision on [CP2 LNG's] Application, as DOE's NEPA review considers all relevant environmental effects from the proposed exports."[26]

Specifically, DOE explained that, under its categorical exclusion B5.7 from NEPA, *Export of natural gas and associated transportation by marine vessel*,[27] and consistent with the

[21] U.S. Dep't of Energy, Office of Fossil Energy & Carbon Management, Energy, Economic, and Environmental Assessment of U.S. LNG Exports: Response to Comments (May 19, 2025), https://www.energy.gov/sites/default/files/2025-10/ENERGY%2C%20ECONOMIC%2C%20AND%20ENVIRONMENTAL%20ASSESSMENT%20OF%20U.S.%20LNG%20EXPORTS_RESPONSE%20TO%20COMMENTS_0.pdf [hereinafter Response to Comments]. On May 22, 2025, DOE published a Notice of Availability of the Response to Comments in the *Federal Register*. U.S. Dep't of Energy, Notice of Availability of Response to Comments for 2024 LNG Export Study: Energy, Economic, and Environmental Assessment of U.S. LNG Exports, 90 Fed. Reg. 21,912 (May 22, 2025).

[22] *Venture Global CP2 LNG, LLC*, DOE/FECM Order No. 5264-A, Docket No. 21-131-LNG, Final Order Granting Long-Term Authorization to Export Liquefied Natural Gas to Non-Free Trade Agreement Nations (Oct. 21, 2025) [hereinafter Final Order].

[23] To avoid repetition in the Final Order, DOE incorporated by reference the following sections of the Conditional Order: III (Description of Request), IV (Applicant's Public Interest Analysis), V.B1-B2 (portions of Current Proceeding Before DOE), and VI.A.2 (Discussion and Conclusions, Procedural Matters).

[24] Final Order at 8.

[25] *Id.* at 17.

[26] *Id.* at 17-18.

[27] 10 C.F.R. Part 1021, Subpt. D, App. B, Categorical Exclusion B5.7. This categorical exclusion amended the prior B5.7 categorical exclusion. *See* U.S. Dep't of Energy, National Environmental Policy Act Implementing Procedures; Final Rule, 85 Fed. Reg. 78,197 (Dec. 4, 2020) [hereinafter NEPA Implementing Procedures Final Rule or Final Rule]. For more information on this revised B5.7 categorical exclusion and the accompanying Marine Transport Technical Support Document, *see* Final Order § II.C.

Supreme Court's holding in *Department of Transportation v. Public Citizen* (*Public Citizen*),[28] and, more recently, *Seven County Infrastructure Coalition v. Eagle County, Colorado* (*Seven County*),[29] DOE's NEPA review "is limited to the 'potential effects associated with marine transport of LNG' to non-FTA countries."[30] Therefore, DOE stated that its "discussion of the 2024 Study in this [Final] Order focuses only on the economic analysis in the 2024 Study, as well as DOE's related findings on energy security."[31]

On this basis, DOE reviewed the non-FTA portion of the Application, as supplemented, the protests and relevant comments on the Application, the relevant portions of DOE's 2024 LNG Export Study, the public comments received on the 2024 Study, and DOE's Response to Comments on the 2024 Study, among other evidence.[32]

Additionally, to comply with NEPA, DOE relied on the B5.7 categorical exclusion and issued a categorical exclusion (or CX) determination for the non-FTA portion of CP2 LNG's Application.[33] As part of its NEPA analysis, DOE: (i) found that "marine transport effects are the only reasonably foreseeable environmental impacts from CP2 LNG's proposed exports";[34] (ii) evaluated Sierra Club's arguments related to shipping traffic and other alleged marine transport effects;[35] and (iii) concluded that there "is no legal requirement to consider any other environmental impacts raised by the protestors or commenters."[36] DOE found, and reaffirms in this Order, that CP2 LNG's proposed exports are excluded from further NEPA review

[28] *Dep't of Transp. v. Pub. Citizen*, 541 U.S. 752 (2004) [hereinafter *Pub. Citizen*].
[29] *Seven Cnty. Infrastructure Coal. v. Eagle Cnty., Colo.*, 605 U.S. 168 (2025) [hereinafter *Seven Cnty*.].
[30] Final Order at 18 & n.80 (quoting NEPA Implementing Procedures Final Rule, 85 Fed. Reg. at 78,199, and citing other statements in the Final Rule).
[31] *Id.* at 18 (emphasis added and citation omitted).
[32] *Id.* at 8-9 (internal citation omitted).
[33] *See id.* at 56-57 & n.312 (citing U.S. Dep't of Energy, Categorical Exclusion Determination, Venture Global CP2 LNG, LLC, Docket No. 21-131-LNG (Oct. 20, 2025)).
[34] *Id.* at 56.
[35] *Id.* (citing NEPA Implementing Procedures Final Rule, 85 Fed. Reg. at 78,199).
[36] Final Order at 56 (citing, *e.g.*, *Seven Cnty.,* 605 U.S. at 178-80).

obligations pursuant to this Categorical Exclusion.[37]

Based on this record, and taking into account the considerations directed by E.O. 14154,[38] DOE "reaffirm[ed] that it [had] not been shown that CP2 LNG's proposed exports of LNG to non-FTA countries will be inconsistent with the public interest, as would be required to deny the Application under NGA section 3(a)."[39] DOE thus granted the non-FTA portion of the Application in the full volume requested—1,446 Bcf/yr of natural gas, or 3.96 Bcf/d—subject to the Terms and Conditions and Ordering Paragraphs set forth in the Final Order.[40]

Finally, DOE notes that, on March 13, 2026, CP2 LNG's parent company, Venture Global, Inc., announced a final investment decision (FID) on Phase 2 of the CP2 LNG Project for approximately 1.92 Bcf/d of natural gas.[41] With this announcement, the entire authorized capacity of the CP2 LNG Project is now under construction, pursuant to FID.[42] Further, in recent weeks, the global supply of LNG has been significantly impacted from the developments in the Middle East—including the supply disruption that occurred on March 2, 2026, from the drone strike at the Ras Laffan LNG export terminal operated by QatarEnergy,[43] which has

[37] *See id.* at 10 (granting "without further review, the non-FTA portion of the Application on the basis of this Categorical Exclusion"); 42 U.S.C. §§ 4336(a)(2), (b)(2).
[38] *See* E.O. 14154, 90 Fed. Reg. at 8357 (§ 8(a)) (directing the Secretary of Energy to consider "the economic and employment impacts to the United States and the impact to the security of allies and partners that would result from granting the [non-FTA] application").
[39] Final Order at 9-10.
[40] *Id.* at 10; *see also id.* at 10-11, 68 (Term and Condition G) (stating that, because the export volumes authorized in CP2 LNG's FTA order and the Final Order reflect the maximum liquefaction capacity of the Project as approved by FERC, CP2 LNG may not treat the FTA and non-FTA export volumes as additive to one another).
[41] Venture Global, Inc., "Venture Global Announces Final Investment Decision and Financial Close for Phase 2 of CP2 LNG" (Mar. 13, 2026), https://ventureglobal.com/2026/03/13/venture-global-announces-final-investment-decision-and-financial-close-for-phase-2-of-cp2-lng.
[42] *Id.*
[43] *See* QatarEnergy, "QatarEnergy to Stop Production of LNG" (Mar. 2, 2026), https://www.qatarenergy.qa/en/MediaCenter/Pages/newsdetails.aspx?ItemId=3892 ("Due to military attacks on QatarEnergy's operating facilities in Ras Laffan Industrial City and Mesaieed Industrial City in the State of Qatar, QatarEnergy has ceased production of [LNG] and associated products.").

removed approximately 20% of global LNG supplies,[44] and the ongoing shutdown of LNG production at QatarEnergy.[45] In addition to the immediate impacts from the shutdown at Ras Laffan on global volumes of LNG, the shutdown has delayed a major expansion of QatarEnergy's LNG capacity "until at least 2027,"[46] making CP2 LNG one of the few sources of additional volumes of LNG in the world in 2027 (when CP2 LNG's exports are expected to commence).[47] We thus reiterate that additional U.S. LNG supplies from export facilities already operating and supplies that will be available once facilities currently under construction are completed—such as the CP2 LNG Project—are essential to supplying the global LNG market and strengthening global energy security.[48]

B. Rehearing Proceeding

On November 20, 2025, Sierra Club and NRDC (collectively, Petitioners) timely submitted a joint "Request for Rehearing of DOE/FECM Order No. 5264-A" (Rehearing Request).[49]

On December 19, 2025, DOE issued a "Notice Providing for Further Consideration of

[44] *See* U.S. Energy Info. Admin., *Weekly Natural Gas Storage Report Supplement* (Mar. 5, 2026), https://www.eia.gov/naturalgas/weekly/supplement/archive/2026/03/05/ (follow link to "Liquefied Natural Gas – International Prices") (stating that "QatarEnergy LNG, which supplies about 20% of global LNG volumes, declared force majeure on LNG exports").
[45] *See* QatarEnergy, "QatarEnergy Declares Force Majeure" (Mar. 4, 2026), https://www.qatarenergy.qa/en/MediaCenter/Pages/newsdetails.aspx?ItemId=3894 (stating that, due to its need to "stop production of [LNG] and associated products, QatarEnergy has declared Force Majeure to its affected buyers").
[46] *See* Türkiye Today, "QatarEnergy mulls delay of LNG megaproject to 2027 after Iran attacks" (Mar. 9, 2026) ("The shutdown [at Ras Laffan] has pushed back progress on the North Field East development, one of the largest LNG expansion projects currently underway."), https://www.turkiyetoday.com/business/qatarenergy-mulls-delay-of-lng-megaproject-to-2027-after-iran-attacks-3215904.
[47] Venture Global CP2 LNG, LLC, Semi-Annual Status Report, Docket No. 21-131-LNG, at 3 (Oct. 1, 2025) (stating that CP2 LNG is targeting the first LNG from Phase 1 of its Project in "late 2027").
[48] *See*, *e.g.*, Final Order at 51-54 ("Energy Security"); *see also supra* note 38 (noting that E.O. 14154 requires DOE to consider "the impact to the security of allies and partners" in evaluating non-FTA export applications).
[49] Sierra Club and Natural Resources Defense Council, Request for Rehearing of DOE/FECM Order No. 5264-A, Docket No. 21-131-LNG (Nov. 20, 2025), https://www.energy.gov/sites/default/files/2025-11/Request%20for%20Rehearing%20of%20CP2%20NFTA%20Authorization.pdf [hereinafter Rehearing Request].

