191 FERC ¶ 61,153

UNITED STATES OF AMERICA

FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Mark C. Christie, Chairman;

 David Rosner and Lindsay S. See.

|  |  |  |
| --- | --- | --- |
| Venture Global CP2 LNG, LLCVenture Global CP Express, LLC | Docket Nos. |  CP22-21-001 CP22-21-002 CP22-22-001 CP22-22-002 |

ORDER ADDRESSING ARGUMENTS RAISED ON REHEARING AND GRANTING CLARIFICATION

(Issued May 23, 2025)

1. On June 27, 2024, the Commission issued an order: (1) authorizing Venture Global CP2 LNG, LLC (CP2 LNG) to site, construct, and operate a new liquefied natural gas (LNG) export terminal and associated facilities on the east side of the Calcasieu Ship Channel in Cameron Parish, Louisiana (CP2 LNG Project); and (2) issuing Venture Global CP Express, LLC (CP Express) a certificate of public convenience and necessity to construct and operate a new interstate natural gas pipeline system to connect the CP2 LNG Project to the existing natural gas pipeline grid in east Texas and southwest Louisiana (CP Express Pipeline Project).**[[1]](#footnote-2)** On July 29, 2024, a coalition of petitioners (Petitioners)**[[2]](#footnote-3)** filed a timely request for rehearing of the Authorization Order.**[[3]](#footnote-4)** On November 27, 2024, the Commission issued an order addressing Petitioners’ arguments raised on rehearing except for those related to air quality claims. In light of the U.S. Court of Appeals for the District of Columbia Circuit’s (D.C. Circuit) July 2024 order finding the Commission’s air quality analysis inadequate regarding an LNG project’s nitrogen dioxide (NO2) cumulative impacts,[[4]](#footnote-5) the Commission set aside the analysis in the Authorization Order of NO2 and particulate matter with an aerodynamic diameter of less than or equal to 2.5 microns (PM2.5) emissions to conduct supplemental environmental analyses, with a further merits order to follow.[[5]](#footnote-6) The Commission withheld issuance of any authorizations to proceed with construction of the Projects until it issued a further merits order.[[6]](#footnote-7) On December 23, 2024, Venture Global filed a timely request for rehearing of the Rehearing Order.
2. Pursuant to *Allegheny Defense Project v. FERC*,**[[7]](#footnote-8)** the rehearing requests filed in this proceeding may be deemed denied by operation of law. However, as permitted by section 19(a) of the Natural Gas Act (NGA),**[[8]](#footnote-9)** we are modifying the discussion in the Authorization Order and the Rehearing Order and continue to reach the same result in this proceeding, as discussed below.**[[9]](#footnote-10)** Accordingly, this order addresses: (1) Petitioners’ original claims on rehearing of the Authorization Order regarding air quality and (2) Venture Global’s request for rehearing of the Rehearing Order.

# Background

## Projects

1. On December 2, 2021, CP2 LNG filed an application, in Docket No. CP22-21-000, under NGA section 3**[[10]](#footnote-11)** and Part 153 of the Commission’s regulations**[[11]](#footnote-12)** for authorization to site, construct, and operate the CP2 LNG Project, with 20 million metric tons per annum (MTPA) of nameplate liquefaction capacity and a peak achievable capacity of 28 MTPA under optimal operating conditions.**[[12]](#footnote-13)** The project would be constructed in two phases[[13]](#footnote-14) and include a liquefaction plant consisting of eighteen liquefaction blocks, four aboveground full containment LNG storage tanks, and two marine LNG loading docks.[[14]](#footnote-15) The CP2 LNG Project would receive natural gas via the CP Express Pipeline Project.[[15]](#footnote-16)
2. In the same application, CP Express filed a request, in Docket No. CP22-22-000, under NGA section 7(c)**[[16]](#footnote-17)** and Parts 157 and 284 of the Commission’s regulations,**[[17]](#footnote-18)** for a certificate of public convenience and necessity to construct and operate the CP Express Pipeline Project.[[18]](#footnote-19) The CP Express Pipeline Project would originate at interconnections with Transcontinental Gas Pipe Line Company, LLC’s interstate system and Midcoast Energy, LLC’s CJ Express pipeline in Jasper County, Texas, extend through Newton County, Texas, and Calcasieu and Cameron Parishes, Louisiana, and terminate at the CP2 LNG Project.[[19]](#footnote-20) The CP Express Pipeline Project would provide up to 4,400,000 dekatherms per day (Dth/day) of firm natural gas transportation service[[20]](#footnote-21) and would include the construction and operation of the Moss Lake Compressor Station in Calcasieu Parish, Louisiana (Moss Lake Compressor Station).[[21]](#footnote-22) The CP Express Pipeline Project would be constructed and operated in two phases; the Phase I pipeline facilities would provide 2,200,000 Dth/day of firm transportation service and Phase II facilities providing an additional 2,200,000 Dth/day of firm transportation service to correspond to the two phase construction of the CP2 LNG Project.[[22]](#footnote-23)

## Cumulative Air Impacts Analysis

### Methodology

1. On July 28, 2023, Commission staff issued the final Environmental Impact Statement (EIS) for the Projects. Relevant to this order, the final EIS addressed air quality and cumulative impacts. Under the Clean Air Act (CAA), new major sources of air emissions in attainment areas,[[23]](#footnote-24) such as the CP2 LNG Project and Moss Lake Compressor Station, must demonstrate that they will not cause or contribute to a violation of any applicable National Ambient Air Quality Standards (NAAQS) before obtaining a permit under the Prevention of Significant Deterioration (PSD) program.[[24]](#footnote-25) With respect to the six criteria pollutants, the U.S. Environmental Protection Agency (EPA) has developed Significant Impact Levels (SILs) as a tool that permitting authorities, typically state agencies, may use to demonstrate that emissions from a proposed source or modification will not cause or contribute to air pollution in excess of the NAAQS for purposes of complying with the PSD program requirements.[[25]](#footnote-26) When considering a PSD application, state permitting agencies generally require an analysis involving up to three steps that uses modeled project emissions in comparison to the SILs to determine if a facility would not cause or contribute to any exceedances of the NAAQS.[[26]](#footnote-27) The Commission, in the 2023 final EIS and Authorization Order followed this three-step process to analyze the Projects’ air emissions as part of its examination of project effects under the National Environmental Policy Act (NEPA).[[27]](#footnote-28) The three-step analysis includes: (1) a preliminary screening step; (2) if necessary, a full cumulative impacts analysis; and (3) if necessary, a cause and contribute (i.e. culpability) analysis.**[[28]](#footnote-29)**
2. Generally, during the preliminary screening step (i.e., step one) a state models a source’s potential emissions and compares the proposed facility’s highest projected ambient air quality impact at the facility to the SIL for each criteria pollutant to determine if any such concentrations exceed the SIL.**[[29]](#footnote-30)** With respect to the six criteria pollutants (carbon monoxide, lead, NO2, ozone, particulate matter (PM), and sulfur dioxide), EPA has developed SILs as a tool that permitting authorities may use to demonstrate that emissions from a proposed source or modification will not “cause, or contribute to, air pollution in excess” of the NAAQS for purposes of demonstrating compliance with the PSD program requirements.**[[30]](#footnote-31)** If the predicted impacts for a particular pollutant and averaging period (e.g., 1-hour, 8-hour, 24-hour, or annual) are below the applicable SIL, then no further analyses or modeling are required for that pollutant/averaging period because individual contributions below the SIL would not cause or contribute to an exceedance of the NAAQS.**[[31]](#footnote-32)** If model-predicted concentrations for a particular pollutant and averaging period are greater than the applicable SIL, a cumulative impact analysis is performed for this pollutant and averaging period (i.e., step two).**[[32]](#footnote-33)** This cumulative impact analysis must consider emissions from existing regional sources in addition to the project’s modeled emissions.[[33]](#footnote-34) Each criteria pollutant is modeled separately. If there are no predicted NAAQS exceedances identified in the cumulative impact analysis, there is no need to proceed to the cause and contribute analysis (i.e., step three). Under the CAA, in cases where a potential NAAQS exceedance of a criteria pollutant is identified, the modeled contribution from the project is not considered to have caused or contributed to the exceedance if its own impact is less than the SIL at the receptor and time period of the predicted exceedance.[[34]](#footnote-35) For those cases where there is no simultaneous exceedance of the NAAQS and the SIL by the proposed project source, the modeling analysis is deemed to demonstrate that the proposed source would not cause or contribute to the potential NAAQS exceedance and the state may issue the permit.[[35]](#footnote-36)

### Project Modeling: 1-hour NO2 and PM2.5 Results

1. The cumulative air dispersion modeling in the final EIS was conducted in accordance with EPA’s 40 C.F.R. Part 51, Appendix W.**[[36]](#footnote-37)** Venture Global conducted cumulative impact analyses for the CP2 LNG Project and Moss Lake Compressor Station for each pollutant that exceeded the SIL for the averaging period during step one. The results from the cumulative impact analyses showed NAAQS exceedances for the 1-hour NO2 NAAQS.**[[37]](#footnote-38)** Venture Global conducted a cause and contribute analysis (i.e., step three) to determine if and to what extent the CP2 LNG Project and Moss Lake Compressor Station emission sources contributed to the exceedance of the 1-hour NO2 NAAQS.**[[38]](#footnote-39)** The analysis showed that the contribution by the CP2 LNG Project and Moss Lake Compressor Station to each exceedance concentration at the same receptor and time period was less than the EPA-designated SIL of 7.5 micrograms per cubic meter (μg/m3), and thus, under the step 3 cause and contribute analysis, concluded that the exceedances would occur even in the absence of the Projects’ emissions.**[[39]](#footnote-40)**
2. Additionally, the Moss Lake Compressor Station showed a NAAQS exceedance for 24-hour PM2.5 for which a cause and contribute analysis (i.e., step three) was performed. That analysis showed that the contribution by the Moss Lake Compressor Station to this exceedance concentration at the same receptor and time period fell below the SIL.[[40]](#footnote-41) Venture Global further determined that although the model-predicted maximum 24-hour PM2.5 increment concentration for the Moss Lake Compressor Station exceeded the PSD Class II increment[[41]](#footnote-42) at the facility, a cause and contribute analysis showed that the contribution by the Moss Lake Compressor Station to each exceedance at the same receptor and time period was less than the EPA-designated PSD Class II SIL of 1.2 μg/m3 for the 24-hour PM2.5 concentrations.**[[42]](#footnote-43)** Therefore, Commission staff determined that the Moss Lake Compressor Station did not cause or contribute to these exceedances.
3. Last, with respect to annual PM2.5, the results of the step 2 cumulative air modeling for CP2 LNG showed a concentration of 9.4 µg/m3, which was below the NAAQS threshold of 12.0 µg/m3.[[43]](#footnote-44) Because there were no NAAQS exceedances for annual PM2.5, staff was able to conclude in the final EIS that there would be no significant impact without moving to the step 3 cause and contribute analysis.

## Subsequent Air Modeling for Annual PM2.5 and NO2

1. On March 6, 2024, after the issuance of the final EIS, EPA revised the primary annual PM2.5 NAAQS standard from 12.0 µg/m3 to 9.0 µg/m3.**[[44]](#footnote-45)** Because EPA lowered the annual PM2.5 NAAQS standard to 9.0 µg/m3, Commission staff issued a data request to Venture Global requiring updated air modeling.**[[45]](#footnote-46)** On April 4, 2024, Venture Global provided updated cumulative air modeling for PM2.5, but changed the monitoring station from the West Orange Monitoring Station to the Vinton, Louisiana monitoring station (Vinton Monitoring Station).**[[46]](#footnote-47)** According to Venture Global, it used the Vinton Monitoring Station because it was more representative of background PM2.5 based on proximity, population density, and air emissions profile.**[[47]](#footnote-48)** Venture Global stated that it did not previously use the Vinton Monitoring Station due to concerns with data from the third quarter of 2021, which data the EPA had since confirmed to be valid.**[[48]](#footnote-49)** The updated air model using the Vinton Monitoring Station showed an annual PM2.5 level of 8.1 µg/m3 for the CP2 LNG Project, below the new NAAQS threshold of 9.0 µg/m3.[[49]](#footnote-50)
2. Also after the final EIS, on March 17, 2024, Venture Global filed a request with Louisiana Department of Environmental Quality (LDEQ) to increase air emissions from its Calcasieu Pass LNG (CP1 LNG) terminal, which would result in increased cumulative PM2.5 and oxides of nitrogen (NOx) impacts in the surrounding area.**[[50]](#footnote-51)** On May 15, 2024, the Commission issued a data request asking CP2 LNG to provide additional air modeling to account for these increased emissions.**[[51]](#footnote-52)** CP2 LNG responded that its prior modeling included this information and provided its application materials for the CP1 LNG terminal permit.[[52]](#footnote-53) Commission staff confirmed that the modeling reflected the increase in the CP1 LNG terminal’s operational emissions, but determined that it did not include emissions from associated LNG ships and support vessels.[[53]](#footnote-54) Therefore, Commission staff issued a data request on May 29, 2024, requiring CP2 LNG to include the CP1 LNG terminal’s marine emissions in its cumulative air modeling analysis. On June 3, 2024, CP2 LNG filed an updated cumulative air modeling analysis that included the requested information.[[54]](#footnote-55)