Request for Rehearing."[50] Citing *Allegheny Defense Project v. Federal Energy Regulatory Commission*,[51] DOE observed that, unless DOE acts upon a request for rehearing within 30 days after it is filed, the request may be deemed to have been denied for purposes of judicial review under NGA section 19(a).[52] Nonetheless, DOE stated that the Rehearing Request "will be further considered and addressed in a future order."[53] DOE also observed that, "[c]onsistent with NGA section 19(a), DOE may modify or set aside DOE/FECM Order No. 5264-A, in whole or in part, in such manner as it shall deem proper until the record in this proceeding is filed in a court of appeals."[54]

For the reasons set forth below, DOE denies Petitioners' Rehearing Request and reaffirms the findings and conclusions in the Final Order (DOE/FECM Order No. 5264-A).

C. Petition for Review

On February 17, 2026, before DOE issued any subsequent order addressing Petitioners' Rehearing Request, Petitioners filed a "Joint Petition for Review of Orders of the United States Department of Energy" (Petition for Review) in the United States Court of Appeals for the District of Columbia Circuit (D.C. Circuit).[55] The Petition for Review is pending.

II. RELEVANT LEGAL AUTHORITIES

NGA section 3(a) authorizes the exportation of natural gas from the United States to non-FTA countries unless, after opportunity for hearing, DOE "finds that the proposed exportation . .

[50] *Venture Global CP2 LNG, LLC*, Notice Providing for Further Consideration of Request for Rehearing, Docket No. 21-131-LNG (Dec. 19, 2025) [hereinafter Notice for Further Consideration].
[51] 964 F.3d 1 (D.C. Cir. 2020).
[52] 15 U.S.C. § 717r(a); *see* Notice for Further Consideration at 2 (citing *Allegheny Def. Project v. FERC*).
[53] Notice for Further Consideration at 2.
[54] *Id.* at 2-3.
[55] *Sierra Club, et al. v. U.S. Dep't of Energy*, Petition for Review, Case No. 26-1036 (D.C. Cir. Feb. 17, 2026). Although the title of the Petition for Review references "Orders," Petitioners are challenging both the Final Order (Order No. 5264-A) and DOE's B5.7 categorical exclusion rulemaking discussed herein, "both as applied" in the Final Order and "on its face." *Id.* at 2-3.

. will not be consistent with the public interest."[56] In recently reviewing this standard, the D.C. Circuit stated that, "with respect to exporting natural gas, the Natural Gas Act is not neutral."[57] The D.C. Circuit found that "Congress expressed a preference for permitting exports, so long as our nation has an abundance of this natural resource, as it does."[58] Congress expressed this preference "by framing the 'public interest' standard in section 717b(a) in terms of a presumption favoring export applications."[59]

Additionally, DOE is required to comply with NEPA by considering the environmental impacts of a final decision on an application to export LNG to non-FTA countries.[60]

Turning to the NGA's rehearing provision, NGA section 19(a) states that "[a]ny person . . . aggrieved by an order issued by [DOE] in a proceeding to which such person . . . is a party may apply for a rehearing."[61] The aggrieved party must seek rehearing within 30 days after the issuance of such order.[62] The request for rehearing must "set forth specifically the ground or grounds upon which such application is based."[63] When acting upon such a request, DOE has the "power to grant or deny rehearing or to abrogate or modify its order without further hearing."[64]

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[56] 15 U.S.C. § 717b(a); *see also* Final Order at 24-26 (Public Interest Standard).
[57] *Sierra Club v. U.S. Dep't of Energy*, 134 F.4th 568, 572 (D.C. Cir. 2025) (denying petition for review of export authorization under NGA section 3(a)).
[58] *Id.* (citing *Ctr. for Biological Diversity v. Fed. Energy Regul. Comm'n*, 67 F.4th 1176, 1188 (D.C. Cir. 2023) and *W. Va. Pub. Servs. Comm'n v. U.S. Dep't of Energy*, 681 F.2d 847, 858-59 (D.C. Cir. 1982)).
[59] *Id.*
[60] *See*, *e.g.*, NEPA Implementing Procedures Final Rule, 85 Fed. Reg. at 78,197. We note that the NEPA provision cited by DOE (*id.* at n.2) was amended in 2023, but DOE's obligation to comply with NEPA in this proceeding did not change.
[61] 15 U.S.C. § 717r(a); *see also* 10 C.F.R. § 590.501(a).
[62] 15 U.S.C. § 717r(a).
[63] *Id.*; *see also* 10 C.F.R. § 590.501(b).
[64] 15 U.S.C. § 717r(a); *see also* 10 C.F.R. § 590.503.

III. DISCUSSION

A. DOE Correctly Evaluated Economic Impacts Associated with CP2 LNG's Proposed Exports under NGA Section 3(a)

1. Petitioners' Position

Petitioners argue that DOE's treatment of potential price impacts associated with CP2 LNG's requested exports is arbitrary and capricious and violates the NGA.[65] They argue that, although DOE acknowledges that allowing additional LNG exports will increase domestic natural gas prices, DOE "refused to consider the extent of the actual price increases that will result."[66]

Specifically, Petitioners claim that DOE is attempting to "sweep away consideration of the price impacts of LNG exports" by merely asserting that the prices predicted by DOE's 2024 Study "'are within the range of prices observed over the past five years' (*i.e.*, since 2018).'"[67] Citing both DOE's 2024 Study and the U.S. Energy Information Administration *Short-Term Energy Outlook* published on November 12, 2025,[68] Petitioners claim that "[t]he fact these [price] increases are lower than DOE previously predicted does not answer the question of whether the public would be better off without these increases."[69] Petitioners maintain that these price increases cause harm to households and industrial energy consumers, even if they may be relatively smaller than once thought.[70] For example, Petitioners state that, under the "Model Resolved" scenario of the 2024 Study, Henry Hub natural gas prices will be 31% higher if DOE

[65] Rehearing Request at 3.
[66] *Id.*
[67] *Id.* at 7 (quoting Final Order at 45).
[68] *Id.* (citing *Short-Term Energy Outlook*, U.S. Energy Info. Admin. (Nov. 12, 2025), https://www.eia.gov/outlooks/steo/).
[69] *Id.* (citing Exec. Order No. 14156 of January 20, 2025, *Declaring a National Energy Emergency*, 90 Fed. Reg. 8433 (Jan. 29, 2025)).
[70] Rehearing Request at 7.

continues to approve exports.[71] Therefore, according to Petitioners, "the question before DOE is not whether the public has experienced prices at those levels before, it is whether those prices [are] harmful."[72] Petitioners argue that DOE "ignored an important part of the problem by ignoring the magnitude of the increase, instead looking solely at the resulting price total."[73]

Next, Petitioners contend that DOE failed to consider the "distributional impacts of price increases."[74] First, quoting a statement about the 2024 Study made by then-Secretary of Energy Jennifer Granholm in December 2024, Petitioners assert that "'DOE's approval of increased LNG exports 'exposes a triple-cost increase to U.S. consumers from increasing LNG exports.'"[75] Specifically, they assert that, in all scenarios evaluated, U.S. LNG exports will increase: (1) core natural gas prices; (2) electricity prices due to the role of natural gas in generating U.S. electricity; and (3) prices of American-made consumer goods, due to pass-through costs from U.S. manufacturers.[76]

Petitioners also point to DOE's estimates that continuing to export more LNG would increase natural gas and electricity costs for the average American household "by well over $100 per year by 2050"—a number they claim is "life-altering for many Americans, given that 40% of Americans are only one missed paycheck away from poverty."[77] Petitioners further argue that a 2017 decision cited by DOE and known as *Sierra Club II*—in which the D.C. Circuit rejected Sierra Club's similar claims about distributional impacts associated with LNG exports authorized

[71] *Id.* at 9 (citing DOE 2024 Study at S-4).
[72] *Id.*
[73] *Id.*
[74] *Id.*
[75] *Id.* at 9 & n.4 (quoting Statement from then-U.S. Sec'y of Energy Jennifer M. Granholm on Updated Final Analyses (Dec. 17, 2024), https://www.energy.gov/sites/default/files/2024-12/Statement%20from%20U.S.%20Secretary%20of%20Energy%20Jennifer%20M.%20Granholm%20on%20Updated%20Final%20Analyses_12.17.2024.pdf [hereinafter Granholm Statement]).
[76] Rehearing Request at 9-10 & n.5 (citing Granholm Statement).
[77] *Id.* at 10 (citing 2024 Study at S-4 to S-5).

by DOE[78]—"predate[s] the 2024 Study in which DOE admitted that the . . . significant distributional impacts from additional LNG exports are very real and very important."[79]

Finally, Petitioners claim that the fact that they "did not contest that the [CP2 LNG] project will provide some measure of economic benefit does not allow DOE to ignore the results of its own study, which identify significant potential distributional harms."[80] According to Petitioners, "GDP [Gross Domestic Product] is not everything," such that even an increase in GDP associated with increases in LNG exports "'does not necessarily correlate with a positive effect on broader public and consumer welfare.'"[81] They argue, for example, that although the 2024 Study predicts a 0.2% GDP increase by 2050 in the Model Resolved case, 75% of that amount comes from the oil and gas sector, and these "benefits to oil and gas companies do not flow to average households, as most Americans do not own stock in fossil fuel companies."[82]

2. DOE's Response

In the Conditional Order, DOE summarized and addressed the economic evidence submitted by CP2 LNG in support of the Application, as well as the opposing economic arguments presented by the various intervenors.[83] DOE found that the record "[did] not support those opposition arguments" but stated that it would make a final determination in connection with the 2024 LNG Export Study proceeding in a final order.[84] Subsequently, in the Final Order, DOE extensively reviewed the economic findings of the 2024 Study and related economic considerations bearing on the public interest, including the potential impact of LNG exports on

[78] *Sierra Club v. U.S. Dep't of Energy*, 703 Fed. App'x 1 (D.C. Cir. 2017) [hereinafter *Sierra Club II*] (consolidated case denying three petitions for review of LNG export authorizations).
[79] Rehearing Request at 10; *see also* Final Order at 49 (citing *Sierra Club II*).
[80] Rehearing Request at 11.
[81] *Id.* (quoting 2024 Study at S-5).
[82] *Id.* (citing Final Order at 37).
[83] *See* Conditional Order §§ IV, V, VI.B.
[84] *Id.* at 42-43.

domestic natural gas prices.[85] DOE concluded that the various intervenors' arguments concerning price impacts "[were] not sufficiently supported by record evidence to overcome DOE's finding based on the 2024 Study that CP2 LNG's proposed exports will generate net economic benefits to the U.S. economy and will not be inconsistent with the public interest."[86]

Upon review of the Rehearing Request, we find that Petitioners are raising substantially the same (if not identical) economic arguments as were already presented and addressed in the Conditional and/or Final Orders. Petitioners again criticize the 2024 Study and DOE's conclusions, arguing that the *lower* long-term price increases projected in the 2024 Study (as compared to DOE's prior economic study in 2018) are effectively meaningless unless DOE "assess[es] the extent of the increased exports' harms and determine[s] how those harms compare to the exports' benefits."[87] That assessment, however, is precisely the analysis DOE undertook in the 2024 Study, the Response to Comments, and the Final Order.