## Authorization Order

1. Based on its review of the final EIS, the Commission determined that the Projects would not cause or contribute to the anticipated exceedances of the 1-hour NO2 or the 24-hour PM2.5 NAAQS.**[[55]](#footnote-56)** Further, although the post-final EIS air modeling submitted by Venture Global showed an increase in the CP1 LNG terminal emissions of NO2 and PM2.5, including marine mobile emissions associated with the CP1 project, the updated analysis demonstrated that operation of the CP2 LNG Project would not result in air quality impacts that would cause or contribute to an exceedance of any NAAQS in the surrounding communities because the project’s contribution at each NAAQS exceedance point was below the SIL.[[56]](#footnote-57) The Commission also accepted Venture Global’s use of data from the Vinton Monitoring Station as being more representative of the project area than that from the West Orange Monitoring Station and found that, with the Vinton Monitoring Station, the total cumulative concentration of annual PM2.5 will be 8.1 µg/m3 once the CP2 LNG Project is in operation, below EPA’s revised annual 9.0 µg/m3 PM2.5 NAAQS threshold.[[57]](#footnote-58)
2. After considering the information and analysis contained in the final EIS, as well as other information in the record, as supplemented or clarified in the Authorization Order, the Commission found that the Projects, if implemented as described in the applications and in compliance with the environmental conditions in the Authorization Order, were environmentally acceptable actions.**[[58]](#footnote-59)**

## Subsequent D.C. Circuit Decisions

1. After the issuance of the Authorization Order, the D.C. Circuit issued its opinion in *Healthy Gulf*, disagreeing with the Commission’s determination that the cumulative effects of a project’s NO2 emissions were insignificant because incremental NO2 emissions fell below the applicable SIL at several NAAQS exceedance locations.**[[59]](#footnote-60)** The court remanded the proceeding to the Commission to either explain how its use of the 1-hour NO2 SIL is consistent with a proper cumulative effects analysis or to adequately assess the cumulative effects of the project’s NO2 emissions using a different methodology.**[[60]](#footnote-61)**
2. The D.C. Circuit also issued its opinion in *City of Port Isabel*, which remanded orders authorizing other LNG projects for failure to issue a supplemental EIS where the Commission “issu[ed] an entirely new and significantly expanded” environmental analysis “that reached new conclusions” in an order, without a separate NEPA document.**[[61]](#footnote-62)** *City of Port Isabel* also faulted the Commission for relying on updated data without providing the public with an opportunity to comment on either the underlying data or the Commission’s interpretation of that data, and found that the public was deprived of an “adequate ‘springboard for public comment’” under NEPA.[[62]](#footnote-63)

## Rehearing Order

1. Petitioners sought rehearing of the Authorization Order and alleged that the Commission: (1) violated the NGA and Administrative Procedure Act (APA) by authorizing the Projects (including arguments related to jurisdiction,**[[63]](#footnote-64)** public interest,**[[64]](#footnote-65)** need,**[[65]](#footnote-66)** and project benefits**[[66]](#footnote-67)**); (2) violated NEPA[[67]](#footnote-68) and related APA responsibilities (including arguments related to alternatives,**[[68]](#footnote-69)** greenhouse gases (GHGs),**[[69]](#footnote-70)** impacts to commercial and recreational fishing and local communities,**[[70]](#footnote-71)** safety,**[[71]](#footnote-72)** the carbon capture and sequestration (CCS) system,**[[72]](#footnote-73)** socioeconomics,**[[73]](#footnote-74)** impacts to the Rice’s whale,**[[74]](#footnote-75)** wetlands impacts,**[[75]](#footnote-76)** impacts to surrounding communities,**[[76]](#footnote-77)** and air impacts**[[77]](#footnote-78)**); and (3) failed to properly balance the benefits and adverse impacts of the Projects.**[[78]](#footnote-79)** With the exception of Petitioners’ rehearing arguments regarding air impacts, the Commission addressed each of Petitioners’ arguments in the Rehearing Order, and provided further justification for and sustained the Commission’s determinations in the Authorization Order.[[79]](#footnote-80)
2. The Rehearing Order set aside the Authorization Order, in part, based on the Commission’s analysis of NO2 and PM2.5 and potential conflict with the D.C. Circuit's specific directives to the Commission in *Healthy Gulf* and *City of Port Isabel* for the purpose of conducting additional environmental review.**[[80]](#footnote-81)** The Commission explained that the Commission’s analysis of NO2 and PM2.5, as well as other air quality issues raised by Petitioners, would be addressed in a future order to be issued upon completion of supplemental environmental review.[[81]](#footnote-82) The Commission also explained that the Authorization Order remained in full force and effect but that no authorization to proceed with construction of the Projects would be issued until the Commission issued a further merits order.[[82]](#footnote-83) Venture Global sought rehearing of the Rehearing Order.

## Supplemental Environmental Review

1. On November 27, 2024, the Commission issued a *Notice of Schedule for the Preparation of a Supplemental Environmental Impact Statement for the CP2 LNG Project and CP Express Pipeline Project*. The notice was published in the *Federal Register* on December 4, 2024.**[[83]](#footnote-84)**
2. On December 10, 2024, Commission staff requested that Venture Global: (1) explain and justify its selection of the Vinton Monitoring Station; (2) provide updated and validated air quality background data for the CP2 LNG Project and Moss Lake Compressor Station; and (3) update the air quality modeling for the CP2 LNG Project and Moss Lake Compressor Station.[[84]](#footnote-85) On December 23, 2024, Venture Global provided the requested information and air modeling.[[85]](#footnote-86)
3. On February 7, 2025, Commission staff issued a draft supplemental EIS for the Projects, that addressed cumulative air impacts for NO2 and PM2.5. Notice of the draft supplemental EIS was published in the *Federal Register* on February 13, 2025**[[86]](#footnote-87)** and mailed to Commission staff’s environmental mailing list. The notice established March 31, 2025, as the deadline for filing comments or motions to intervene.[[87]](#footnote-88)
4. In response to the draft supplemental EIS, the Commission received written comments from federal agencies, Tribes, companies and non-governmental organizations, and individuals. Primary issues raised by the commenters relate to air quality, as well as project need, alternatives, wildlife, wetlands, cumulative impacts, environmental justice, noise, and socioeconomics.
5. Commission staff issued the final supplemental EIS for the Projects on May 9, 2025. The *Notice of Availability* of the final supplemental EIS was published in the *Federal Register* on May 15, 2025**[[88]](#footnote-89)** and mailed to Commission staff’s environmental mailing list. The final supplemental EIS addresses cumulative air impacts for NO2 and PM2.5. It also addresses all environmental comments that were within the scope of the draft supplemental EIS. In response to the final supplemental EIS, the Commission received one written comment from an individual regarding wildlife, which is outside the scope of the final supplemental EIS.[[89]](#footnote-90)
6. As disclosed in the final supplemental EIS, project emissions either fell below the applicable SIL in step one or the area concentrations complied with NAAQS. As discussed below, the final supplemental EIS concludes, and we agree, that the emission impacts, including 1-hour NO2 and annual and 24-hour PM2.5 impacts from the Moss Lake Compressor Station and CP2 LNG Project, when combined with past, present, and reasonably foreseeable emissions within the regional air environment, are not significant.[[90]](#footnote-91)

# Interventions

1. On March 31, 2025, Fisherman Involved in Sustaining our Heritage (FISH) and James Steven Broussard, Cheryl Kim Broussard, J.S. Broussard Farms, LLC, Eric Paul Dugas, Blair Gayle Dugas, Henning Management, LLC, and Thornwell Hunting Club, LLC, filed timely unopposed motions to intervene based on the issuance of the draft supplemental EIS,[[91]](#footnote-92) which are granted.[[92]](#footnote-93)

# Procedural Issues

## Venture Global’s Answer to Petitioners’ Request for Rehearing

1. On rehearing, Venture Global argues that the Commission erred by rejecting its August 13, 2024 answer to Petitioners’ request for rehearing.[[93]](#footnote-94) According to Venture Global, its answer included a discussion of how the Commission could respond to Petitioners’ challenge of the cumulative air impacts analysis of NO2 and PM2.5 and the usefulness of further explanation in light of the D.C. Circuit’s decision in *Healthy Gulf*.[[94]](#footnote-95) It also asserts that the answer included a discussion of harm that would result from a stay of construction authorizations which the Commission should have considered.[[95]](#footnote-96) It maintains that the Commission summarily rejected its answer without explanation despite providing explanation for its rejection of FISH’s late motion to intervene, and that Commission precedent provides insufficient guidance for when an answer to a request for rehearing will assist the Commission’s decision-making.[[96]](#footnote-97) It also asserts, without support, that there is no longer any bar preventing the Commission from considering its answer.[[97]](#footnote-98)
2. We continue to reject Venture Global’s answer to Petitioners’ request for rehearing of the Authorization Order. Rule 213 of the Commission’s Rules of Practice and Procedure states that “an answer may not be made to a . . . request for rehearing, unless otherwise ordered by the decisional authority.”[[98]](#footnote-99) Similarly, Rule 713 states that “the Commission will not permit answers to request for rehearing.”[[99]](#footnote-100) Although the Commission has found occasion, on a case-by-case basis, to accept an otherwise prohibited answer to a request for rehearing,[[100]](#footnote-101) the interests of administrative efficiency and finality support the Commission’s general approach of rejecting answers to rehearing requests.[[101]](#footnote-102) Venture Global’s motion for leave to respond to Petitioners’ rehearing request contained only a bare assertion that its answer would assist in the Commission’s decision-making process, without context or further explanation.[[102]](#footnote-103) We continue to find this insufficient to overcome the Commission’s generally applicable reasons for rejecting answers to requests for rehearing.**[[103]](#footnote-104)**
3. We also disagree that the Commission should now accept Venture Global’s answer. As an initial matter, under the NGA, “the application for rehearing shall set forth *specifically* the ground or grounds upon which such application is based.”[[104]](#footnote-105) The Commission’s practice, with which courts have agreed, is to reject arguments made on rehearing without sufficient specificity.[[105]](#footnote-106) Here, Venture Global fails to cite any authority or otherwise explain why the Commission is now no longer barred from accepting its answer or how the circumstances have changed such that the record is no longer sufficient to respond to Petitioners’ request for rehearing. Moreover, “the Commission’s regulations require rehearing requests to provide the basis, in fact and law, for each alleged error including representative Commission and court precedent.”[[106]](#footnote-107) Bootstrapping of arguments is not permitted.[[107]](#footnote-108) Accordingly, to the extent Venture Global attempts to resurrect its rejected answer by incorporating it by reference and attaching it as an exhibit, we find such attempts improper. Nonetheless, to the extent Venture Global’s request for rehearing of the Rehearing Order reiterates arguments in their prohibited answer, those arguments are addressed below.

## Updated Air Modeling and New Information

1. Venture Global asserts that it has complied with the Rehearing Order and subsequent data requests seeking updated air modeling and argues that because the updated air modeling for the CP2 LNG Project demonstrates compliance with the NAAQS thresholds for all criteria pollutants and their respective averaging periods, the issue resulting in the remand in *Healthy Gulf* which led the Commission to order a supplemental EIS is no longer present (i.e., the third step, a cause and contribute analysis, is no longer required) rendering a supplemental EIS unnecessary.[[108]](#footnote-109) Similarly, Venture Global argues that because the updated air modeling for the Moss Lake Compressor Station shows impacts below the SIL for all pollutants and averaging periods (i.e., step one), the Commission is neither required to perform a full cumulative impact analysis (i.e., step two), nor the cause and contribute analysis (i.e., step three, which was at issue in *Healthy Gulf*).[[109]](#footnote-110) Based on the foregoing, Venture Global requests the Commission take this updated air modeling into consideration on rehearing pursuant to Rule 713(c)(3) of the Commission’s Rules of Practice and Procedure.[[110]](#footnote-111) It asserts that there is a compelling showing of good cause and the new information did not exist at the time of the Commission’s prior order.[[111]](#footnote-112) It maintains that the updated air modeling goes to the heart of the case, compels a contrary result because there are no longer any NAAQS exceedances, obviates the court’s concern in *Healthy Gulf*, and removes the impetus behind the need for a supplemental NEPA review.[[112]](#footnote-113)
2. We disagree that the new information on rehearing confirms that supplemental NEPA analysis is not warranted. As an initial matter, the supplemental NEPA analysis was completed on May 9, 2025, and Venture Global’s arguments are now moot. Regardless, we note that, as a general matter, “parties are not permitted to introduce new evidence for the first time on rehearing since such practice would allow an impermissible moving target, and would frustrate needed administrative finality.”[[113]](#footnote-114) Allowing parties to introduce new evidence on rehearing also raises fairness and due process concerns because other parties are precluded from filing answers to requests for rehearing.[[114]](#footnote-115) Although Venture Global asserts that there is a compelling showing of good cause, it provides no further argument supporting these contentions, neither do we find good cause exists. Commission staff specifically requested additional information to ensure the Commission’s analysis here complied with *Healthy Gulf.* Accepting Venture Global’s updated information on rehearing, instead of completing the supplemental NEPA process called for in the Rehearing Order, would not satisfy the terms of that order.[[115]](#footnote-116) Moreover, completion of the supplemental NEPA process ensures the public is able to comment “at a meaningful time,” particularly in light of the holding in *City of Port Isabel*.[[116]](#footnote-117) An agency’s determination of whether a supplemental EIS is needed “implicates substantial agency expertise” and is thus governed by the arbitrary and capricious standard and entitled to deference.[[117]](#footnote-118)

## Preparation of Supplemental EIS

1. On rehearing of the Authorization Order, Petitioners argue that because the Commission, following the final EIS, required new air modeling for PM2.5 after the EPA lowered the NAAQS thresholds,[[118]](#footnote-119) changed its ambient air quality estimate, and requested updated air modeling for the CP2 LNG Project to account for increased PM2.5 and NOx from the CP1 LNG terminal, circumstances were sufficiently changed to warrant preparation of a supplemental EIS.[[119]](#footnote-120) Petitioners also assert that Sierra Club could address only the limited information provided by CP2 LNG regarding new CP1 LNG terminal emissions and that without access to modeling details and the Commission’s rationale or sufficient time to review CP2 LNG’s analysis, commenters did not have an opportunity to fully understand and comment on CP2 LNG’s updated air modeling.**[[120]](#footnote-121)**
2. Petitioners’ arguments are moot. As explained above, after issuance of the Rehearing Order, the Commission requested additional air modeling be submitted to further evaluate the cumulative impacts from NO2 and PM2.5.[[121]](#footnote-122) This updated air modeling provided the Commission, the public, and interested parties with additional, updated data. The Commission then engaged in supplemental NEPA and presented its analysis in the draft supplemental EIS, and, ultimately, the final supplemental EIS. Because the Commission engaged in supplemental NEPA and provided the public and interested parties sufficient time to meaningfully participate, we find Petitioners’ arguments moot.[[122]](#footnote-123)
3. On the other hand, Venture Global disagrees with the Commission’s decision in the Rehearing Order to engage in supplemental NEPA and further argues that the Commission failed to explain why it needed to do so or cite to the standard for determining whether additional environmental review is necessary, despite doing so elsewhere in the Authorization Order and Rehearing Order.[[123]](#footnote-124) Venture Global maintains that the D.C. Circuit’s remand in *Healthy Gulf* only required additional explanation of the Commission’s cumulative air emissions analysis and did not require or direct supplemental NEPA.**[[124]](#footnote-125)** It asserts that the court’s decision was not new information that altered the Projects or their impacts nor did it otherwise meet the other criteria necessitating supplemental NEPA.**[[125]](#footnote-126)** Venture Global also argues that despite the Commission’s reference to *City of Port Isabel*, it is inapposite because here there was no entirely new or significantly expanded information or analysis and that the Commission did not reach a different conclusion.**[[126]](#footnote-127)** Instead of engaging in supplemental NEPA, Venture Global asserts that the Commission should have defended and further explained its cumulative impact analysis and the reasonableness of its use of the SILs which it argues was proper and done in accordance with EPA-approved protocols.[[127]](#footnote-128) Venture Global also maintains that the air modeling performed in this proceeding and relied upon by the Commission in the Authorization Order overestimates background concentrations because: (1) it uses monitoring stations in proximity to moderate and/or heavily industrialized areas (as compared to the rural area surrounding the Projects), (2) it included facilities that are permitted but not constructed or operating, (3) all sources were modeled as simultaneously emitting their full emissions potential, and (4) the Commission required that Venture Global’s analysis include emissions from mobile marine sources.[[128]](#footnote-129) Venture Global also argues that although the Projects did not cause or contribute to NAAQS exceedances, the Commission nevertheless required it to comply with the mitigation measures it proposed for NO2 and PM2.5 which further supports the reasonableness of using the SILs.[[129]](#footnote-130) Venture Global also asserts that the Commission failed to consider or address precedent and historical practice rejecting requests to conduct supplemental NEPA.[[130]](#footnote-131)
4. As an initial matter, because the Commission has already engaged in supplemental NEPA, we find Venture Global’s assertions moot.[[131]](#footnote-132) In any event, we disagree with Venture Global’s assertions. Commission staff followed the three-step PSD methodology discussed above**[[132]](#footnote-133)** to assess the impacts of most criteria pollutants to ensure compliance with the court’s direction in *Healthy Gulf*. Importantly, EPA has issued only interim guidance for certain criteria pollutants, including the 1-hour NO2 SIL,**[[133]](#footnote-134)** which may not be afforded the same weight in NEPA analyses after *Healthy Gulf* where a third step cause and contribute analysis is required as the more developed SILs issued for some other criteria pollutants, which use a more detailed statistical methodology.**[[134]](#footnote-135)** An increase in cumulative effects equal to a concentration below the 1-hour NO2 SIL represents a minor increase in the cumulative impact of air quality in the region. This contrasts with recent EPA guidance for other pollutants which have a statistically defined NAAQS standard, namely PM2.5 and ozone. Cumulative air modeling for 1-hour NO2 and PM2.5 identified potential NAAQS exceedances in the areas for both Projects, but the Projects’ individual exceedances fell below the SIL.**[[135]](#footnote-136)** In response to the court’s directive in *Healthy Gulf*, here the Commission conducted a supplemental EIS to consider the cumulative impacts of any modeled NO2 NAAQS violation with a modeled non-zero contribution by the Projects as part of the Commission’s third step cause and contribute analysis.**[[136]](#footnote-137)**
5. The Supreme Court has explained that under NEPA the decision to complete a supplemental EIS “implicates substantial agency expertise,” and is left to agency discretion under a “rule of reason” standard.**[[137]](#footnote-138)** “The decision whether to prepare a supplemental EIS is similar to the decision whether to prepare an EIS in the first instance: If there remains ‘major Federal actio[n]’ to occur, and if the new information is sufficient to show that the remaining action will ‘affec[t] the quality of the human environment’ in a significant manner or to a significant extent not already considered, a supplemental EIS must be prepared.”[[138]](#footnote-139) Whether an agency must complete a supplemental EIS “turns on the value of the new information to the still pending decisionmaking process.”**[[139]](#footnote-140)**
6. In the Rehearing Order, the Commission appropriately exercised its discretion in the circumstances of this case to provide for a supplemental NEPA process.[[140]](#footnote-141) As explained above, following the Authorization Order, the D.C. Circuit in *Healthy Gulf* and *City of Port Isabel* remanded those proceedings to the Commission based on deficiencies in the Commission’s use of SILs in its cause and contribute analyses (i.e., step three) and the Commission’s reliance on updated data without providing the public with an opportunity to comment on the underlying data or the Commission’s interpretation of that data.[[141]](#footnote-142) Accordingly, the Commission concluded in the Rehearing Order that, given the D.C. Circuit’s specific directives implicating issues in this proceeding, it was appropriate to conduct additional environmental review.[[142]](#footnote-143) Moreover, we disagree with Venture Global’s assertion that the Commission’s decision to engage in supplemental NEPA process was *ultra vires* following *Marin Audubon*.[[143]](#footnote-144) In engaging in supplemental NEPA, the Commission was carrying out its responsibilities under the statute based on the D.C. Circuit’s specific directives related to the air emissions issues that are the focus of the supplemental EIS and therefore did not and need not rely on CEQ regulations.[[144]](#footnote-145)
7. Venture Global next argues that because the Commission has already decided to authorize the project, and rehearing was denied by operation of law, Federal action was complete and thus, there is no basis for a supplemental EIS.[[145]](#footnote-146) Although it concedes that the Commission retained authority to modify its decision, it nevertheless argues that the Commission should be required to demonstrate some “especially compelling need” for supplemental NEPA given the late stage in the proceeding and that Federal action is complete.[[146]](#footnote-147)
8. We disagree. The touchstone of whether NEPA applies to agency action is discretion,[[147]](#footnote-148) and where an “agency does not have sufficient discretion to affect the outcome of its actions, and its role is merely ministerial, the information that NEPA provides can have no [e]ffect on the agency’s actions, and therefore NEPA is inapplicable.”**[[148]](#footnote-149)** Here, the Commission’s actions and authority on rehearing are more than ministerial. As provided for in section 19(a) of the NGA, “even after federal court jurisdiction attaches and a petition is filed, the Commission retains the power to ‘modify or set aside’ its findings and orders ‘[u]ntil the record in a proceeding [is] filed in a court of appeals.’”[[149]](#footnote-150) Because the record in this proceeding has not been filed in a court of appeals, and the Commission, on rehearing, may modify or set aside, in whole or in part, any finding in the Authorization Order, we find that major federal action remains pending, and the Commission may properly engage in additional environmental review. Accordingly, we also disagree with Venture Global’s suggestion that the Commission is required to demonstrate some “especially compelling need” for supplemental NEPA in these circumstances. Venture Global provides no authority for its contentions,[[150]](#footnote-151) and we find such assertions fall short of the specificity required on rehearing.[[151]](#footnote-152)
9. Venture Global next submits that the Commission decided to supplement its environmental analysis in order to evade the time limits for acting on a rehearing request.[[152]](#footnote-153) It argues that the Commission’s decision to engage in additional NEPA analysis is akin to its prior tolling order practice that was prohibited in *Allegheny Defense Project* and that the only rationale for conducting supplemental NEPA is that the Commission needed additional time to consider the air issues.[[153]](#footnote-154) It asserts, without evidence, that the gathering of additional information was a pretext for granting a limited rehearing which is inconsistent with *Allegheny Defense Project*.[[154]](#footnote-155)
10. We disagree. As an initial matter, we find this proceeding distinguishable from *Allegheny Defense Project*, which barred the Commission’s use of tolling orders to prevent rehearing applications from being deemed denied by agency inaction and preclude the applicant from seeking judicial review until the Commission acts.[[155]](#footnote-156) Here, the Commission issued a *Notice of Denial of Rehearing by Operation of Law and Providing for Further Consideration* which informed parties that the request for rehearing may be deemed denied by operation of law, allowing aggrieved parties to seek judicial review, while noting the Commission’s authority to modify or set aside the order as it deems proper.[[156]](#footnote-157) Indeed Petitioners petitioned for judicial review and, the Commission, along with Petitioners and Venture Global, agreed to an abeyance of the administrative record filing deadline until the Commission concluded its supplemental NEPA.
11. Last, Venture Global maintains that the Commission created uncertainty in the Rehearing Order by stating “other air quality issues raised by Petitioners” would be addressed in a future order.[[157]](#footnote-158) Because we address Petitioners’ other air quality issues in this order, we find Venture Global’s arguments moot.[[158]](#footnote-159)

# Substantive Issues

1. Petitioners assert that the Commission: (1) improperly relied on an updated air monitoring station for its PM2.5 cumulative impacts analysis without adequate explanation, (2) improperly relied on SILs in its cause or contribute analysis contrary to *Healthy Gulf*, (3)failed to include foreseeable mobile sources, such as LNG tankers associated with other nearby LNG terminals in its cumulative air impacts analysis, (4) has acted inconsistently in its review of LNG projects such as Commonwealth LNG terminal with regard to the geographic scope of air impacts, (5) improperly evaluated criteria pollutants and health impacts under the NAAQS, including arguments that the NAAQS is insufficient, (6) failed to account for peak operating capacity emissions and emissions from uprated facilities, (7) inadequately considered construction emissions and mitigation, and (8) failed to independently verify air modeling submitted by Venture Global. We address each of these arguments below.