For example, in the 2024 Study, DOE found that "any domestic price impact is expected to be minimal due to the abundant supply of natural gas in the United States."[88] In the Final Order, DOE discussed the various substantial economic benefits that will be produced by the construction and operation of CP2 LNG's Project, including but not limited to a reduction in the U.S. trade deficit of up to approximately $9.3 billion annually based on the Project's peak capacity.[89] Petitioners have not contested these anticipated economic benefits, as they acknowledge.[90] Yet, DOE also continued to recognize the concerns raised by Sierra Club and

[85] *See* Final Order § VII.A (Economic Issues).
[86] *Id.* at 46-47.
[87] Rehearing Request at 6; *see also id.* at 3 (Error #1).
[88] Response to Comments at 46 (emphasis added); *see also* Final Order at 45.
[89] *See* Final Order at 50-51 (citation omitted).
[90] Rehearing Request at 11.

others in the 2024 Study proceeding that "'low-income [] American households all face dramatically higher energy burdens.'"[91]

In response to these concerns about disproportionate price impacts, DOE explained that the 2024 Study employed an analytical tool called the "Household Energy Impact Distribution Model" (or the "HEIDM tool") to examine price impacts on a distributional basis across U.S. households by income class.[92] Using the HEIDM tool, and under the *Defined Policies* scenario with the reference U.S. supply assumption, the 2024 Study examined the annual energy expenditures in each U.S. household across all socioeconomic levels and census divisions. The 2024 Study found that annual energy expenditures could increase "up to $122.54 per year" in the year 2050 (or up to approximately $2.35 per week) for the highest income households (over $150,000 per year) in the New England region, "with average household expenditure impacts up to 0.50% of average annual income and 3.4% of natural gas and electricity bills."[93] For the lowest income households, making less than $30,000 per year, the impacts to energy expenditures in the year 2050 are highest in the South Atlantic region at a projected increase of $80 per household (or up to approximately $1.54 per week).[94]

DOE explored these price impacts on a distributional basis in both the 2024 Study and the Response to Comments, as well as in responding to opposing arguments in the Final Order.[95] Although Petitioners continue to argue on rehearing that "[t]he question before DOE . . . is whether those prices were harmful,"[96] it is unclear how Petitioners expect DOE to quantify or

[91] Final Order at 50 (citing Response to Comments at 25).
[92] *Id.*
[93] 2024 Study Appendix B, at B-3 (emphasis added).
[94] *Id.* at B-46; *see also id.* at B-44.
[95] *See*, *e.g.*, Rehearing Request at 10 (Petitioners quoting DOE's discussion about household impacts by income group, 2024 Study Appendix B, at B-48); Response to Comments at 24-25 ("Impacts to households").
[96] Rehearing Request at 9.

assess "harm" to U.S. households and consumers beyond the highly sophisticated analysis and public comment process that DOE already undertook.

Petitioners also argue that DOE must determine "whether, on balance, the public would be better off without [potential price increases], alongside the other benefits and harms of additional exports."[97] DOE did just that in finding that "impacts on household and industrial energy expenditures, which may be as small as the margin of error of the analysis," are "insufficient to overcome the other economic benefits associated with increased LNG exports, including GDP, balance of trade, tax revenue, and employment effects."[98]

Petitioners acknowledge that they did not submit any independent analysis on price impacts, including distributional effects, in an attempt to counter DOE's findings and conclusions in either the 2024 Study or the Final Order, but they argue that this fact "does not absolve DOE from having to grapple with the results of its own analysis."[99] It is well established, however, that "there must be 'an affirmative showing of inconsistency with the public interest' to deny an application under NGA section 3(a),"[100] and Petitioners have failed to make this showing either by submitting their own evidence or pointing to any record evidence that would override DOE's analysis and findings.[101]

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[97] *Id.*
[98] Final Order at 50 (quoting Response to Comments at 25).
[99] Rehearing Request at 11.
[100] *Sierra Club v. U.S. Dep't of Energy*, 867 F.3d 189, 203 (D.C. Cir. 2017) [hereinafter *Sierra Club I*] (quoting *Panhandle Producers & Royalty Owners Ass'n v. Econ. Regul. Admin.*, 822 F.2d 1105, 1111 (D.C. Cir. 1987)). Petitioners refer to *Sierra Club I* as *Freeport II*. *See* Rehearing Request at 4.
[101] *See Sierra Club v. Fed. Energy Regul. Comm'n*, 145 F.4th 74, 87 (D.C. Cir. 2025) ("The Petitioners have the burden to rebut [the] presumption and show, affirmatively, that approving the [facility] is inconsistent with the public interest" under the NGA); *see also Cia Mexicana De Gas, S.A. v. Fed. Power Comm'n*, 167 F.2d 804, 806 (5th Cir. 1948) (stating that "the burden on petitioners to overthrow the finding and order [under NGA section 3] is a heavy one, and that "[t]o discharge that burden they must point to a record showing, so clearly and positively as to override the Commission's finding, that the granting of the permit is in fact inconsistent with the public interest").

For example, Petitioners argue that the 2024 Study projected increases in natural gas and electricity costs "for the average American household by well over $100 per year by 2050"—an amount they state would be "life-altering for many Americans, given that 40% of Americans are only one missed paycheck away from poverty."[102] These broad assertions, however, both misstate the findings of the 2024 Study and are not supported by any independent factual evidence provided by Petitioners.

In fact, the language of the 2024 Study cited by Petitioners, taken from DOE's "Key Findings" in the Executive Summary, states: "Up to a $122.54 per year average increase for natural gas plus electricity expenditures across all households . . . ."[103] As noted above—and contrary to Petitioners' statement—the 2024 Study found that, under the *Defined Policies* scenario with the reference U.S. supply assumption, only the highest income households in three regions (the West South Central, South Atlantic, and New England regions) could experience natural gas and electricity expenditure impacts greater than $100 per year by 2050, with the maximum projected increase of $123 per year for the highest income households in the New England region.[104] However, all other regions and income levels are projected to have impacts per household of less than $100 per year, with the electricity expenditure impact per household for the lowest income group not exceeding $80 per household per year.[105] Comparing Study scenarios, the 2024 Study found:

> For Defined Policies (with reference U.S. supply assumption), the expenditure impact per household under the Model Resolved assumptions relative to the Existing/FID Exports assumptions ranges from $8 for the lowest income households in the West North

[102] Rehearing Request at 10 (citing 2024 Study at S-4 to S-5 for the "well over $100 per year" statement).
[103] *See* 2024 Study at S-4 (emphasis added) (summarizing findings under the *Defined Policies* scenario with the reference U.S. supply assumption).
[104] *See* 2024 Study Appendix B, at B-73, Table 33; *see also id.* at B-3, B-55.
[105] *Id.* at B-44; *see also supra* at 14.

Central to $123 for the highest income households in New England.[106]

These projected price impacts are thus not as expansive as Petitioners claim. These price impacts are also associated with exports reaching 56.3 Bcf/d of natural gas in 2050[107]—an export volume that is 60% greater than the cumulative total of U.S. and Mexico LNG export capacity, using U.S.-sourced natural gas, that was operating or in development as of the date of the Final Order (34.54 Bcf/d of natural gas) and approximately 50% greater than the cumulative total today (37.38 Bcf/d).[108]

Indeed, Petitioners' strongest "evidence" is pointing to DOE's findings and statements analyzing the varying economic considerations in the 2024 Study, such as DOE's assessment that "[natural gas] expenditure impacts per household as a percentage of household income are 8 to 10 times higher for the lowest income group (income of less than $30,000)," depending on the scenario considered in the 2024 Study.[109] In quoting the 2024 Study, however, Petitioners fail to acknowledge that this projected impact for the lowest income group corresponds to a 0.01% to 0.22% increase, or $4.75 to $75.24 per year.[110]

As another example, Petitioners claim that DOE is attempting to deflect its "failure" to consider distributional harms "by emphasizing the benefits of LNG exports to [GDP]"—yet they

[106] *Id.* at B-46 (emphasis added).
[107] *Id.* at B-2.
[108] Final Order at 63 & n.364 (stating that this volume represents "the cumulative total of U.S. and Mexico LNG export capacity, using U.S.-sourced natural gas, that is operating or under construction across 15 mid- or large-scale export projects with a non-FTA export authorization from DOE"). As of the date of this Rehearing Order, the number of projects has not changed, but the cumulative total of U.S. and Mexico LNG export capacity that is operating or under construction has increased to 37.38 Bcf/d of natural gas. *See Venture Global Plaquemines LNG, LLC*, DOE/HGEO Order No. 4446-B, Docket No. 16-28-LNG, Order Amending Long-Term Authorization to Export Liquefied Natural Gas to Non-Free Trade Agreement Nations, at 60-61 & n.348 (Mar. 13, 2026) (authorizing an additional 0.45 Bcf/d), and *supra* at 6 & note 41 (Phase 2 of the CP2 LNG Project, 1.92 Bcf/d).
[109] 2024 Study Appendix B, at B-3, *quoted in* Rehearing Request at 10.
[110] *See* 2024 Study Appendix B at B-72 - B-74, Tables 32 and 34.

also observe that, "as DOE itself has acknowledged, GDP is not everything, which is why DOE provides multiple metrics and doesn't rely on any single one."[111]

Contrary to Petitioners' intended point, these and other examples demonstrate that the 2024 Study was balanced and thorough, and that DOE has scrutinized all relevant economic factors to address the concerns raised by Petitioners and others under the public interest standard. To the extent Petitioners seek to undermine DOE's findings by quoting a December 2024 statement issued by then-Secretary of Energy Granholm, in which she addressed projected costs to U.S. consumers from increasing LNG exports under the 2024 Study, we note that the 2024 Study was developed and published during Secretary Granholm's tenure at DOE.[112] The Statement is not part of the Study, but rather reflects Secretary Granholm's opinions "to help guide future Secretaries of Energy in making decisions about whether particular applications are in the public interest."[113] Further, Secretary Granholm recognized that "decisions about the future of LNG export levels will necessarily be made by future Administrations,"[114] and thus the statement is not relevant to the record examined by DOE in the Final Order.

In sum, DOE continues to believe that the public interest under NGA section 3(a) generally favors authorizing exports of LNG that have been shown to lead to net benefits to the U.S. economy, including through increases to GDP, balance of trade, tax revenue, and employment. On rehearing, Petitioners have not presented any record evidence that would alter

[111] Rehearing Request at 11 (citing Response to Comments at 23).
[112] *See supra* at 11 & note 75 (Granholm Statement).
[113] *Id.* at 1.
[114] *Id.* at 3. Similarly, Petitioners' effort to distinguish the D.C. Circuit's ruling in the 2017 *Sierra Club II* decision is not persuasive. *See* Rehearing Request at 10-11 (stating, inexplicably, that the distributional impacts at issue in the 2024 Study are "very real and very important" compared to the distributional impacts considered in those proceedings). In that consolidated case, the Court rejected Sierra Club's similar arguments based on a prior LNG export study, finding that DOE "did consider distributional consequences" when evaluating the public interest under the NGA and had "adequately addressed Sierra Club's concern" concerning distributional impacts. *See Sierra Club II*, 703 Fed. App'x at *3.

this conclusion with respect to CP2 LNG's exports authorized in the Final Order.

B. DOE Explained Its Change from Past Practice and Properly Considered All Environmental Impacts Through Its NEPA Analysis

1. Petitioners' Position

In Section II of the Rehearing Request, Petitioners assert that DOE erred in the Final Order by "failing to provide any analysis of 'upstream & downstream environmental effects'" associated with CP2 LNG's proposed exports, such as effects relating to natural gas production and use.[115] Petitioners disagree with DOE's position in the Final Order that NEPA does not require DOE to consider these effects.[116] Yet, Petitioners argue that, even if DOE's interpretation of NEPA were correct, "the NGA would still impose an independent and broader obligation to consider upstream and downstream effects."[117]

In support of this argument, Petitioners state that DOE has previously taken the position that its NGA obligations are broader than its NEPA requirements.[118] Citing a prior DOE study (the 2014 Environmental Addendum) and other non-FTA export authorizations, Petitioners maintain that DOE "clearly took the position that issues could be pertinent to its NGA analysis and obligations even if they were outside the scope of the required NEPA analysis."[119] Petitioners note, for example, that DOE previously determined that "an analysis of the environmental impacts of induced natural gas production falls outside the scope of NEPA," while nonetheless addressing those effects—including greenhouse gas (GHG) emissions—under the public interest standard of NGA section 3(a).[120] Petitioners assert that, in the Final Order,

[115] Rehearing Request at 12.
[116] *Id.* (asserting that "the Order's NEPA arguments are mistaken").
[117] *Id.* (stating that Petitioners "agree with DOE's prior view that even if NEPA did not require DOE to consider these issues, the NGA did").
[118] *Id.*
[119] *Id.* (citations omitted).
[120] *Id.* at 12-13 (citing non-FTA authorizations issued in 2016 and 2020).

DOE "reverses this position" by no longer "'broadly considering the potential upstream and downstream environmental effects of authorizing exports of LNG to non-FTA countries, beyond the transportation of the LNG by marine vessel.'"[121]

Turning to DOE's rationale, Petitioners dispute DOE's position that this departure is supported by developments in NEPA law, including DOE's adoption of the revised B5.7 categorical exclusion and the Supreme Court's recent decision in *Seven County*.[122] Specifically, Petitioners argue that "developments under NEPA law could not inform the scope of what is required under the Natural Gas Act" and that, regardless, "DOE has not addressed the fact that DOE previously understood its NGA obligations to extend beyond the scope of DOE's NEPA obligations."[123] Thus, according to Petitioners, while DOE has acknowledged that it is departing from its past practice, it "has not 'display[ed] awareness' that it is departing from its past determination that it may be appropriate or necessary under the NGA to consider issues beyond the scope of what NEPA requires" nor "offered any argument supporting its new implicit position that the NGA does not reach farther than NEPA."[124]

Petitioners argue that "DOE's prior view" that the effects of natural gas production and usage are pertinent to the public interest analysis under NGA section 3(a) is "plainly the best interpretation of the statute."[125] Petitioners contend that, beyond the NGA's principal aims of "'encouraging the orderly development of plentiful supplies of natural gas at reasonable prices'" (among other objectives), the NGA has "'subsidiary purposes' of addressing 'conservation, environmental, and antitrust issues.'"[126] Petitioners thus contend that questions of how exports

[121] Rehearing Request at 13 (quoting Final Order at 57).
[122] *Id.* (citing *Seven Cnty.*, 605 U.S. 168).
[123] *Id.*
[124] *Id.* (quoting *FCC v. Fox Television Stations, Inc.*, 556 U.S. 502, 515 (2009)).
[125] *Id.* at 14.
[126] *Id.* (quoting *Minisink Residents for Envtl. Pres. & Safety v. Fed. Energy Regul. Comm'n*, 762 F.3d 97, 101 (D.C. Cir. 2014)).

of LNG may impact natural gas production, "including the environmental impacts thereof," are pertinent to the public interest protected by the NGA.[127]

Petitioners also assert that a "central predicate" of DOE's public interest analysis in the Final Order "is the conclusion that exports will spur additional [natural] gas production."[128] Pointing to DOE's findings in the 2024 LNG Export Study, Petitioners state that "additional exports will almost entirely be supplied by an increase in production."[129] Thus, according to Petitioners, DOE "cannot argue that the impact of exports on prices will be limited because production will increase, and then argue that the increase in production is outside the scope of DOE's concern."[130] In their view, "[e]ven if the NGA did not always require DOE to consider the impacts of upstream gas production," DOE is required to do so when an increase in natural gas production plays a central role in DOE's analysis.[131]

Petitioners state that, similarly, DOE's approval of CP2 LNG's exports rests on the alleged national security benefits that it claims will result from selling U.S. LNG to foreign nations. Therefore, they assert that DOE cannot rely on these benefits without also examining the environmental costs associated with the use of LNG abroad.[132]

Turning to Section III of the Rehearing Request, Petitioners assert that DOE misapplied the Supreme Court's decision in *Seven County* to justify DOE's conclusion that "it has no obligation to consider environmental impacts beyond ship traffic associated with LNG exports."[133] According to Petitioners, the factors that the Supreme Court considered in *Seven*

[127] Rehearing Request at 14.
[128] *Id.*
[129] *Id.* at 15 (citing 2024 Study at S-31 and Response to Comments at 18).
[130] *Id.*
[131] *Id.* at 14.
[132] *Id.* at 15.
[133] Rehearing Request at 16.

County were mostly or entirely absent in the context of DOE's decision.[134] They argue that DOE further misinterpreted *Seven County* because, even if NEPA did not permit or require DOE to consider effects outside its direct regulatory authority, the NGA did.[135] In their view, "[t]he NGA, unlike many other statutes . . . both permits and requires DOE to 'consider' and 'analyze' some types of effects and activities 'over which [DOE] do[es] not exercise regulatory authority.'"[136]

Additionally, Petitioners argue that the facts in the Final Order differ from the facts in *Seven County* "in numerous, critical ways . . . rendering *Seven County* inapplicable."[137] Petitioners state that issues considered irrelevant to the challenged decision in *Seven County* were relevant to DOE's decision in the Final Order—specifically, that natural gas prices and production were within the range of effects DOE was required to consider under the NGA.[138] They argue that DOE's authority over LNG exports has a disproportionate impact on the domestic natural gas market, unlike the circumstances in *Seven County*. They contend that DOE's authorization in the Final Order is the "proximate cause" of upstream and downstream indirect effects in this proceeding, whereas *Seven County* found no proximate causation—such that it is "'reasonable to hold [DOE] responsible for' the indirect effects of increased gas production and use."[139] As a final factual distinction, Petitioners argue that upstream natural gas production is not a "separate project" from increased LNG exports in the way that the projects were found to be "separate" in *Seven County*.[140] In sum, Petitioners maintain that the *Seven*

[134] *Id.* at 23.
[135] *Id.* at 16-17.
[136] *Id.* at 18 (quoting *Seven Cnty.*, 605 U.S. at 187-89); *see also id.* at 17 (asserting that the NGA "requires broad consideration," such that "information about effects that [DOE] does not directly regulate can still be useful to agency decisionmaking").
[137] *Id.*
[138] *Id.* at 18-19.
[139] Rehearing Request at 22 (citation omitted).
[140] *Id.* at 23.

County decision "does not support DOE's conclusion that it need not consider environmental impacts beyond those related to ship traffic."[141]

2. DOE's Response

a. NGA Section 3(a) Does Not Require DOE to Consider Upstream and Downstream Environmental Effects

Petitioners are incorrect that NGA section 3(a) "requires DOE to consider upstream and downstream environmental effects" associated with the export of natural gas[142] and, in particular, that the NGA "impose[s] an independent and broader obligation" than NEPA to consider these upstream and downstream effects.[143] The only requirement imposed by NGA section 3(a) is that DOE "shall issue such order upon application, unless, after opportunity for hearing, it finds that the proposed exportation or importation will not be consistent with the public interest."[144] NGA section 3(a) thus provides DOE with broad discretion to determine whether a proposed non-FTA export will (or will not) be "consistent with the public interest,"[145] but the statute does not identify any environmental criteria that DOE is required to consider in evaluating the public interest.[146]

In exercising its discretion to implement the public interest standard, DOE has explained that it has been "guided by DOE Delegation Order No. 0204-111, which directed the regulation

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[141] *Id.*
[142] *See*, *e.g.*, *id.* at 3, 12 (section title).
[143] *Id.* at 12.
[144] *Id.*
[145] 15 U.S.C. § 717b(a); *see also Sierra Club I*, 867 F.3d at 203.
[146] *See* U.S. Dep't of Energy, Order Denying Petition for Rulemaking on Exports of Liquefied Natural Gas, at 17 (July 18, 2023), https://www.energy.gov/sites/default/files/2023-07/DOE%20Response%20to%20Sierra%20Club%27s%20Petition%20for%20Rulemaking%207.18.2023%20%28002%29.pdf [hereinafter DOE Order Denying Petition for Rulemaking]. DOE recognizes that 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.'" *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.").