## Cumulative Air Modeling for Operational Emissions

### Choice of Air Monitoring Station for Modeling PM2.5

1. Petitioners note that in the Authorization Order the Commission relied on data provided by Venture Global from a different air monitor (Vinton Monitoring Station) than that used for the baseline for PM2.5 in the final EIS (West Orange Monitoring Station) and argue that had the Commission used the West Orange Monitoring Station it would have shown significant PM2.5 impacts under the EPA’s 2024 NAAQS threshold.**[[159]](#footnote-160)** Petitioners maintain that, despite public comments calling into question the validity of the Vinton Monitoring Station, the Commission failed to explain if it adopted CP2 LNG’s choice of PM2.5 air monitor.**[[160]](#footnote-161)**
2. EPA’s procedures for monitor station selection in a multi-source area recommends visually and qualitatively assessing the modeling domain and its available characteristics (e.g., monitor locations and scales, terrain features, wind rose data, etc.) and, where there are one or more monitors within the vicinity of the project area, exercise professional judgment to determine whether the selected monitor is representative of the background concentration in the project area.[[161]](#footnote-162) EPA also generally recommends using data from the closest upwind monitor to the project; however, it recommends assessing the representativeness of the monitor location and not solely choosing one based on proximity.[[162]](#footnote-163) It further recommends that data on the location (i.e., urban vs. rural), wind patterns, and terrain features at both the monitor and the source under consideration may be used to inform the selection of representative background concentration data.[[163]](#footnote-164) In carrying out its NEPA responsibilities, Commission staff often relies on other agencies’ expertise, including that of the EPA and, in this case, LDEQ, which establish methodologies and standards for assessing air quality impacts.[[164]](#footnote-165) Because the EPA and the states are vested with authority under the CAA, the Commission may appropriately rely on their recommended selection criteria.[[165]](#footnote-166)
3. As explained in the Authorization Order, Venture Global updated its air dispersion modeling to use the PM2.5 design value derived from ambient air data collected at the Vinton Monitoring Station.**[[166]](#footnote-167)** Venture Global explained that the ambient air conditions at that location are more representative of the project area than at the West Orange Monitoring Station used in its initial modeling based on proximity, population density, and air emissions profile.**[[167]](#footnote-168)** Venture Global further stated that it originally used the design value from the West Orange Monitoring Station because, at the time the air modeling was performed, the data from the Vinton Monitoring Station was considered incomplete due to a 2021 hurricane; however, in early 2024, Venture Global states that the EPA found the Vinton Monitoring Station’s data from 2020 to 2022 to be valid and acceptable for use.**[[168]](#footnote-169)**
4. To ensure a full evaluation of Venture Global’s choice of air monitor for PM2.5, following the Rehearing Order, Commission staff requested Venture Global further explain the selection of the Vinton Monitoring Station, identify other monitors considered, and explain why they were rejected.[[169]](#footnote-170) In response, Venture Global explained that the proximity to the facility, the surrounding area (e.g., land use and terrain), and the availability of data are key factors in the selection of the monitoring stations.[[170]](#footnote-171) The Vinton Monitoring Station is the closest monitoring station, being located approximately 55 kilometers (km) from the CP2 LNG Project and approximately 22 km from the Moss Lake Compressor Station.[[171]](#footnote-172) The CP2 LNG Project, Moss Lake Compressor Station, and Vinton Monitoring Station are located in similar areas (i.e., rural and undeveloped) with flat terrain and in the same climatological area of Louisiana.[[172]](#footnote-173) Venture Global also repeated its justification for previously using the West Orange Monitoring Station (i.e., due to hurricane-caused data issues with the Vinton Monitoring Station) and explained that although it is the next closest monitoring station, the West Orange Monitoring Station does not accurately represent background ambient air quality because it is further away and located in a more developed area with large residential areas and small industrial facilities.[[173]](#footnote-174) Accordingly, Venture Global explains that the data from the Vinton Monitoring Station most accurately represents background concentrations of air quality consistent with EPA’s criteria.[[174]](#footnote-175)
5. Based on the foregoing, we agree that the Vinton Monitoring Station is more representative of background concentrations of air quality and more indicative of PM2.5 in the project area based on proximity, population density, and air emissions profile. Therefore, we agree with Venture Global’s selection and use of the Vinton Monitoring Station.**[[175]](#footnote-176)**

### NO2 and PM2.5 Cumulative Impacts

1. Citing to the D.C. Circuit’s holding in *Healthy Gulf*, Petitioners assert that the Commission failed to take a hard look at cumulative air quality impacts by improperly concluding that because the Projects’ modeled contribution at each NAAQS exceedance is below the SIL for both PM2.5 and NO2, the Projects’ predicted impacts would not cause or contribute to the exceedance for either pollutant and, therefore, would be an environmentally acceptable action.**[[176]](#footnote-177)** Petitioners maintain that, although the Projects’ contributions to modeled exceedances falls below the SILs, they are not facially insignificant and are more than de minimis contributors to cumulative impacts and will contribute to unhealthy air quality in the surrounding communities.**[[177]](#footnote-178)** In short, Petitioners disagree with the conclusion that, where modeling predicted an exceedance of a NAAQS threshold, that the exceedance would have occurred even in the absence of the project. Petitioners also aver that the Commission’s failure to take a hard look at air impacts and label them as “significant” affected its analysis of alternatives and mitigation, undermining the Commission’s public interest determination.**[[178]](#footnote-179)**
2. Petitioners further assert that the Commission failed to acknowledge that air quality will exceed the PM2.5 24-hour PSD increment at the Moss Lake Compressor Station,**[[179]](#footnote-180)** despite concluding that the Projects complied with applicable NAAQS and Class II PSD Increments for pollutants subject to PSD review.**[[180]](#footnote-181)** Petitioners maintain that any argument by the Commission that the Moss Lake Compressor Station’s contribution was so minor to render the impact insignificant is flawed by the Commission’s improper use of SILs and failure to adequately consider cumulative impacts.**[[181]](#footnote-182)** Accordingly, Petitioners argue that the Commission’s failure to address the PSD increment exceedance violates NEPA.**[[182]](#footnote-183)**
3. We rely on EPA as the air quality authority with the expertise to establish air quality thresholds/limits to protect public health required by the CAA.**[[183]](#footnote-184)** The Commission uses NAAQS as a tool to assess air quality impacts on the quality of the human environment pursuant to NEPA. PSD increments are not a metric to measure impacts on human health.[[184]](#footnote-185) Pursuant to the PSD program, states must review potential new sources of pollution to ensure “that the air quality in attainment areas or areas that are already clean will not degrade”**[[185]](#footnote-186)** by confirming that the source will not “cause or contribute” to a violation of any applicable NAAQS.**[[186]](#footnote-187)** PSD permitting applies to new major sources or major modifications at existing sources in attainment areas or in areas that are unclassifiable.[[187]](#footnote-188) PSD permitting is intended to prevent new air emission sources from causing the existing air quality to deteriorate beyond acceptable levels.[[188]](#footnote-189) Under the PSD program, any new major source or major modification of an existing source of air pollutants is required to obtain an air quality permit before beginning construction.[[189]](#footnote-190)
4. Both Projects are in attainment areas, as determined by EPA, for all criteria pollutants, and thus are subject to the CAA PSD permitting program. As explained above, and consistent with EPA guidance and the PSD permitting process, the Commission engages in a three-step analysis that includes a preliminary screening step using SILs, a cumulative impact analysis, and a cause and contribute analysis.[[190]](#footnote-191) EPA delegated authority to the LDEQ to implement federal air quality programs in Louisiana.[[191]](#footnote-192) Accordingly, we appropriately rely on the EPA’s and LDEQ’s guidelines in assessing compliance with the PSD permitting program.[[192]](#footnote-193)

#### Moss Lake Compressor Station

1. On December 23, 2024, Venture Global submitted updated air modeling in response to Commission staff’s December 10, 2024 data request. As explained in the final supplemental EIS, because the updated modeled concentration results at the Moss Lake Compressor Station fall below the SILs for all criteria pollutants, a cumulative impacts analysis (i.e., second step) is not required according to CAA modeling regulation and guidance.[[193]](#footnote-194) Therefore, the Moss Lake Compressor Station will not cause or contribute to any significant cumulative air quality impacts for NO2 and PM2.5 and are appropriately classified as statistically insignificant.[[194]](#footnote-195) In addition, because the updated air modeling used in the final supplemental EIS determined that the modeled concentration results for the Moss Lake Compressor Station are below the SILs, it is not necessary to analyze whether the PSD increment will be exceeded.[[195]](#footnote-196)
2. Nevertheless, Commission staff also looked qualitatively at facilities in the vicinity of the Moss Lake Compressor Station and determined that cumulative impacts from 1-hour NO2 and annual PM2.5 are not significant based on: (1) the magnitude of emissions and the distance between the Moss Lake Compressor Station and these facilities, (2) the CAA permitting programs ensuring that these individual facilities would not cause or contribute to any exceedances of the NAAQS, (3) local monitors showing ambient levels well within the NAAQS, and (4) magnitude of impacts from the Moss Lake Compressor Station being below the SILs.[[196]](#footnote-197)
3. The updated air modeling analyses for the Moss Lake Compressor Station conducted by Venture Global (and verified by the Commission) did not require an analysis beyond the first step (i.e., preliminary screening step). Because Petitioners’ assertions and the D.C. Circuit’s decision in *Healthy Gulf* focused on the third step in this analysis (i.e., cause and contribute analysis), Petitioners’ arguments on rehearing of the Authorization Order are now moot.[[197]](#footnote-198) We agree with Commission staff’s analysis that the revised air modeling demonstrates compliance with the NAAQS in the project area and accordingly, based on this updated analysis, continue to find that the Moss Lake Compressor Station will not significantly impact air quality.[[198]](#footnote-199)

#### CP2 LNG Project

1. In the final supplemental EIS, Commission staff analyzed the updated air modeling for the CP2 LNG Project, including a cumulative impact analysis (i.e., second step) for the following pollutants and respective averaging periods that exceeded the SILs: 1-hour CO; 1-hour and annual NO2; 1-hour, 3-hour, and 24-hour SO2; and 24-hour and annual PM2.5.[[199]](#footnote-200) Venture Global used the American Meteorological Society/Environmental Protection Agency Regulatory Model (AERMOD) dispersion model, in consultation with the LDEQ and in accordance with EPA’s *Guideline on Air Quality Models*, 40 C.F.R. Part 51, Appendix W.[[200]](#footnote-201) The emission inventory included the emission sources at the CP2 LNG Project plus all other inventory sources (including the stationary and marine mobile sources associated with CP1 LNG) within the radius of impact.[[201]](#footnote-202) These include stationary sources and mobile sources from marine vessels associated with the operation of the CP2 LNG Project,**[[202]](#footnote-203)** as well as the stationary and mobile sources associated with the CP1 LNG terminal, and additional offsite industrial sources obtained from the LDEQ Emissions Reporting and Inventory Center.**[[203]](#footnote-204)**
2. The updated cumulative modeling analysis for the CP2 LNG Project demonstrates compliance with the NAAQS for all applicable pollutants and their respective averaging periods in the project area.[[204]](#footnote-205) Accordingly, the modeling demonstrates that the emission impacts, including 1-hour NO2 and annual and 24-hour PM2.5 impacts from the CP2 LNG Project, when combined with past, present, and reasonably foreseeable emissions within the regional air environment are not significant.[[205]](#footnote-206) The updated air modeling analyses for the CP2 LNG Project conducted by Venture Global (and verified by the Commission) did not require an analysis beyond the second step (i.e., cumulative impact analyses). Because Petitioners’ assertions and the D.C. Circuit’s decision in *Healthy Gulf* focused on the third step in this analysis (i.e., cause and contribute or culpability analysis), Petitioners’ arguments on rehearing of the Authorization Order are now moot.[[206]](#footnote-207) We agree with Commission staff’s analysis that the revised air modeling demonstrates compliance with the NAAQS in the project area and accordingly, based on this updated analysis, continue to find that the CP2 LNG Project will not significantly impact air quality.

### Mobile Sources

1. Petitioners next assert that the cumulative air modeling presented in the final EIS was insufficient because it omitted foreseeable mobile sources, such as LNG tankers associated with other nearby LNG terminals, six of which were identified in the final EIS, even though it considered mobile sources associated with the CP1 LNG terminal.**[[207]](#footnote-208)** Petitioners disagree with Commission’s arguments in the Authorization Order as to why such mobile sources were excluded.**[[208]](#footnote-209)** First, they argue that, just because the CAA did not require that these mobile sources be considered in the state’s cumulative air impacts modeling, does not mean that the Commission was not required to include them in its NEPA analysis.**[[209]](#footnote-210)** Petitioners maintain that NEPA imposes obligations that differ from and are broader than those imposed by the CAA, and that NEPA requires the Commission to consider cumulative effects.**[[210]](#footnote-211)** Noting that the Commission included mobile source emissions from the CP1 LNG facility, but excluded similar emissions from other facilities, Petitioners state that ownership is irrelevant to the scope of NEPA analysis.**[[211]](#footnote-212)** Petitioners assert that the relevant information is already in the record and the Commission previously estimated mobile source emissions associated with other terminals in its final EISs for those terminals.**[[212]](#footnote-213)** They maintain that the Commission has considered the cumulative effects of marine vessels from neighboring LNG terminals in other proceedings, and failed to explain why it did not do so here.**[[213]](#footnote-214)** Petitioners assert that the Commission failed to demonstrate that, where NAAQS would be exceeded when cumulative mobile sources are considered, but not exceeded otherwise, the CP2 LNG Project’s contribution to those additional exceedances would be below the applicable SIL.**[[214]](#footnote-215)** Petitioners argue that nothing in the record rules out or addresses the possibility that if appropriate cumulative mobile source emissions are included, the CP2 LNG Project’s contribution to one or more NAAQS exceedances will also exceed the applicable SIL.**[[215]](#footnote-216)**
2. As an initial matter, because the updated modeled concentration results for the Moss Lake Compressor Station are below the SILs for all pollutants, a cumulative impacts analysis (i.e., second step) is not required per CAA modeling regulation and guidance.[[216]](#footnote-217) Accordingly, we find Petitioners arguments with respect to the Moss Lake Compressor Station moot.[[217]](#footnote-218)
3. Under NEPA, an agency need consider only those environmental effects that are “reasonably foreseeable.”[[218]](#footnote-219) Although Petitioners assert that the Commission should consider the mobile source emissions associated with other LNG terminals in Louisiana, they fail to identify any methodology with which the Commission could meaningfully or accurately model such data.[[219]](#footnote-220) Commission staff’s practice of including the marine mobile source emissions into the modeling analysis for individual LNG terminals is an effort to disclose a proposed project’s air quality impacts in the NEPA analysis, while taking advantage of EPA’s well-established modeling methodology for PSD permitting. While Commission staff did consider marine mobile source emissions from the CP2 LNG Project and adjacent CP1 LNG facility, Commission staff treated the marine mobile sources as stationary sources, which results in a conservative maximum-impact estimate of the facility’s impacts. This is consistent with EPA’s modeling methodology; however, due to the large number of assumptions, including other more remote marine mobile sources from non-adjacent facilities deviates too far.[[220]](#footnote-221) For these emissions sources, AERMOD as dictated by EPA’s methodology, is not suitable for modeling all of these facilities’ intermittent and transient marine mobile sources.[[221]](#footnote-222) The Commission is not aware of an alternative applicable methodology.
4. Petitioners point to the Commission’s previous analysis in *Rio Grande LNG, LLC* to argue that the Commission can conduct this analysis, but that case is distinguishable. There, the Commission acknowledged that the EIS presented air quality impacts modeling that extended beyond the federal and Texas state required analyses, with the Rio Grande LNG facility’s modeling examining emissions from both mobile sources and terminal operations, and the cumulative impacts modeling examining mobile and operational emissions from two additional LNG terminals[[222]](#footnote-223) in Brownsville, Texas.[[223]](#footnote-224) The Commission’s cumulative impacts modeling reflected unique situational circumstances in the project’s environmental review, as all three Brownsville LNG terminals were simultaneously undergoing initial environmental review at the time. Given these unique circumstances, the Commission’s cumulative impacts modeling in the Rio Grande LNG EIS included mobile emissions from the three Brownsville LNG terminals because the Commission possessed current, facility-specific mobile source emissions data for each individual project undergoing review at the same time.[[224]](#footnote-225) Such circumstances are not present in the Commission’s environmental review for the CP2 LNG Project, though the cumulative air modeling incorporated mobile emissions from the CP1 LNG facility due to the unique circumstances discussed herein. Here, Petitioners ask the Commission to add mobile air emissions data from six other jurisdictional LNG terminals, which would require the Commission to seek data for projects not currently undergoing such review before the Commission.
5. Further, in the case of the analysis for Rio Grande LNG, the Commission acknowledged that this approach was overly conservative, explaining that the analysis reflects conditions occurring only when all three nearby terminals will be loading LNG vessels simultaneously. That overly conservative approach would not account for contribution differences at different points in space and time, weather patterns, and other variables that could affect outcomes, and overestimates each project’s contribution to air quality generally. Due to the large number of assumptions, even if the Commission incorporated marine mobile source emissions into AERMOD from more remote marine mobile sources, those assumptions compounded would not provide accurate, and therefore, not meaningful “reasonably foreseeable” information.[[225]](#footnote-226) Furthermore, we note that CEQ has rescinded its regulations related to consideration of cumulative effects under NEPA.[[226]](#footnote-227)
6. The updated cumulative air dispersion modeling presented in the final supplemental EIS for the CP2 LNG Project was conducted in accordance with EPA’s 40 C.F.R. part 51, Appendix W.**[[227]](#footnote-228)** The cumulative air dispersion modeling for the CP2 LNG Project included: (1) emissions inventory provided by the LDEQ and (2) both stationary sources and mobile sources (LNG vessels and tugs) associated with the operation of the CP2 LNG Project, as well as the stationary and mobile sources associated with CP1 LNG because Venture Global filed additional emissions data for CP1 LNG in the record in response to the Commission’s supplemental data requests regarding the CP2 LNG Project pursuant to the Rehearing Order.**[[228]](#footnote-229)** The emissions inventory provided by the LDEQ does not include mobile emissions associated with the other LNG terminals, and thus, those emissions were not included in the cumulative impacts modeling in the final EIS or final supplemental EIS.**[[229]](#footnote-230)** This is consistent with the PSD requirements of the CAA.**[[230]](#footnote-231)** As explained above, the EPA is vested with primary authority under the CAA and its amendments to implement and enforce regulations to reduce air pollution,**[[231]](#footnote-232)** and LDEQ is the state agency tasked with implementing the relevant portions of the CAA under EPA oversight. The Commission routinely, and appropriately, relies on other agencies’ expertise in carrying out its NEPA responsibilities, which in this case supports using the LDEQ’s emissions inventory as the most reliable data input for the cumulative analysis.**[[232]](#footnote-233)**
7. For these reasons, we find it more reliable to rely on the emissions inventory provided by LDEQ, the state agency tasked with implementing the relevant portions of the CAA.[[233]](#footnote-234) “The NEPA process involves an almost endless series of judgment calls” that are vested in the agencies.[[234]](#footnote-235) And “[w]hile additional data might enable a more detailed environmental analysis, NEPA does not require maximum detail” but instead, “requires agencies to make a series of line-drawing decisions based on the significance and usefulness of additional information.”[[235]](#footnote-236) Because LDEQ does not include mobile emissions in its emissions inventory nor require applicants to include such emissions in permit applications,[[236]](#footnote-237) and because LDEQ’s requirements are designed to ensure a sufficient assessment of a proposal’s emissions under the NAAQS, upon which the Commission relies in conducting its NEPA analysis, we find the Commission has complied with its NEPA obligations.[[237]](#footnote-238) We also find that considering mobile emissions from the CP2 LNG Project as well as additional nearby mobile source emissions from the CP1 LNG facility, extended beyond the federal and state required analyses, while remaining within NEPA’s bounds of reasonableness and meaningful analysis.**[[238]](#footnote-239)**
8. CP2 LNG’s updated modeling used the most recent validated air quality monitor data and the most recent emissions inventory revisions provided by the LDEQ for facilities within the radius of impact in its updated cumulative air modeling for the CP2 LNG Project.[[239]](#footnote-240) As discussed in the final supplemental EIS, CP2 LNG’s updated modeling incorporates the updates from the LDEQ/EPA Model from December 2024 and updates the emission factors for the marine mobile sources associated with the CP1 LNG terminal, which were modeled as offsite inventory.[[240]](#footnote-241) The CP2 LNG Project air emission sources were modeled along with the inventory of offsite sources within the pollutant-specific area of impact (AOI) and added to a background concentration with the resulting total impacts compared with the NAAQS.**[[241]](#footnote-242)** The AOI was established as the distance from the CP2 LNG Project to the farthest receptor that showed a modeled impact greater than the SIL in the preliminary screening modeling analysis. The background sources inventory included all sources within the area of impact plus 15 km and all major sources within the area of impact plus 20 km (in either case the area of impact would not extend beyond a 50 km by 50 km grid from the CP2 LNG Project due to the accuracy constraints of dispersion models).[[242]](#footnote-243) As in the final EIS, the sources modeled included the Commonwealth and CP1 LNG terminals.**[[243]](#footnote-244)** The updated cumulative air modeling for the CP2 LNG Project demonstrated that the maximum emission impacts based upon the cumulative modeling does not exceed the NAAQS at any receptor within the AOI.[[244]](#footnote-245) We find that the Commission’s analysis of cumulative air quality impacts satisfied its responsibilities under NEPA.

### Geographic Scope

1. Petitioners next assert that the Commission has acted inconsistently in its review of LNG projects when compared to its review of the neighboring Commonwealth LNG terminal.**[[245]](#footnote-246)** In particular, Petitioners argue that, despite the Commonwealth LNG terminal’s smaller size, the Commonwealth LNG terminal is predicted to emit a higher maximum 1-hour NO2 level than the CP2 LNG Project **[[246]](#footnote-247)** Petitioners also note, despite these lower emissions levels and the Commonwealth LNG terminal’s location only one-half mile from the CP2 LNG Project, the Commission counterintuitively used a wider geographic scope for Commonwealth LNG, and failed to explain why a narrower scope is appropriate in this proceeding.**[[247]](#footnote-248)**
2. As discussed in the Projects’ final supplemental EIS and the Commonwealth LNG draft supplemental EIS, the conservative dispersion modeling indicated that the maximum NO2 emission impacts from the CP2 LNG Project and Commonwealth LNG facility are similar for both 1-hour NO2 and annual NO2.[[248]](#footnote-249) The differences in the impacts are due to various factors in the air dispersion modeling including differences in emission rates, stack heights, variability in terrain near each facility, and other terminal-specific factors.[[249]](#footnote-250) In addition, and as explained in the final EIS, because both Projects are subject to PSD review, the LDEQ air quality regulations stipulate that all construction permit applicants must evaluate and apply Best Available Control Technology (BACT) for the stationary air emission sources.[[250]](#footnote-251) The natural gas-fired combustion turbines would be designed with Dry Low-NOx Combustors.[[251]](#footnote-252) Additionally, for the combined cycle units, duct burners would be Low-NOx Burner design and the heat recovery steam generator exhaust would be ducted to a selective catalytic reduction system.[[252]](#footnote-253) Also, for the aeroderivative simple cycle units, the exhaust would be ducted to a selective catalytic reduction system.[[253]](#footnote-254) The combination of these measures would minimize NOx emissions from the combustion turbines.[[254]](#footnote-255) The hot oil heaters would also be equipped with Ultra-Low-NOx Burner, which is considered BACT for NOx emissions from these units.[[255]](#footnote-256) CP2 LNG will also include an acid gas removal unit that would treat the feed gas.[[256]](#footnote-257) The acid gas thermal oxidizers would be equipped with Low-NOx Burner, which is considered BACT for NOx emissions from these units.[[257]](#footnote-258) The CP2 LNG Project has higher NOx emissions than Commonwealth LNG.[[258]](#footnote-259) These mitigation measures listed above reduce the NOx emissions from the much larger facility and in the absence of these reduction technologies, the NOx emissions would be much larger.
3. Moreover, “[i]n order to determine the scope of a cumulative impacts analysis for each project, the final EIS establishes a ‘geographic scope’ in which various resources may be affected by both a proposed project and other past, present, and reasonably foreseeable future actions.”**[[259]](#footnote-260)** For operational emissions, the Commission used the distance used by the EPA and the LDEQ for cumulative modeling of major sources for the PSD permitting.**[[260]](#footnote-261)** Accordingly, the geographic scope for operational emissions from the Moss Lake Compressor Station was set at 21.4 km.**[[261]](#footnote-262)** We note, however, that because a cumulative impact analysis for the Moss Lake Compressor Station was not required, there is no set geographic scope for operational emissions in the final supplemental EIS.
4. The largest geographic scope for the CP2 LNG Project, based on the results of the 1-hour NO2 significant impact analysis plus 20 km, is 43.7 km.**[[262]](#footnote-263)** Impacts on air quality from projects beyond the geographic scope are not expected to significantly contribute to a cumulative impact that includes specific project impacts. For Commonwealth LNG, the area of impact was established as the distance from that project to the farthest receptor that showed a modeled impact greater than the SIL in the significance modeling analysis plus 15 km for all sources and plus 20 km for all major sources. The differences in geographic scope and the resulting list of industrial sources to be included in the model is specific to each facility and is based upon the facility-only air quality dispersion modeling.**[[263]](#footnote-264)**
5. The Commission considers each application on a case-by-case basis.**[[264]](#footnote-265)** The scope of the Commission’s cumulative impacts analysis will vary from case to case, depending on the facts presented.**[[265]](#footnote-266)** The determination of the extent and effect of cumulative impacts, and particularly the identification of the geographic area within which they may occur, “is a task assigned to the special competency of the appropriate agencies.”**[[266]](#footnote-267)** Here, the Commission appropriately used the modeling submitted to the LDEQ in establishing the appropriate geographic scope for the Projects.**[[267]](#footnote-268)** The final EIS and final supplemental EIS conclude, and we agree, that the potential impacts of the Projects, when combined with the impacts from the other projects considered in the geographic scopes, would not result in a significant impact on resources.**[[268]](#footnote-269)**
6. Last, we note that in response to several comments on the draft EIS questioning why certain projects included in the Commonwealth LNG cumulative impact table were not included in the draft EIS for the Projects, Commission staff determined in the final EIS that three additional residential subdivision projects that were included in the Commonwealth LNG cumulative impact table should be included in the Projects’ geographic scope as well.**[[269]](#footnote-270)** Importantly, the final EIS did not identify any other projects identified in the Commonwealth LNG project that were within the same geographic scope as the Projects.**[[270]](#footnote-271)** Accordingly, the Commission adequately addressed Petitioners’ assertions that the Commission failed to include similar projects that were included in the Commonwealth LNG project’s EIS.