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.'"[147] Although DOE Delegation Order No. 0204-111 is no longer in effect,[148] DOE's public interest review has included 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, have included a variety of economic, environmental, and international considerations.[149]

Although DOE is clearly not "required" by NGA section 3(a) to consider the upstream and downstream environmental effects of proposed exports, DOE has previously considered certain upstream and downstream environmental effects associated with LNG exports under NGA section 3(a).[150] Citing DOE export authorizations from 2016 and 2020, for example, Petitioners state that "DOE previously . . . took the position that issues could be pertinent to its NGA analysis and obligations even if they were outside the scope of the required NEPA analysis."[151] Nonetheless, contrary to Petitioners' argument, DOE's past discretionary position

[147] DOE Delegation Order No. 0204-111, at 1 (¶ (b)) (Feb. 22, 1984); *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 HGEO) assumed the Administrator's delegated responsibilities. *See* Applications for Authorization to Construct, Operate, or Modify Facilities Used for the Export or Import of Natural 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)).
[148] 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).
[149] *See*, *e.g.*, DOE Order Denying Petition for Rulemaking at 12; *Sierra Club I*, 867 F.3d at 203.
[150] *See*, *e.g.*, DOE Order Denying Petition for Rulemaking at 12-13 (stating that, as part of DOE's prior evidence developed in each non-FTA application proceeding, DOE considered "potential economic, life cycle greenhouse gas (GHG), and upstream environmental impacts of export authorizations") (internal citation omitted); *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 43-44, 57-60 (Mar. 16, 2022).
[151] Rehearing Request at 12-13 (citations omitted).

to consider upstream and downstream environmental effects under the NGA's public interest standard based on Department policy then in effect does not transform DOE's practice into an immutable statutory requirement.[152]

Nor does NGA section 3(a) provide any textual indication that DOE could allow Petitioners' proffered environmental considerations to override the statute's "primary purpose"—*i.e.*, the "development of plentiful supplies of . . . natural gas at reasonable prices" for combustion to produce energy[153]—when determining what would not be consistent with the public interest. "Administrative agencies are creatures of statute. They accordingly possess only the authority that Congress has provided."[154] In the statutory scheme, DOE's narrow role is to consider how the act of "export" and "the proposed exportation" impacts the public interest.[155] Upstream, Congress assigned responsibility for regulating "the business of transporting and selling natural gas for ultimate distribution" elsewhere.[156] The provisions of the NGA do "not apply . . . to the facilities used for such distribution or the production or gathering of natural gas."[157] Downstream, the statute likewise contemplates no authority over "ultimate public consumption."[158] Indeed, once the act of "export" is complete and the issue becomes one of foreign use, there is a presumption against the extraterritorial application of federal law.[159]

Notably, the D.C. Circuit, in previously reviewing DOE's actions, did not find that DOE was required to evaluate upstream and downstream environmental effects of the non-FTA

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[152] *Cf. id.* at 12 (Petitioners arguing that "DOE has repeatedly taken the position that its NGA obligations are broader than DOE contends that NEPA requires," and that the NGA "impose[s] an independent and broader obligation to consider upstream and downstream effects").
[153] *NAACP v. Fed. Power Comm'n*, 425 U.S. 662, 669-70 (1976).
[154] *Nat'l Fed'n of Indep. Bus. v. Occupational Safety & Health Admin.*, 595 U.S. 109, 117 (2022).
[155] *See* 15 U.S.C. § 717(b); *see also id.* § 717b(a).
[156] *Id.* § 717(a).
[157] *Id.* § 717(b).
[158] *See id.*
[159] *Morrison v. Nat'l Australia Bank*, 561 U.S. 247, 255 (2010).

applications at issue through its public interest review under NGA section 3(a). To the contrary, in *Sierra Club I*, the D.C. Circuit considered DOE's review of upstream and downstream environmental effects under NEPA, and rejected Sierra Club's claim that DOE should have considered those same indirect environmental effects independently under NGA section 3(a).[160]

Specifically, the D.C. Circuit stated 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."[161] The D.C. Circuit also disagreed with Sierra Club's argument that the non-FTA application at issue was inconsistent with the public interest in light of these alleged environmental impacts, stating:

> We have already rejected this argument and explained why the Department adequately considered the environmental impacts of its decision [under NEPA]. Sierra Club offers no basis for reevaluating the scope of the Department's evaluation for purposes of the Natural Gas Act.[162]

Thus, although Petitioners are asserting a statutory scheme in which DOE is required to consider potential upstream and downstream environmental effects as part of its public interest review under NGA section 3(a)—independent from and broader than its environmental obligations under NEPA—the D.C. Circuit's decision in *Sierra Club I* makes clear that there is no such requirement under NGA section 3(a) and that any "environmental impacts [should be] examined through the NEPA process."[163]

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[160] *Sierra Club I*, 867 F.3d at 197.
[161] *Id.* at 203 (emphasis added and internal record citations omitted).
[162] *Id.* (emphasis added).
[163] *Id.*

b. Developments in DOE's Review Include the Revised B5.7 Categorical Exclusion Under NEPA

Over the years, DOE has developed its interpretation of its obligations under NEPA in reviewing proposed exports of natural gas. DOE explained in the Final Order that, in 2020, DOE revised its NEPA procedures that provide for a categorical exclusion if neither an environmental impact statement (EIS) or environmental assessment (EA) under NEPA is required—specifically, by promulgating the revised categorical exclusion B5.7, *Export of natural gas and associated transportation by marine vessel*.[164]

In the accompanying final rule that was effective on January 4, 2021, DOE stated that the revision to the B5.7 categorical exclusion was intended to "focus exclusively on the analysis of potential environmental impacts resulting from activities occurring at or after the point of export, which are within the scope of DOE's export authorization authority under the NGA."[165] DOE found that "[s]uch impacts begin at the point of export and are limited to the marine transport effects."[166] DOE explained that the revised categorical exclusion followed both the Supreme Court's holding in *Public Citizen*[167] and the D.C. Circuit's holding in a case evaluating FERC's authority under the NGA, *Sierra Club v. Federal Energy Regulatory Commission*,[168] that "potential environmental effects considered under NEPA do not include effects that the agency has no authority to prevent."[169] DOE thus concluded in the final rule that "[i]mpacts beyond marine transport are beyond the scope of DOE's NEPA review" in non-FTA export

[164] *See* NEPA Implementing Procedures Final Rule, 85 Fed. Reg. at 78,197; *see also* 10 C.F.R. Part 1021, Subpt. D, App. B, Categorical Exclusion B5.7.
[165] NEPA Implementing Procedures Final Rule, 85 Fed. Reg. at 78,197 (emphasis added).
[166] *Id.*; *see also id.* at n.9 ("DOE defines export activities as starting at the point of delivery to the export vessel, and extending to the territorial waters of the receiving country."); *id.* at 78,198 ("These potential impacts would occur at or after the point of export to non-FTA countries.").
[167] *Pub. Citizen*, 541 U.S. 752.
[168] *Sierra Club v. Fed. Energy Regul. Comm'n*, 827 F.3d 36 (D.C. Cir. 2016).
[169] NEPA Implementing Procedures Final Rule, 85 Fed. Reg. at 78,198.

proceedings.[170]

As discussed below, we emphasize that NEPA is "a purely procedural statute."[171] Further, once DOE determines that the B5.7 categorical exclusion applies to its decision on a non-FTA export application—as DOE did for CP2 LNG's Application—DOE is bound to apply it.[172]

c. The Final Order Reflects Changes by DOE In Response to Regulatory and Judicial Developments

It is well established that agencies are permitted to change their policy under the Administrative Procedure Act (APA), so long as they explain their reasoning and "show that there are good reasons for the new policy."[173] The fact that an agency changes its approach "require[s] no additional or special explanation."[174] As the Supreme Court has stated, "[i]t suffices that the new policy is permissible under the statute, that there are good reasons for it, and that the agency *believes* it to be better, which the conscious change of course adequately indicates."[175]

In evaluating CP2 LNG's Application in the Final Order, DOE determined that it was necessary and appropriate to change its practice as to the consideration of upstream and downstream environmental effects associated with the proposed LNG exports for two reasons:

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[170] *Id.* at 78,200 (also considering and rejecting public comments arguing that DOE was required to consider potential environmental impacts of natural gas transport beyond marine transit under NEPA); *see also Seven Cnty.*, 605 U.S. at 201 (an agency must look to its "organic statute"—here, NGA section 3(a)—to confirm its "understanding of the scope of its review" under NEPA).
[171] *Seven Cnty.*, 605 U.S. at 173, 178, 180, 184.
[172] *See Nat'l Envtl. Dev. Ass'n's Clean Air Project v. Envtl. Prot. Agency*, 752 F.3d 999, 1009 (D.C. Cir. 2014) ("[An] agency is not free to ignore or violate its regulations while they remain in effect.") (quoting *U.S. Lines, Inc. v. Fed. Mar. Comm'n*, 584 F.2d 519, 526 n.20 (D.C. Cir. 1978)).
[173] *Fox Television*, 556 U.S. at 515 (further stating that "the requirement that an agency provide reasoned explanation for its action would ordinarily demand that it display awareness that it *is* changing position") (emphasis in original).
[174] *Westar Energy, Inc. v. Fed. Energy Regul. Comm'n*, 568 F.3d 985, 989 (D.C. Cir. 2009); *see also Duke Energy Carolinas, LLC v. Fed. Energy Regul. Comm'n*, 883 F.3d 923, 927 (D.C. Cir. 2018) (denying petition for review of FERC action where, in relevant part, "the Commission acknowledged that its policy had shifted and explained it").
[175] *Fox Television*, 556 U.S. at 515 (emphasis in original).