## Additional Air Arguments

### NAAQS Is an Appropriate Standard for Evaluating Health Impacts

1. Petitioners argue that the NAAQS are not a good measure for the health impacts to communities, including environmental justice communities,[[271]](#footnote-272) that adding NO2 to already unhealthy levels is a problem, and that further analysis from the Commission is required.**[[272]](#footnote-273)** Petitioners maintain that living near fossil fuel and chemical facilities is linked to higher rates of respiratory and cardiovascular diseases and that existing infrastructure has already exposed residents to high levels of toxic and carcinogenic emissions in excess of permitted levels.**[[273]](#footnote-274)**
2. The final EIS and final supplemental EIS recognized combustion of fossil fuels (e.g., natural gas) produces air pollutants (e.g., NOx, CO, SO2, and inhalable particulate matter (PM2.5 and PM10)).**[[274]](#footnote-275)** Combustion of fossil fuels also produces volatile organic compounds (VOCs), a large group of organic chemicals that have a high vapor pressure at room temperature.**[[275]](#footnote-276)** VOCs react with NOx, typically on warm summer days, to form ozone.**[[276]](#footnote-277)** Other byproducts of combustion are GHGs and hazardous air pollutants (HAPs).**[[277]](#footnote-278)** HAPs are chemicals known to cause cancer and other serious health impacts.**[[278]](#footnote-279)**
3. The Commission appropriately relied on the NAAQS. The EPA developed the NAAQS to protect human health, including the health of sensitive populations (e.g., people with asthma or cardiovascular disease, children, the elderly, and others), accounting for the latest research on health impacts.**[[279]](#footnote-280)** EPA has also established multiple standards for different pollutants to address both long-term chronic exposure and short-term exposure, as well as standards for HAP emissions for specific source categories under the CAA.**[[280]](#footnote-281)** The EPA concluded in its risk-based analysis that the NAAQS are appropriate and designed to ensure public safety by setting acceptable concentration limits that minimize health risks and to protect sensitive populations, such as at-risk populations of people with asthma, older adults, and children.**[[281]](#footnote-282)** The CAA requires the EPA to periodically review the NAAQS and the data used to develop the standards.**[[282]](#footnote-283)** In performing this periodic review, the EPA develops Integrated Science Assessments and Risk/Exposure Assessments, which consider the relevant science and risks to human health, to establish short-term and long-term NAAQS.**[[283]](#footnote-284)** The LDEQ has adopted the federal NAAQS for criteria pollutants.[[284]](#footnote-285)
4. The final EIS and final supplemental EIS found that the Projects would not cause or contribute to a NAAQS exceedance because they are either below the applicable SILs (in the case of the Moss Lake Compressor Station) or the cumulative air modeling shows no NAAQS exceedances for criteria pollutants (in the case of the CP2 LNG Project) and, therefore, would not result in significant impacts on air quality.**[[285]](#footnote-286)** Agencies have discretion to choose their methodology for analyzing environmental effects,**[[286]](#footnote-287)** and courts have accepted comparison to the NAAQS as a methodology for analyzing effects on air quality under NEPA.**[[287]](#footnote-288)** In *Sabal Trail*, the court stated that “[the Commission] appropriately relied on EPA’s [NAAQS] as a standard of comparison for air-quality impacts,” and “[b]y presenting the project’s expected emissions levels and the NAAQS standards side-by-side, the EIS enabled decisionmakers and the public to meaningfully evaluate the project’s air-pollution effects by reference to a generally accepted standard.”**[[288]](#footnote-289)** Accordingly, the Commission appropriately relies on the standards set by administrative bodies in performing its NEPA review.[[289]](#footnote-290)
5. Nevertheless, Venture Global has committed to air quality mitigation measures across the project area and surrounding communities.**[[290]](#footnote-291)** These mitigation measures include implementation of a Traffic, Noxious Weeds, and Fugitive Dust Control Plan and complying with applicable air quality regulations, among other measures.**[[291]](#footnote-292)** Moreover, as discussed below, the Commission followed EPA’s *Human Health Risk Assessment Protocol***[[292]](#footnote-293)** in overseeing a Human Health Risk Assessment (HHRA)**[[293]](#footnote-294)** to estimate chronic (long-term) cancer risk and non-cancer hazard, as well as acute (short-term) non-cancer hazard via inhalation of HAP compounds potentially emitted from stationary and mobile marine sources at the terminal facilities.**[[294]](#footnote-295)** The results of the HHRA indicate that the estimated cancer and non-cancer risks for communities near the CP2 LNG Project would be below EPA’s risk management objectives.**[[295]](#footnote-296)** As we explained above, the Commission may reasonably rely upon the EPA’s expertise.**[[296]](#footnote-297)** The Commission may also rely upon the mitigation actions it has required when predicting effects in an environmental analysis under NEPA.[[297]](#footnote-298) The Commission, therefore, took a hard look at impacts to the surrounding communities and we find the Commission’s mitigation analysis complete.**[[298]](#footnote-299)**
6. Petitioners also disagree with the Commission’s single pollutant approach and argue that environmental justice communities suffer from the cumulative impacts from exposure to multiple pollutants and that such analysis ignores the interplay between pollutants.[[299]](#footnote-300) Petitioners refer to the formation of particulate matter and ozone, for which the EPA has found there are no zero-risk thresholds for health effects, and assert that the Commission failed to demonstrated how the NAAQS can account for adverse impacts to environmental justice communities.[[300]](#footnote-301)
7. Despite Petitioners’ disagreements with the Commission’s approach, the attainment designation of an area is determined by EPA on a pollutant-by-pollutant basis and for each established primary standard.[[301]](#footnote-302) Here, each of the measured pollutant concentrations is below the associated NAAQS, thus indicating continued, on-going attainment of the standards.[[302]](#footnote-303) The Projects would not cause or contribute to a NAAQS exceedance because they are either below the applicable SILs (in the case of the Moss Lake Compressor Station) or the cumulative air modeling shows no NAAQS exceedances for criteria pollutants (in the case of the CP2 LNG Project).[[303]](#footnote-304) Nevertheless, although Project emissions of criteria pollutants are expected to be minimal, and the NAAQS are designated to protect sensitive populations such as children, the elderly, and persons with asthma, we acknowledge that “NAAQS attainment alone may not assure there is no localized harm to such populations due to project emissions of [VOCs], [HAPs], as well as the presence of non-project-related pollution sources, local health risk factors, disease prevalence, and access (or lack thereof) to adequate care.”[[304]](#footnote-305)
8. Petitioners next argue that the Commission failed to consider how health and socioeconomic factors influence environmental justice communities’ susceptibility to air pollution, despite acknowledging such factors.[[305]](#footnote-306) They assert that the Commission’s additional health risk assessment regarding operational emissions of 16 HAPs ignored environmental justice communities’ heightened susceptibility to criteria pollutants, and that the Commission only evaluated cancer and non-cancer health risks from individual pollutants without consideration of this heightened susceptibility.[[306]](#footnote-307) Specifically, Petitioners maintain that the Commission failed to analyze: (1) levels of existing asthma, respiratory disease, or cancer by income and area; (2) age disparities; and (3) lack of access to health care, and that, therefore, the Commission failed to take a hard look at air quality on environmental justice populations.[[307]](#footnote-308)
9. We find that the Commission fulfilled its NEPA responsibilities by considering impacts to all potentially affected communities.[[308]](#footnote-309) The final EIS identified the existing baseline conditions, including ambient air quality monitoring data over a three-year period, the attainment status of all project areas for each pollutant, and the existing emissions.[[309]](#footnote-310) Petitioners’ argument that the Commission should have evaluated existing human health conditions is akin to requesting the Commission conduct a health impact assessment, which we have previously held to be redundant.[[310]](#footnote-311) As we explained above, the EPA developed the NAAQS to protect human health, including that of sensitive populations (e.g., asthmatics, those with cardiovascular disease, children, the elderly, etc.) to account for the latest research on health impacts.[[311]](#footnote-312) EPA has also established multiple standards for different pollutants to address both long-term chronic exposure and short-term exposures (e.g., 1-hour or 24-hour) and standards for HAP emissions for specific source categories under the CAA.[[312]](#footnote-313) Accordingly, we find no basis in this proceeding to question EPA’s standards, which, we note, were subject to public comment.[[313]](#footnote-314)
10. As discussed above, the final EIS followed EPA’s *Human Health Risk Assessment Protocol***[[314]](#footnote-315)** in overseeing an HHRA**[[315]](#footnote-316)** for maximum HAP emissions from the LNG project (stationary and mobile marine sources) based on the highest model-predicted 1-hour and annual average ground-level concentrations of a total of 16 HAPs.**[[316]](#footnote-317)** The Risk Assessment evaluated both chronic and acute cancer and non-cancer hazards associated with the LNG project.[[317]](#footnote-318) The results of the Risk Assessment demonstrated that all chronic cancer, chronic non-cancer, and acute non-cancer hazards are below EPA risk management objectives.[[318]](#footnote-319) The Commission has taken the requisite hard look at potential impacts on surrounding communities.

### Peak Capacity/Future Emissions

1. Petitioners next assert that the Commission’s emissions analysis fails to estimate total vessel traffic at the CP2 LNG Project’s anticipated peak capacity of 28 MTPA, and, instead, uses the number of vessels associated with the CP2 LNG Project’s nameplate capacity of 20 MTPA.**[[319]](#footnote-320)** Petitioners argue that, assuming a pro rata increase, the Commission failed to account for an additional 40% more vessel trips, up to 165 trips annually, which represents an increase in emissions that the Commission failed to address.**[[320]](#footnote-321)**
2. The CP2 LNG Project is designed with a nameplate liquefaction and export capacity of approximately 20 MTPA, and a peak achievable capacity of 28 MTPA under optimal operating conditions.**[[321]](#footnote-322)** CP2 LNG estimates that its nameplate production volumes would be able to accommodate approximately three to four LNG carrier calls per week after the Phase 1 facilities are placed in service and approximately seven to eight LNG carrier calls per week after Phase 2 (a maximum of 200 carrier calls per year following completion of Phase 1 and a maximum of 400 carrier calls per year following completion of Phase 2).**[[322]](#footnote-323)**
3. The emissions summarized in the final EIS regarding LNG carriers and mobile sources are inclusive of 412 carrier calls per year.**[[323]](#footnote-324)** Although the final EIS explained that “[t]he number of carrier calls per year [412] is a conservative estimate of LNG carrier/mobile source emissions,” the LNG carriers would have a “range of LNG capacity between 120,000 to 210,000 [m3].”**[[324]](#footnote-325)** Assuming peak capacity of 28 MTPA as Petitioners suggest we do, 412 carrier calls with carriers having an LNG capacity within this range would be more than sufficient.**[[325]](#footnote-326)** Accordingly, we find that the Commission adequately considered carrier calls and their attendant emissions.**[[326]](#footnote-327)**
4. Petitioners also argue that the Commission should address, as reasonably foreseeable, CP2 LNG’s future plans to uprate its capacity.**[[327]](#footnote-328)** They aver that CP2 LNG uses similar equipment to its CP1 LNG facility where it sought an amendment to uprate its capacity.**[[328]](#footnote-329)** They further maintain that other LNG terminals have requested similar uprate amendments shortly after receiving Commission authorization.**[[329]](#footnote-330)** Petitioners also argue that the Commission should have considered whether an alternative design with a smaller nameplate capacity could achieve the same overall output after accounting for these uprate practices.**[[330]](#footnote-331)** They maintain that the Commission should have accounted for the incremental emissions due to this possible future uprate of the CP2 LNG Project.**[[331]](#footnote-332)**
5. We disagree. NEPA does not require an agency to consider the possible environmental impacts of speculative or hypothetical actions when preparing an impact statement on proposed actions.**[[332]](#footnote-333)** We find the instant proceeding analogous to *National Wildlife* *Federation*,which held that the Commission was not required to consider the potential environmental impact of a similarly speculative second phase expansion of a project in its EIS.**[[333]](#footnote-334)** Moreover, as Petitioners observe, if CP2 LNG endeavors to uprate its capacity, it will have to seek Commission approval.**[[334]](#footnote-335)**

### Construction Emissions and Mitigation

1. Petitioners disagree with the Commission’s reliance on CP2 LNG’s commitment to develop a future air quality monitoring plan to monitor 24-hour PM2.5 and PM10 and 1-hour NO2 concentrations during construction and commissioning of the CP2 LNG Project.**[[335]](#footnote-336)** They argue that the development of a future plan does not address EPA’s concerns and mitigation proposals regarding fugitive dust and criteria pollutant mitigation during construction and that the Commission failed to engage on this issue, or recommend mitigation or monitoring to ensure NAAQS compliance during construction.**[[336]](#footnote-337)** Petitioners assert that NEPA requires agencies to thoroughly evaluate mitigation measures to remediate adverse impacts to below significant levels, and that reliance on a hypothetical plan does not provide the data to determine effectiveness.**[[337]](#footnote-338)** Petitioners maintain that there is no indication that mitigation would be required in the event of an exceedance and that the Commission simply notes that monitoring could facilitate future, unspecified mitigation measures.**[[338]](#footnote-339)**
2. We disagree. Here, EPA recommended that the Commission require CP2 LNG to develop measures to implement when air monitoring data indicates that ambient pollutant concentrations are approaching a NAAQS threshold (e.g., 75% of a NAAQS threshold), and additional construction air quality mitigation measures, such as requiring higher tier construction equipment or zero exhaust emissions equipment.**[[339]](#footnote-340)** As the Commission discussed in the Authorization Order, “CP2 LNG and CP Express have committed to a number of measures to reduce the air quality impacts from construction, including using construction equipment and vehicles that comply with EPA mobile and non-road emission regulations, minimizing engine idling, and maintaining construction-related equipment in accordance with the manufacturer’s recommendations.”**[[340]](#footnote-341)** As to EPA’s air monitoring recommendation, CP2 LNG will develop, in coordination with LDEQ, and submit for Commission staff approval an Ambient Air Quality Mitigation and Monitoring Plan (Air Monitoring Plan) to measure and monitor ambient concentrations of inhalable particulate matter and nitrogen oxides, and CP2 LNG will include protocols to manage any potential NAAQS exceedances during construction and commissioning of the CP2 LNG Project.**[[341]](#footnote-342)** CP2 LNG must submit the Air Quality Plan as part of the Implementation Plan required by environmental condition 6 of the Authorization Order.**[[342]](#footnote-343)** The Commission’s requirement that CP2 LNG develop such a plan is consistent with its approach in similar proceedings,**[[343]](#footnote-344)** and NEPA does not require such mitigation plans to be fully developed at the time of agency action.[[344]](#footnote-345) We find that the Commission adequately addressed EPA’s concerns regarding air monitoring.
3. Petitioners also maintain that the Commission’s analysis of construction emissions does not account for the lower PM2.5 NAAQS thresholds, cumulative mobile emissions or emissions from the 36 cumulative sources missing from the Commission’s air quality analysis.**[[345]](#footnote-346)**
4. The Commission appropriately analyzed construction emissions, including mobile equipment.**[[346]](#footnote-347)** The final EIS determined that construction activities would increase emissions and ambient concentrations in the vicinity of the Projects’ site at various points during the approximate 48-month construction period.**[[347]](#footnote-348)** The magnitude of the effect on air quality would vary with time due to the construction schedule (i.e., intensity of construction activities), mobility of the sources, the variety/type of construction equipment, and the overlap of emissions from Phase 1 commissioning and operation and Phase 2 construction activities.**[[348]](#footnote-349)** The final EIS found that while there may be localized minor to moderate elevated levels of fugitive dust and tailpipe emissions in the vicinity of construction areas during periods of peak construction activity, construction of the Projects would impact local air quality on an intermittent basis and would not have any long-term, significant impacts on air quality.**[[349]](#footnote-350)**
5. The final EIS found that the total PM10 and PM2.5 emissions are mainly associated with fugitive dust-generating activities, with most of the fugitive dust emissions associated with land clearing/grading activities.**[[350]](#footnote-351)** CP2 LNG and CP Express developed fugitive dust control plans for the CP2 LNG Project and pipeline project and compressor station construction, which encompassed regulatory requirements as well as additional measures to reduce fugitive dust emissions.**[[351]](#footnote-352)** The details of the plans, mitigation measures, and best work practices can be found in the final EIS.**[[352]](#footnote-353)** We agree with the final EIS that these measures are acceptable and that the construction-related impacts on local air quality during construction of the Projects would not be significant, including under the revised PM2.5 NAAQS.**[[353]](#footnote-354)**

### Independent Verification

1. Petitioners next argue that the Commission failed to subject CP2 LNG’s post-final EIS air modeling analysis to independent verification.**[[354]](#footnote-355)** Petitioners assert that the Commission failed to independently evaluate the information provided by the application for use in its environmental review or scrutinize CP2 LNG’s modeling inputs or protocols, and simply accepted CP2 LNG’s modeling.**[[355]](#footnote-356)**
2. As an initial matter, because the Commission, following the Authorization Order, requested updated cumulative air modeling, engaged in supplemental NEPA, and provided the public and interested parties sufficient time to meaningfully participate and comment on the underlying data and the Commission’s interpretation of that data, we find Petitioners’ arguments moot.[[356]](#footnote-357) Nevertheless, Petitioners’ argument here overlooks the fact that the Commission independently reviews air modeling submitted by applicants and, to the extent there are any questions regarding the underlying data or conclusions, Commission staff may issue data requests.**[[357]](#footnote-358)** Moreover, Rule 2005 of the Commission’s Rules provides that, by signing a filing submitted to the Commission, the signer is certifying that “the contents are true as stated, to the best knowledge and belief of the signer” and that the “facts alleged in any filing need not be verified, unless verification is required by statute, rule, or order.”**[[358]](#footnote-359)** Generalized claims, like Petitioners’ assertions regarding the veracity of Venture Global’s statements and representations before the Commission, unsupported by specific evidence, are insufficient to rebut record evidence.**[[359]](#footnote-360)** Here, in the absence of any evidence casting doubt on the veracity of Venture Global’s statements, filings, and representations, we accept them and find the totality of the record evidence sufficient to support our conclusions.**[[360]](#footnote-361)**

## Conclusion

1. We have reviewed the information and analysis contained in the final EIS and final supplemental EIS, as well as other information in the record, regarding the potential environmental effects of the Projects. We continue to accept the environmental recommendations in the final EIS,[[361]](#footnote-362) as modified in the Authorization Order.[[362]](#footnote-363) Based on our consideration of this information, as supplemented or clarified herein,**[[363]](#footnote-364)** we agree with the conclusions presented in the final EIS and final supplemental EIS and find that the Projects, if implemented as described in the applications and in compliance with the environmental conditions appended to the Authorization Order, are environmentally acceptable actions.
2. For the reasons discussed above, and in the Authorization Order and Rehearing Order, we continue to find that the CP2 LNG Project is not inconsistent with the public interest.[[364]](#footnote-365) Moreover, the CP Express Pipeline Project will enable CP Express to transport domestically sourced natural gas to the CP2 LNG terminal for export. As explained in the Authorization Order and Rehearing Order, we find that CP Express has demonstrated a need for the project, that the project will not have adverse economic impacts on existing shippers or other pipelines and their existing customers, and that the project will have minimal impacts on the interests of landowners and surrounding communities. Additionally, as noted above and in the Authorization Order and Rehearing Order, the CP Express Project is an environmentally acceptable action. Based on the discussion above, in the Authorization Order, and in the Rehearing Order we continue to conclude under section 7 of the NGA that the public convenience and necessity requires approval of the CP Express Pipeline Project, subject to the conditions in the Authorization Order.[[365]](#footnote-366)

# Construction Authorizations

1. As discussed below, with the issuance of this order, the rehearing requests in this proceeding are no longer pending, and the Commission has issued its full merits orders on rehearing, without changing the authorization for the Projects. The Authorization Order remains in full force and effect, and no further withholding of construction authorizations is required.
2. Venture Global claims that the Commission improperly withheld authorizations to proceed with construction of the Projects until the Commission issues its further merits order.[[366]](#footnote-367) Specifically, Venture Global argues that withholding construction authorizations: (1) contradicts statements the Commission has made;[[367]](#footnote-368) (2) undermines the Authorization Order without weighing the consequences or providing legal justification;**[[368]](#footnote-369)** (3) will harm Venture Global by delaying construction, causing it to incur significant costs;**[[369]](#footnote-370)** and (4) deprive global markets and U.S. allies access to LNG**[[370]](#footnote-371)** and delays domestic benefits such as employment and taxes from the project.**[[371]](#footnote-372)**
3. Venture Global also argues that the delay in construction is contrary to the Commission’s policy in Order No. 871-B developed in response to *Allegheny Defense Project* which provided for presumptive stays of NGA section 7 certificate orders for a “limited and well-defined period.”[[372]](#footnote-373) Venture Global explains that the Commission’s policy in Order No. 871-B struck a “balance that allows aggrieved parties time to access the courts while providing project developers with a predictable time period after which construction authorizations may be permitted in the event a rehearing request remains pending before the Commission.”[[373]](#footnote-374) In further support, Venture Global cites language in Order No. 871-B that states “at most, any stay will last no longer than approximately 150 days following the issuance of a certificate order.”[[374]](#footnote-375)
4. In the alternative, Venture Global argues that authorizations for activities that are not associated with “an air emissions unit” and do not present potential cumulative air impact concerns should move forward.[[375]](#footnote-376) It asserts that such activities do no implicate matters under review in the supplemental NEPA process and should not be halted.[[376]](#footnote-377) Venture Global asserts that many of the current requests for authorization pending before the Commission have no cumulative air impact implications, including survey work, site mobilization and preparation, soil stabilization, test pile programs, staging of various equipment, and installing temporary utilities.[[377]](#footnote-378) Moreover, Venture Global maintains that many of these activities do not constitute “construction” and are outside the scope of the Rehearing Order’s construction authorization prohibition.[[378]](#footnote-379) Thus, Venture Global asserts that the Commission should allow authorizations of these activities to help mitigate the delay in construction and harm to Venture Global, its customers, and the public.[[379]](#footnote-380) Venture Global further asserts that the Commission’s position here is inconsistent with other proceedings where the Commission is conducting supplemental NEPA without halting construction activities.[[380]](#footnote-381) For example, it points to the Commission’s approach in *City of Port Isabel* wherein the Commission ordered supplemental NEPA in response to the D.C. Circuit’s remand and vacatur, without a halt in construction activities, and has granted authorizations to proceed with construction for underground piping.[[381]](#footnote-382) Venture Global also points to *Healthy Gulf*, where the court remanded the Commission’s orders without vacatur and the Commission has ordered supplemental NEPA without stating that no construction authorizations would be granted.[[382]](#footnote-383) Venture Global avers that because *Healthy Gulf* was the reason the Commission decided to conduct supplemental NEPA, the Commission should also allow construction to proceed here while it conducts supplemental NEPA review.[[383]](#footnote-384)
5. As an initial matter, because we are issuing this order, the Commission’s condition in the Rehearing Order that it would withhold authorizations to proceed with construction until such further merits order was issued has now been satisfied and we find Venture Global’s assertions moot.[[384]](#footnote-385) In any event, we disagree with Venture Global’s contentions. While Venture Global argues that it is ready to proceed with “early works” and should be allowed to proceed with limited activities that do not implicate air emissions, at the time of issuance of this order, it has not yet satisfied Environmental Condition 10 of the Authorization Order,[[385]](#footnote-386) which requires that it obtain all necessary permits and satisfy all preconstruction requirements prior to receiving authorization to proceed with construction.[[386]](#footnote-387)
6. Moreover, by providing that no authorization to proceed with construction would be issued until the Commission issues a further merits order, the Commission was exercising authority it retains under the Authorization Order:

Only when satisfied that the applicant has complied with all applicable conditions will a notice to proceed with the activity to which the conditions are relevant be issued. We also note that the Commission has the authority to take whatever steps are necessary to ensure the protection of life, health, property, and environmental resources during construction and operation of the project, including authority to impose any additional measures deemed necessary to ensure continued compliance with the intent of the conditions of the order, as well as the avoidance or mitigation of unforeseen adverse environmental impacts resulting from project construction and operation.[[387]](#footnote-388)

Consistent with this authority, the Commission took the necessary steps to ensure compliance with the intent of the conditions of the Authorization Order by withholding construction authorizations until completion of supplemental NEPA.[[388]](#footnote-389) Further, as discussed above, NEPA requires that the agency must undertake its environmental review before making critical decisions which may result in the commitment of resources to action which may significantly affect the environment.[[389]](#footnote-390) Accordingly, we also find the Commission’s action to withhold construction under these circumstances consistent with the Authorization Order and NEPA.[[390]](#footnote-391)

1. Venture Global’s arguments that withholding construction authorizations is inconsistent with the Commission’s Order Denying Stay and the Commission’s statement that the Authorization Order remains in full force and effect fail to acknowledge important distinctions between a stay of an authorization and withholding construction authorization.[[391]](#footnote-392) In the Order Denying Stay, the Commission declined to stay the Authorization Order for an undefined period of time pending judicial review.[[392]](#footnote-393) Further, a stay can operate as to the entirety of an authorization,[[393]](#footnote-394) while a decision to withhold construction authorizations is more narrow. Accordingly, the Commission appropriately explained that it “remains confident in th[e] authorization, which is why, *except as otherwise discussed herein*, the Authorization Order remain[ed] in full force and effect.”[[394]](#footnote-395)
2. Finally, we reject Venture Global’s comparisons to the Commission’s procedures on remand in *Healthy Gulf* and *City of Port Isabel*.[[395]](#footnote-396) Unlike in those proceedings, construction of the Projects here has not begun, and at the time of the Rehearing Order, Commission action was not yet final, thereby allowing the Commission to supplement its NEPA review prior to authorizing construction activities, which is consistent with NEPA, as explained in the Rehearing Order and above.[[396]](#footnote-397)
3. Last, Venture Global requests that the Commission clarify that Order No. 871-B’s delay in construction authorizations will not apply again following issuance of this order.[[397]](#footnote-398) It avers that this order should be considered a supplemental order that implements the original authorization, rendering the presumptive stay policy inapplicable.[[398]](#footnote-399) Venture Global maintains that any further rehearing requests would not implicate the Authorization Order and any further delay would cause additional harm to Venture Global.[[399]](#footnote-400)
4. We agree. Neither the presumptive stay in Order No. 871-B nor the Commission’s regulations barring construction for a limited period pending rehearing will apply upon issuance of this order.[[400]](#footnote-401)

The Commission orders:

1. In response to Petitioners’ request for rehearing, the Authorization Order is hereby modified as discussed in the body of this order.
2. In response to Venture Global’s request for rehearing and clarification, the Rehearing Order is hereby modified as discussed in the body of this order.

By the Commission. Commissioner Chang is not participating.

( S E A L )

Debbie-Anne A. Reese,

Secretary.