(i) to align DOE's NGA section 3(a) adjudications with its prior review of its NEPA authority underlying the B5.7 categorical exclusion rulemaking, which was based on *Public Citizen*; and (ii) to take action consistent with the Supreme Court's decision on May 29, 2025, in *Seven County*, which also relied on *Public Citizen*.[176]

Petitioners concede that "DOE has acknowledged that it is departing from its past practice" of broadly considering the potential upstream and downstream environmental effects of authorizing exports of LNG to non-FTA countries, beyond the transportation of the LNG by marine vessel.[177] Yet, they contend that DOE has not "'displayed awareness' that it is departing from its past determination that it may be appropriate or necessary under the NGA to consider issues beyond the scope of what NEPA requires" nor "offered any argument supporting its new implicit position that the NGA does not reach farther than NEPA."[178]

DOE, however, provided a detailed explanation for its "departure from . . . past practice."[179] DOE explained that its new position was "informed by, and consistent with," the Supreme Court's holdings in both *Public Citizen* and *Seven County*, as well as DOE's review of its statutory authority in the B5.7 categorical exclusion rulemaking.[180] From that legal foundation, DOE observed that its authority under NGA section 3 "extends only to the export of natural gas (including LNG) as a commodity,[181] not to the end use of natural gas, over which

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[176] *See*, *e.g.*, Final Order at 56-57.
[177] Rehearing Request at 13; *see also* Final Order at 57.
[178] Rehearing Request at 13-14 (quoting *Fox Television*, 556 U.S. at 515).
[179] Final Order at 57.
[180] *See id.* Additionally, DOE found that the environmental analysis in the 2024 LNG Export Study "is not required for DOE's decision on the [CP2 LNG] Application," as "the environmental portions of the 2024 Study were not limited to marine transport effects, but rather included the integration of potential upstream and downstream environmental effects, which are not reasonably foreseeable environmental impacts of DOE's export authorizations [under NEPA]." *Id.* at 17-18.
[181] *See*, *e.g.*, *Sierra Club*, 827 F.3d at 40 (recognizing that DOE "maintains exclusive jurisdiction over the export of natural gas as a commodity"); NEPA Implementing Procedures Final Rule, 85 Fed. Reg. at 78,197-98, 78,201 (stating that "DOE's discretionary authority under Section 3 of the NGA is limited to the authorization of exports of natural gas to non-FTA countries," and that DOE's review under NEPA "is limited to the marine transport effects" of such exports).

DOE has no control."[182] DOE thus found that "marine transport effects [associated with the transport of natural gas] are the only reasonably foreseeable environmental impacts from CP2 LNG's proposed exports,"[183] and that "there is no legal requirement to consider any other environmental impacts raised by the protestors or commenters."[184] Through this explanation and related discussion in the Final Order,[185] DOE satisfied the Supreme Court's considerations in *Fox Television* by demonstrating that its new position is permissible under NGA section 3(a) and NEPA, that there are good reasons for DOE's change, and that DOE believes this new position to be the legally correct (and thus "better") position.[186]

Although DOE's position in the Final Order marks a shift in DOE's review of non-FTA applications under NGA section 3(a) and NEPA, it is supported by relevant judicial authorities including *Seven County* and *Public Citizen*. It is also consistent with the changes in policy directed by President Trump's E.O. 14154.[187] This E.O. stated, *inter alia*, that "[t]he Secretary of Energy is directed [to] restart reviews of applications for approvals of [LNG] export projects as expeditiously as possible, consistent with applicable law."[188] Further, "[i]n assessing the 'Public Interest' to be advanced by any particular application, the Secretary of Energy shall consider the economic and employment impacts *to the United States* and the impact to the security of allies and partners that would result from granting the application."[189] DOE believes that its past discretionary practice of considering environmental effects from the export of LNG

[182] Final Order at 57 (citing *Sierra Club*, 134 F.4th at 575) (holding, in denying petition for review of LNG export authorization issued by DOE under NGA section 3(a), that "the impacts of downstream emissions [from U.S. LNG] in foreign countries are not reasonably foreseeable" under NEPA).
[183] *Id.* at 56.
[184] *Id.* (citations omitted).
[185] *See id.* at 13-15, 17-18, 55-57.
[186] *Fox Television*, 556 U.S. at 515 (emphasis removed).
[187] *See supra* note 16 (citing E.O. 14154).
[188] E.O. 14154, 90 Fed. Reg. at 8357 (§ 8(a)). As noted, we interpret this language as pertaining to DOE's review of non-FTA export applications. *See supra* note 16.
[189] E.O. 14154, 90 Fed. Reg. at 8357 (§ 8(a)) (emphasis added).

in two ways—(i) through NEPA, and (ii) as a public interest factor under NGA section 3(a) to consider upstream and downstream environmental impacts beyond the scope of NEPA—was both overbroad in light of the case law and considered more than necessary, inconsistent with the President's directive in E.O. 14154 for DOE to review non-FTA applications "as expeditiously as possible."[190] In particular, DOE's prior practice overlooked the limited scope of DOE's export authority under NGA section 3(a), as discussed above. Contrary to Petitioners' assertions, neither the NGA nor NEPA requires DOE to analyze potential environmental impacts that result from actions taken by others and that are beyond DOE's statutory authority to control.[191] Although Petitioners argue that this proceeding is factually different from the circumstances in *Seven County* in a variety of ways,[192] we disagree and reaffirm our position that the Supreme Court's holding in *Seven County* informs the scope of DOE's review under NEPA in LNG export proceedings as a matter of law.

Additionally, we are guided by the D.C. Circuit's recent decision in *Sierra Club*, *et al. v. Federal Energy Regulatory Commission*, in which that Court reiterated that, "after *Seven County*, agencies are no longer 'required to analyze the effects of projects over which they do not exercise regulatory authority.'"[193] Indeed, the D.C. Circuit held that "Sierra Club's argument fails because it asks us to demand exactly what *Seven County* says we cannot demand"—given FERC's lack of jurisdiction over the facilities at issue in that proceeding—and we find that

[190] *Id.*
[191] *See*, *e.g. Seven Cnty.*, 605 U.S. at 174, 177, 179, 188 (reversing D.C. Circuit decision vacating the U.S. Surface Transportation Board's environmental impact statement and final order because, in relevant part, the D.C. Circuit "incorrectly interpreted NEPA to require the Board to consider the environmental effects of upstream and downstream projects that are separate in time or place" from the project at issue, and "agencies are not required to analyze the effects of projects over which they do not exercise regulatory approval"); *see also id.* at 202 (stating that "*Public Citizen* squarely forecloses th[e] position" that the Board "should have analyzed even environmental impacts it could not lawfully prevent") (Sotomayor, J., concurring).
[192] *See* Rehearing Request at 16-23 (Section III).
[193] *Sierra Club*, *et al. v. Fed. Energy Regul. Comm'n*, 153 F.4th 1295, 1308 (D.C. Cir. 2025) (quoting *Seven Cnty.*, 145 S.Ct. 1497, 1516, which is 605 U.S. at 188) (emphasis added).

Petitioners' arguments here fail for similar reasons.[194]

We are also mindful that *Seven County* was a unanimous decision that Justice Kavanaugh called a "course correction of sorts . . . to bring judicial review under NEPA back in line with statutory text and common sense."[195] This proceeding too marks a course correction. Beginning with the Final Order, as affirmed herein, DOE no longer considers any "independent and broader" environmental impacts under the public interest standard of NGA section 3(a). As noted above, the only environmental impacts within the scope of DOE's export authority are marine transport effects, which DOE generally will consider under the B5.7 categorical exclusion on a case-by-case basis in accordance with applicable NEPA law.[196] This NEPA analysis alone will inform DOE about potential environmental impacts associated with a non-FTA application under the public interest standard of NGA section 3(a), as there is no basis for supplemental or redundant environmental review through a NGA section 3(a) "catch-all."[197]

DOE has carefully reviewed Petitioners' other arguments, including but not limited to the claim that DOE "cannot look at only one side of the ledger and rely on the alleged benefit of a particular effect of LNG exports without also examining its [environmental] costs."[198] DOE finds that Petitioners' arguments lack merit due to DOE's limited scope of authority under NGA section 3(a) and under the reasoning set forth above, in the Final Order, and in the B5.7

[194] *Id.* (emphasis added) (denying petitions for review under NEPA and the NGA).
[195] *Seven Cnty.*, 605 U.S. at 184.
[196] *See*, *e.g.*, NEPA Implementing Procedures Final Rule, 85 Fed. Reg. at 78,197, 78,201. As discussed in both the B5.7 categorical exclusion final rule and the Final Order, DOE determined based on a technical analysis that potential environmental effects associated with marine transport "are minimal." *Id.* at 78,199; *see also id.* at 78,202; Final Rule at 55 & n.303.
[197] *See*, *e.g.*, *Sierra Club I*, 867 F.3d at 203 (favorably discussing DOE's consideration of "the environmental impacts it examined through the NEPA process" as part of its public interest review).
[198] Rehearing Request at 15.

categorical exclusion final rule.[199]

Finally, assuming, *arguendo*, both that DOE has authority to consider all of the environmental effects that Petitioners assert, and such effects are reasonably foreseeable from an authorization and require consideration by DOE, we still would determine that CP2 LNG's proposed exports are consistent with the public interest Congress seeks to advance through NGA section 3(a).[200] Weighing the findings of the Technical Support Document (which was part of the B5.7 categorical exclusion rulemaking),[201] the actions of other federal and state agencies to regulate, permit, and mitigate environmental impacts such as those cited by Petitioners,[202] and the findings of DOE's past life cycle analyses, against the economic, energy security, and other factors favoring authorization, we would reaffirm our finding that CP2 LNG's requested non-FTA exports will advance the public interest. DOE continues to believe that such effects "would be too speculative to inform the public interest determination."[203]

C. The Revised B5.7 Categorical Exclusion is Consistent with Controlling Caselaw

1. Petitioners' Position

Highlighting the preamble to the 2020 Categorical Exclusion, Petitioners argue that DOE "badly misread" two D.C. Circuit cases to support the use of the exclusion. According to Petitioners, the D.C. Circuit "did not present or decide the question of whether DOE could have lawfully approved exports without conducting and considering [previous] analyses[, but] merely

[199] *See Sierra Club*, 134 F.4th at 575 (stating, in denying petition for review of DOE export authorization, that DOE's alleged failure to weigh downstream environmental impacts does not "overcome the presumption in NGA section [3(a)] in favor of granting [the] export authorization"); *see also Sierra Club I*, 867 F.3d at 203 (noting with approval DOE's longstanding position that NGA section 3(a) "is too blunt an instrument to address [Sierra Club's] environmental concerns efficiently").
[200] 15 U.S.C. § 717b(a); *see* App. at 1-2, 6.
[201] *See* Final Order at 15, 55 & n.303.
[202] *See*, *e.g.*, 42 U.S.C. § 7401 *et seq*.; 33 U.S.C. § 1901 *et seq*.; 33 U.S.C. § 1322(p); 16 U.S.C. § 1531 *et seq*.; 14 U.S.C. § 522.
[203] *Sierra Club I*, 867 F.3d at 202 (internal quotation omitted) (concluding that "[w]e see nothing arbitrary about [DOE's] decision").

rejected arguments that DOE was required to do more" and so did not "support a categorical exclusion that permits DOE to provide no environmental review whatsoever."[204] Petitioners contend that DOE interpreted the cases to endorse limited environmental review, despite the D.C. Circuit holding that DOE's environmental review had been adequate.[205] Focusing on *Sierra Club I*, Petitioners state that "[*Sierra Club I*] [affirmed] that DOE could provide significant discussion of many . . . effects even if DOE could not predict where the effects would occur, and that DOE could reasonably predict many of the climate and greenhouse gas impacts of LNG export authorizations."[206] According to Petitioners, *Sierra Club I* found that DOE's prediction of both upstream and downstream emissions was sufficiently detailed.[207] Petitioners asserted the D.C. Circuit did not, however, "hold that all the effects of DOE authorization of exports, other than additional ship traffic, were so unforeseeable that DOE could ignore them entirely."[208]

2. DOE's Response

Petitioners have misconstrued *Sierra Club I,* which found that the induced upstream production impacts were not reasonably foreseeable and are therefore not "effects" subject to analysis under NEPA, and downstream emissions at the point of consumption were too attenuated to be reasonably foreseeable.

As to upstream production, relying on *Public Citizen* for the principle that NEPA requires a reasonably close causal relationship between the environmental effect and the alleged cause, the D.C. Circuit found "[DOE] offered a reasoned explanation as to why it believed the indirect

[204] Rehearing Request at 24.
[205] *See id.* at 25-26.
[206] *Id.* at 26.
[207] *See id.* at 25-26.
[208] *Id.* at 26.

effects pertaining to increased production were not reasonably foreseeable."[209] Pointing to DOE's lack of regulatory authority over natural gas production, and referencing the Supreme Court's reasoning in *Public Citizen*, the D.C. Circuit went on to explain, "[a]t a certain point, the Department's obligation to drill down into increasingly speculative projections about regional environmental impacts is also limited by the fact that it lacks any authority to control the locale or amount of export-induced gas production, much less any of its harmful effects."[210]

As to the potential environmental effects from downstream emissions, the D.C. Circuit specifically rejected—on foreseeability and feasibility grounds—Sierra Club's assertion that DOE should have also considered more variables in its comparative life-cycle analysis of GHG emissions, *i.e.*, the potential for LNG to compete with other fuel sources. As the D.C. Circuit explained: "[s]uch an analysis . . . would require consideration of the dynamics of all energy markets in LNG-importing nations, and given the many uncertainties in modeling such market dynamics, the analysis would be 'too speculative to inform the public interest determination.'"[211] The Court went on to state: "[i]n addition to foreseeability limitations, "practical considerations of feasibility might well necessitate restricting the scope' of an agency's analysis."[212] The Court concluded, "[w]e see nothing arbitrary about the Department's decision."[213]

Moreover, the holding in *Sierra Club I* is consistent with the U.S. Supreme Court's decision in *Seven County*. According to the Court, when determining the scope of a NEPA review for a proposed action, the agency must consider the proposed action at hand and *that*

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[209] *Sierra Club I*, 867 F.3d at 198 (referred to by Petitioners as "*Freeport II*," as noted above).
[210] *Id.* at 201 ("'Since [the agency] has no ability categorically to prevent the cross-border operations of Mexican motor carriers, the environmental impact of the cross-border operations would have no effect on [its] decisionmaking—[the agency] simply lacks the power to act on whatever information might be contained in the EIS.'") (quoting *Public Citizen*, 541 U.S. at 768).
[211] *Id.* at 202 (citation omitted).
[212] *Id.* at 205 (quoting *Sierra Club v. FERC* (*Freeport*), 427 U.S. 390, 414 (1976)).
[213] *Id.*

proposed action's reasonably foreseeable environmental effects.[214] Since upstream production activities and the downstream use of exported LNG abroad are separate actions in time and place and outside DOE's regulatory authority, DOE's promulgation of the B5.7 categorical exclusion is consistent with and informed by the controlling case law.

We note that, while DOE previously prepared a qualitative study on upstream production (hydraulic fracturing or "fracking") impacts and a life-cycle comparative study on GHG emissions, neither study was prepared by DOE as part of its NEPA analysis. Further, as discussed above, the D.C. Circuit considered DOE's evaluation of upstream and downstream environmental effects in its review under NEPA, but it did not state that DOE was required to consider these environmental effects for NEPA compliance purposes.[215] Indeed, the two studies underscore the Supreme Court's concern—and are a telling example of—agencies doing "just a little more process" to minimize litigation risk.[216] As the Court observed about NEPA, "[a] 1970 legislative acorn has grown over the years into a judicial oak that has hindered infrastructure development 'under the guise' of just a little more process."[217]

Petitioners also mischaracterize DOE's rationale for establishing the B5.7 categorical exclusion and the extent of the rulemaking record on which the categorical exclusion was promulgated, claiming DOE relied on its alleged misreading of *Sierra Club I* and did no impact analysis "whatsoever."[218] Neither assertion is correct, and the latter reflects a fundamental misunderstanding of how agencies ensure NEPA compliance.

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[214] *Seven Cnty.,* 605 U.S. at 189-190 (clarifying that NEPA generally does not require an agency to analyze environmental effects from other projects that are separate in time and place, or that fall outside of the agency's regulatory authority).
[215] *See Sierra Club I*, 867 F.3d at 198-202.
[216] *Seven Cnty.,* 605 U.S. at 184.
[217] *Id.* (quoting *Vt. Yankee Nuclear Power Corp. v. NRDC*, 435 U.S. 519, 558 (1978)).
[218] Rehearing Request at 24.

NEPA defines categorical exclusions as a determination by an agency that a category of actions normally does not have a significant environmental effect.[219] A categorical exclusion is a type of NEPA review based on the agency's experience with similar actions; it is not an exclusion or exemption from NEPA obligations. The Fiscal Responsibility Act of 2023 amendments to NEPA encourage the use of categorical exclusions, even providing authority for agencies to adopt and use other agencies' categorical exclusions.[220] As DOE explained in the rulemaking, a categorical exclusion does not eliminate NEPA review but instead "is a form of NEPA review that allows agencies to focus their resources on information pertinent to the agency's decision-making authority and related to potentially significant environmental impacts."[221] DOE stated in the B5.7 categorical exclusion rulemaking that, "[i]n implementing the revised CX, DOE will consider whether an extraordinary circumstance is present such that an EA or EIS will be required" and "will also document its determination that application of the CX is appropriate."[222] Finally, in the B5.7 categorical exclusion rulemaking, DOE undertook an analysis to assess the potential significance of actions included in the categorical exclusion. This analysis included a detailed review of technical documents regarding potential effects associated with marine transport of LNG, the only reasonably foreseeable environmental impacts associated with DOE natural gas export authorizations.[223]

As discussed above, DOE correctly relied on *Sierra Club I* and *Public Citizen* as support to conclude that LNG export approvals do not require analysis of upstream production and downstream emission impacts under NEPA. As DOE explained in the rulemaking: "DOE is

[219] 42 U.S.C. § 4336e(1).
[220] *See id.* § 4336c (as added by § 321(b) of the Fiscal Responsibility Act of 2023, Pub. L. No. 118-5).
[221] NEPA Implementing Procedures Final Rule, 85 Fed. Reg. at 78,199.
[222] *Id.*
[223] *Id.*

revising the classes of action in its NEPA regulations regarding authorizations under section 3 of the NGA for non-FTA countries, consistent with . . . the [Council on Environmental Quality] regulations, and the legal principle enunciated in *Public Citizen* and *Sierra Club* that potential environmental effects considered under NEPA do not include effects that the agency has no authority to prevent."[224] Accordingly, "DOE need not review potential environmental impacts associated with the construction or operation of natural gas export facilities, because DOE lacks the authority to approve the construction or operation of those facilities."[225]

D. The Establishment of the Revised B5.7 Categorical Exclusion Is Legally Sufficient

1. Petitioners' Position

Petitioners argue that DOE erred in promulgating the B5.7 categorical exclusion, as it is premised on the position that indirect effects of LNG export and transport are unforeseeable, and Petitioners assert that categorical exclusions are reserved for actions where an agency can foresee effects and confidently conclude they are insignificant.[226] Petitioners argue that relying on "unforeseeability" as a basis for categorically excluding a discretionary action from NEPA analysis is inappropriate because foreseeability depends on the circumstances of each project and evolving projection and modeling tools and that DOE has demonstrated the ability to foresee impacts by estimating production increases and resulting GHGs.[227] Furthermore, Petitioners contend that project-specific details, such as existing contractual agreements enhance foreseeability regarding production levels and downstream effects, including GHGs, shipping routes, and displacement of energy sources.[228]

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[224] *Id.* at 78,198 & n.15 (citing *Sierra Club*, 827 F.3d at 40).
[225] *Id.*
[226] *See* Rehearing Request at 27.
[227] *See id.* at 27-29.
[228] *See id.*

2. DOE's Response

Petitioners' concerns about foreseeability lack merit. As a preliminary matter, we emphasize what the Supreme Court itself emphasized in *Seven County*: NEPA is "a purely procedural statute" that "[i]mportantly . . . does not require the agency to weigh environmental consequences in any particular way."[229] As DOE observed in the Final Order, NEPA requires agencies only to examine the reasonably foreseeable effects of its actions.[230] Under this well-established NEPA principle, the D.C. Circuit in *Sierra Club I* determined that potential environmental effects from upstream production and downstream emissions were not reasonably foreseeable.[231]

After notice-and-comment rulemaking, DOE codified its interpretation of its regulatory authority under NGA section 3(a) and its environmental obligations under NEPA in a regulation recognizing that there is "no information to indicate that natural gas export authorizations pose the potential for significant environmental impacts" within DOE's authority.[232] Categorical Exclusion B5.7 eliminates the need for an EA or EIS under NEPA when approving LNG exports absent extraordinary circumstances. We note that, in establishing the B5.7 categorical exclusion, which included recognizing that DOE has no jurisdiction over the LNG terminal as discussed in Section III.F that follows, DOE properly determined that the NEPA scope of review for the categorical exclusion is limited to marine transport effects. As the Supreme Court indicated in *Seven County*, that decision by DOE under NEPA is entitled to "substantial deference." [233]

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[229] *Seven Cnty*, 605 U.S. at 173. Indeed, the Supreme Court reiterated that NEPA is "a purely procedural statute" several times throughout the decision. *E.g.*, *id.* at 173, 177, 180, 184.
[230] *See*, *e.g.*, Final Order at 18 n.81, 55. *See also* 42 U.S.C. § 4332(C)(i); *Seven Cnty.*, 605 U.S. at 190 ("Simply stated, a court may not invoke but-for causation or mere foreseeability to order agency analysis of the effects of every project that might somehow or someday follow from the current project") (citing *Pub. Citizen,* 541 U.S. at 767-768, and *Metro. Edison Co. v. People Against Nuclear Energy,* 460 U.S. 766, 774-75 (1983)).
[231] *See Sierra Club I*, 867 F.3d 189.
[232] NEPA Implementing Procedures Final Rule, 85 Fed. Reg. at 78,201-02.
[233] *Seven Cnty*., 605 U.S. at 180.

E. The 2024 Study Is Not Relevant for NEPA Purposes

1. Petitioners' Position

Petitioners assert that DOE's position that effects of exporting and transporting LNG are unforeseeable is weakened by its prior acknowledgment and quantitative analysis of these environmental effects that it prepared in its 2024 LNG Export Study.[234] Petitioners assert that DOE's 2024 Study provides detailed climate analyses demonstrating increases in GHG emissions from additional U.S. LNG exports and assert that the increase in GHGs is comparable to GHG changes that resulted from major EPA climate rules and carry social and environmental costs estimated in the hundreds of billions of dollars.[235] For this reason, Petitioners contend that the effects cannot be considered insignificant for the purposes of supporting a categorical exclusion, and that [i]n any event, "reasonable forecasting and speculation" is required for any NEPA analysis, and DOE cannot dismiss its own analyses or refuse to conduct further analysis merely because the exact magnitude of effects is uncertain.[236]

2. DOE's Response

Petitioners' arguments concerning the relevance of the 2024 LNG Export Study are misplaced. DOE has previously determined, as stated in its Final Order and a public announcement concerning the 2024 LNG Export Study, that "the environmental analysis in the 2024 LNG Export Study is not required for DOE's decision on applications to export natural gas."[237] As DOE explained in the Final Order, DOE's NEPA review of the proposed export application under the B5.7 categorical exclusion considered "all relevant environmental

[234] Rehearing Request at 29.
[235] *Id.* at 29-30.
[236] *Id.* at 30.
[237] Final Order at 17-18. *See also* U.S. Dep't of Energy, LNG Docket Management Portal for 2024 LNG Export Study, Update 10/7/2025, https://fossil.energy.gov/app/docketindex/docket/index/30 [hereinafter 10/7/2025 Update].

effects from the proposed export of LNG to non-FTA countries."[238] DOE further stated that, "[t]he environmental portions of the 2024 LNG Export Study were not limited to marine transport effects, but rather included the integration of potential upstream and downstream environmental effects, which are not reasonably foreseeable environmental impacts of DOE's export authorizations."[239]

Accordingly, DOE explained that its "discussion of the 2024 LNG Export Study would focus only on the economic analysis in the Study, as well as DOE's related findings on energy security," and further explained "that this position is informed by and consistent with the Supreme Court's holdings in [*Public Citizen* and *Seven County*], which make clear that 'agencies are not required to analyze the effects of projects over which they do not exercise regulatory authority.'"[240] Based on the foregoing, DOE reiterated in its public announcement that, "in pending and future export application proceedings under NGA section 3(a), DOE will not consider the environmental analysis in the 2024 LNG Export Study or the related Response to Comments."[241]

F. DOE Lacks Authority to Approve LNG Terminal Construction and Operation

1. Petitioners' Position

Petitioners dispute DOE's claim that it lacks authority to approve LNG terminal construction and operation and, in turn, responsibility to examine related effects under NEPA.[242] They stress that FERC's authority to approve terminal facilities under NGA section 3 derives from a DOE delegation, not the NGA itself, and that DOE has reserved the right to veto FERC's

[238] Final Order at 18.
[239] *Id.*
[240] *Id.* (quoting *Seven Cnty.,* 605 U.S. at 188); *see also id.* at 57.
[241] 10/7/2025 Update.
[242] *See* Request for Rehearing at 31.

delegated approvals.[243] According to Petitioners, because DOE is "not precluded" from considering terminal-related impacts, and because the terminal approval is a connected action alongside the export authorization, DOE must coordinate its review with FERC and cannot categorically exclude from its own NEPA review effects that FERC considered.[244]

2. DOE's Response

Petitioners are mistaken in their assertion that FERC's authority to approve terminal facilities under NGA section 3 derives from a DOE delegation, not the NGA itself. The correct reading, based on its context and legislative history in the Energy Policy Act of 2005,[245] is that NGA section 3(e) places its authority directly in the FERC and thus is not dependent on receipt of a delegation from DOE. In other words, DOE does not have any authority to exercise under section 3(e) to authorize siting and construction of LNG export and import facilities. With no authority to approve construction or operation of such facilities, there is no DOE decision to be informed by a NEPA analysis. In the context of an application for an LNG export approval, the only decision for which DOE has authority is with respect to the export of the commodity itself, and the NEPA compliance for that action in the absence of extraordinary circumstances is the application of the B5.7 categorical exclusion, which DOE has properly completed in this proceeding.

When promulgating Categorical Exclusion B5.7 in its regulations, DOE explained that its assessment of environmental impacts under NEPA "is properly focused on potential environmental impacts resulting from the exercise of its NGA section 3 authority."[246] And

[243] *See id.* at 32.
[244] *See id.* at 33.
[245] *See* 15 U.S.C. § 717b(e)(1) (as added by § 311 of the Energy Policy Act of 2005, Pub. L. No. 109-58). *See also*, *e.g.,* H.R. Rep. No. 109-49, at 7 (2005) (FERC "would be made the lead federal agency for LNG siting decisions, and states would be granted only a consultative role.").
[246] NEPA Implementing Procedures Final Rule, 85 Fed. Reg. at 78,198.

"[t]he *only* decision f*or which DOE has authority* is with respect to the export of the commodity itself."[247] Of course, it is "axiomatic . . . that an agency is bound by its own regulations."[248] DOE thus appropriately relied on Categorical Exclusion B5.7 in accordance with its regulations. Upstream, downstream, and cumulative environmental effects are beyond the scope of DOE's authority under NGA Section 3(a).

G. DOE Correctly Applied the B5.7 Categorical Exclusion

1. Petitioners' Position

Although DOE acknowledges that it must consider the environmental effects of vessel traffic associated with LNG exports, Petitioners deny that these effects are categorically insignificant.[249] According to Petitioners, it is inconsequential that LNG traffic is a small percentage of overall U.S. shipping volumes, particularly with LNG traffic expected to increase.[250] Petitioners argue that vessel traffic, particularly in sensitive regions like the Gulf of America, can bring about significant impacts on those specific environments.[251] Petitioners state that the Rice's whale, which Petitioners state is "critically endangered," is one example of an affected species in the Gulf region.[252] In Petitioners' view, even a relatively small increase in traffic can have "individually significant" environmental effects, especially for endangered species, and DOE's analysis fails to address this.[253]

[247] *Id.* at 78,199 (emphases added)
[248] *Clean Air Project*, 752 F.3d at 1009 (quoting *Panhandle E. Pipe Line Co. v. FERC*, 613 F.2d 1120, 1135 (D.C. Cir. 1979)).
[249] *See* Request for Rehearing at 33-34.
[250] *See id.* at 34-35.
[251] *See id.* at 34.
[252] *Id.*
[253] *Id.* at 35.

2. DOE's Response

Petitioners' criticism of DOE's ship traffic analysis does not establish that the categorical exclusion, as applied in this proceeding, is legally inadequate. Agencies have substantial discretion in determining the appropriate scope and methodology for environmental analysis, and DOE is entitled to substantial deference in its application of the categorical exclusion. As the Supreme Court recently explained, deference is the "bedrock principle of judicial review" in NEPA cases.[254] This is because much of the NEPA process involves "fact-dependent, context-specific, and policy-laden choices" determining the appropriate scope of an actions' effects and alternatives.[255] Even with increased LNG exports, the relative proportion of LNG shipments to total shipping is not expected to change, including in the Gulf. DOE is required to consider extraordinary circumstances (significant effects) in applying the B5.7 categorical exclusion, and DOE reasonably found in this proceeding there were none with respect to ship traffic and potential mammal strikes. As a result, DOE properly applied the B5.7 categorical exclusion in this proceeding.

IV. FINDINGS AND CONCLUSION

Upon review of Petitioners' arguments, DOE finds that Petitioners have failed to show that DOE's grant of CP2 LNG's requested authorization is inconsistent with the public interest under NGA section 3(a). Therefore, we dismiss Petitioners' arguments and affirm our previous findings that the non-FTA portion of CP2 LNG's Application should be granted, as set forth in the Final Order (DOE/FECM Order No. 5264-A).[256]

[254] *Seven Cnty*., 605 U.S. at 185.
[255] *Id.* at 183.
[256] *See* Final Order at 64.

V. ORDER

Pursuant to sections 3 and 19(a) of the Natural Gas Act[257] and DOE's regulations at 10 C.F.R. § 590.503, and for the reasons set forth above and in the Conditional and Final Orders (Order Nos. 5264 and 5264-A, respectively), it is ordered that Sierra Club's and NRDC's Request for Rehearing is denied.

Issued in Washington, D.C., on March 26, 2026.

KYLE HAUSTVEIT Digitally signed by KYLE HAUSTVEIT
Date: 2026.03.26 15:24:40 -04'00'

Kyle Haustveit
Assistant Secretary
Hydrocarbons and Geothermal Energy Office

[257] 15 U.S.C. §§ 717b, 717r(a).