1. *Venture Glob. CP2 LNG, LLC*, 187 FERC ¶ 61,199 (2024) (Authorization Order). CP2 LNG and CP Express will be referred to jointly herein as Venture Global. The CP2 LNG Project and CP Express Pipeline Project will be referred to jointly herein as Projects. [↑](#footnote-ref-2)
2. Petitioners include: A Better Bayou, Fishermen Involved in Sustaining our Heritage (FISH), Nicole Dardar, Travis Dardar, Kent Duhon, Mary Alice Nash, Jerryd Tassin, Anthony Theriot, Healthy Gulf, Louisiana Bucket Brigade, Natural Resources Defense Council, Port Arthur Community Action Network, Public Citizen, Sierra Club, Texas Campaign for the Environment, and Turtle Island Restoration Network. We note that, in the Authorization Order, the Commission denied FISH’s late motion to intervene. Authorization Order, 187 FERC ¶ 61,199 at P 17. That decision was sustained on rehearing. *Venture Glob. CP2 LNG, LLC*, 189 FERC ¶ 61,148, at PP 10-17 (2024) (Rehearing Order). [↑](#footnote-ref-3)
3. Petitioners also filed a motion for stay, which the Commission denied on October 1, 2024. *See* *Venture Glob. CP2 LNG, LLC*, 189 FERC ¶ 61,005 (2024) (Order Denying Stay). [↑](#footnote-ref-4)
4. *Healthy Gulf v. FERC*, 107 F.4th 1033 (D.C. Cir. 2024) (*Healthy Gulf*) (remanding the Commission’s authorization of the Commonwealth LNG export terminal). [↑](#footnote-ref-5)
5. Rehearing Order, 189 FERC ¶ 61,148 at PP 183-185 (citing *Healthy Gulf*, 107 F.4th 1033 and *City of Port Isabel v. FERC*, 111 F.4th 1198 (D.C. Cir. 2024) (*City of Port Isabel*)). [↑](#footnote-ref-6)
6. Rehearing Order, 189 FERC ¶ 61,148 at P 186. [↑](#footnote-ref-7)
7. 964 F.3d 1 (D.C. Cir. 2020) (en banc) (*Allegheny Def. Project*). [↑](#footnote-ref-8)
8. 15 U.S.C. § 717r(a) (“Until the record in a proceeding shall have been filed in a court of appeals, as provided in subsection (b), the Commission may at any time, upon reasonable notice and in such manner as it shall deem proper, modify or set aside, in whole or in part, any finding or order made or issued by it under the provisions of this chapter.”). [↑](#footnote-ref-9)
9. *Allegheny Def. Project*, 964 F.3d at 16-17.  [↑](#footnote-ref-10)
10. 15 U.S.C. § 717b. [↑](#footnote-ref-11)
11. 18 C.F.R. pt. 153 (2024). [↑](#footnote-ref-12)
12. Authorization Order, 187 FERC ¶ 61,199 at PP 1, 5; Rehearing Order, 189 FERC ¶ 61,148 at P 3. [↑](#footnote-ref-13)
13. Each phase is designed with a nameplate liquefaction and export capacity of 10 MTPA, and a peak achievable capacity of 14 MTPA. Authorization Order, 187 FERC ¶ 61,199 at P 6. [↑](#footnote-ref-14)
14. *Id.* P 1; Rehearing Order, 189 FERC ¶ 61,148 at P 3. For more specific information regarding the CP2 LNG Project, *see* Authorization Order, 187 FERC ¶ 61,199 at PP 5-9. [↑](#footnote-ref-15)
15. Authorization Order, 187 FERC ¶ 61,199 at P 2; Rehearing Order, 189 FERC ¶ 61,148 at P 3. [↑](#footnote-ref-16)
16. 15 U.S.C. § 717f(c). [↑](#footnote-ref-17)
17. 18 C.F.R. pts. 157, 284 (2024). [↑](#footnote-ref-18)
18. Authorization Order, 187 FERC ¶ 61,199 at P 1; Rehearing Order, 189 FERC ¶ 61,148 at P 6. For more specific information regarding the CP Express Pipeline Project, *see* Authorization Order, 187 FERC ¶ 61,199 at PP 10-14. [↑](#footnote-ref-19)
19. Authorization Order, 187 FERC ¶ 61,199 at PP 10-14; Rehearing Order, 189 FERC ¶ 61,148 at P 6. [↑](#footnote-ref-20)
20. Authorization Order, 187 FERC ¶ 61,199 at P 10; Rehearing Order, 189 FERC ¶ 61,148 at P 6. [↑](#footnote-ref-21)
21. Authorization Order, 187 FERC ¶ 61,199 at PP 11-12. [↑](#footnote-ref-22)
22. *Id.* (discussing, in detail, the proposed facilities for Phase I and II); Rehearing Order, 189 FERC ¶ 61,148 at P 7. [↑](#footnote-ref-23)
23. An attainment area is an area with air quality that is currently compliant with the National Ambient Air Quality Standards (NAAQS) for a particular criteria pollutant. Final EIS at 4-336 to 4-337. [↑](#footnote-ref-24)
24. 42 U.S.C. § 7475(a)(3). NAAQS are limits on the atmospheric concentration of six pollutants, called criteria pollutants, that are harmful to public health and the environment. The six criteria pollutants are: carbon monoxide (CO), lead (Pb), nitrogen dioxide (NO2), ozone (O3), particulate matter (PM), and sulfur dioxide (SO2). *See* 42 U.S.C. § 7409. [↑](#footnote-ref-25)
25. *See, e.g.*,EPA, *Guidance on Significant Impact Levels for Ozone & Fine Particles in the Prevention of Significant Deterioration Permitting Program* 11 (April 2018) (EPA Ozone and PM SILs Guidance), https://19january2021snapshot.epa.gov/sites‌/static/files/2018-04/documents/sils\_guidance\_2018.pdf (noting that the SILs for ozone and PM are numerical values “below which the EPA considers a source to have an insignificant effect on ambient air quality” because the degree in changes in pollutant concentrations caused by an individual contribution below the SIL are “indistinguishable from the inherent variability in the measured atmosphere and may be observed even in the absence of the increased emissions” and “changes in air quality within this range are not meaningful, and, thus, do not contribute to a violation of the NAAQS”); *see also* EPA, *Guidance Concerning the Implementation of the 1-hour NO2 NAAQS For the Prevention of Significant Deterioration Program* 4, 11 (June 29, 2010) (EPA Interim 1-hour NO2 SIL Guidance), https://www.epa.gov/sites/default/files/2015-07/documents/appwno2.pdf (noting that it “considers a source whose individual impact falls below a SIL to have a de minimis impact on air quality concentrations that already exist” and that further analysis would “yield trivial gain” with regard to reducing ambient pollutant concentrations). [↑](#footnote-ref-26)
26. The three-part analysis is outlined in EPA’s air quality modeling procedures at 40 C.F.R. pt. 51, app. W (2024). [↑](#footnote-ref-27)
27. *See, e.g.*, *Healthy Gulf*, 107 F.4th at 1043-44 (describing the Commission’s use of the three-step analysis); *see also Sierra Club v. FERC*, 867 F.3d 1357, 1370 n.7 (D.C. Cir. 2017) (*Sabal Trail*)(“FERC appropriately relied on EPA’s [NAAQS] as a standard of comparison for air-quality impacts. By presenting the project’s expected emissions levels and the NAAQS standards side-by-side, the EIS enabled decisionmakers and the public to meaningfully evaluate the project’s air-pollution effects by reference to a generally accepted standard.”); *Diné Citizens Against Ruining Our Env’t v. Haaland*, 59 F.4th 1016, 1046 (10th Cir. 2023) (*Diné Citizens*) (finding the Bureau of Land Management appropriately relied on NAAQS in its cumulative effects analysis for oil and gas drilling permit applications); *Lowman v. Fed. Aviation Admin.*, 83 F.4th 1345, 1364–66 (11th Cir. 2023) (*Lowman*) (upholding the Federal Aviation Administration’s reliance on its regulations defining a significance threshold for air quality as one where the “action would cause pollutant concentrations to exceed one or more of the NAAQS”). [↑](#footnote-ref-28)
28. Authorization Order, 187 FERC ¶ 61,199 at PP 186-88 and 194; final EIS at 4-369; final supplemental EIS at 14. [↑](#footnote-ref-29)
29. Final EIS at 4-369. [↑](#footnote-ref-30)
30. 42 U.S.C. § 7475(a)(3) (generally prohibiting construction of a major emitting facility unless the facility operator demonstrates that emissions from construction or operation of such facility will not cause, or contribute to, air pollution in excess of any: (a) maximum allowable increase or maximum allowable concentration for any pollutant in any area to which this part applies more than one time per year, (b) NAAQS in any air quality control region, or (c) any other applicable emission standard or standard of performance under this chapter). [↑](#footnote-ref-31)
31. *Id.*; EPA Ozone and PM SILs Guidance at 11 (“a permitting authority can reasonably conclude that emissions of a proposed source that have a projected impact below the SIL values provided in this memorandum are not the reason for, responsible for, or the ‘but for’ cause of a NAAQS violation”); EPA, *Legal Memo: Application of Significant Impact Levels in the Air Quality Determination for PSD Permitting under the CAA* at 13 (Apr. 17, 2018), https://www.epa.gov/sites/default/files/2018-04/documents/legal\_memorandum\_final\_4-17-18.pdf (EPA SIL Memo). [↑](#footnote-ref-32)
32. Final EIS at 4-369. [↑](#footnote-ref-33)
33. *Id.* [↑](#footnote-ref-34)
34. *Id.* [↑](#footnote-ref-35)
35. *Id.* [↑](#footnote-ref-36)
36. Authorization Order, 187 FERC ¶ 61,199 at P 184 (citing final EIS at 4-369 to 4-373). [↑](#footnote-ref-37)
37. Final EIS at 4-371 to 4-373. [↑](#footnote-ref-38)
38. *Id.* [↑](#footnote-ref-39)
39. *Id.* at 4-372-373, 4-553. [↑](#footnote-ref-40)
40. *See id*. [↑](#footnote-ref-41)
41. A PSD increment is the maximum allowable increase in the ambient concentration of a specific pollutant in an area that is in attainment of the NAAQS. *Id.* Significant deterioration of air quality is deemed to occur when the amount of additional new pollution exceeds the applicable PSD increment. *Id.* [↑](#footnote-ref-42)
42. *Id.* at 4-374. [↑](#footnote-ref-43)
43. *Id.* 4-371 to 4-373. CP2 LNG used data from the West Orange, Texas monitoring station (West Orange Monitoring Station) for this modeling. [↑](#footnote-ref-44)
44. 89 Fed. Reg. 16,202 (Mar. 6, 2024). [↑](#footnote-ref-45)
45. *See* March 26, 2024 Data Request. [↑](#footnote-ref-46)
46. Authorization Order, 187 FERC ¶ 61,199 at P 192; *see* April 4, 2024 Response to Data Request. [↑](#footnote-ref-47)
47. Authorization Order, 187 FERC ¶ 61,199 at P 192; *see* April 4, 2024 Response to Data Request. [↑](#footnote-ref-48)
48. Authorization Order, 187 FERC ¶ 61,199 at P 192; *see* April 4, 2024 Response to Data Request. [↑](#footnote-ref-49)
49. Authorization Order, 187 FERC ¶ 61,199 at P 192 (citing April 4, 2024 Response to Data Request). [↑](#footnote-ref-50)
50. *Id.* PP 196-197. [↑](#footnote-ref-51)
51. May 15, 2024 Data Request. [↑](#footnote-ref-52)
52. Authorization Order, 187 FERC ¶ 61,199 at P 196. [↑](#footnote-ref-53)
53. *Id.* [↑](#footnote-ref-54)
54. Venture Global June 3, 2024 Response to Data Request. [↑](#footnote-ref-55)
55. Authorization Order, 187 FERC ¶ 61,199 at P 186 (citing final EIS at 4-553). [↑](#footnote-ref-56)
56. *Id.* P 197. This updated air modeling included the revisions represented in the April 4, 2024 air modeling provided by Venture Global showing compliance with the updated NAAQS for annual PM2.5. [↑](#footnote-ref-57)
57. *Id.* P 192 (citing Venture Global April 4, 2024 Response to Data Request). [↑](#footnote-ref-58)
58. *Id.* P 198. [↑](#footnote-ref-59)
59. *Healthy Gulf*, 107 F.4th at 1044. [↑](#footnote-ref-60)
60. *Id.* [↑](#footnote-ref-61)
61. *City of Port Isabel*, 111 F.4th at 1215. We note that the D.C. Circuit has since granted rehearing, in part, and amended its opinion to remand *without* vacatur. *City of Port Isabel v. FERC,* 130 F.4th 1034, 1039 (D.C. Cir. 2025). [↑](#footnote-ref-62)
62. *City of Port Isabel*, 111 F.4th at 1211 (quoting *Robertson v. Methow Valley Citizens Council*, 490 U.S. 332, 349 (1989) (*Methow Valley*)). [↑](#footnote-ref-63)
63. Petitioners’ Rehearing Request at 34-46. [↑](#footnote-ref-64)
64. *Id.* at 87-92. [↑](#footnote-ref-65)
65. *Id.* at 47-62. [↑](#footnote-ref-66)
66. *Id.* at 62-75. [↑](#footnote-ref-67)
67. 42 U.S.C. §§ 4321 *et seq.*;*see also* 18 C.F.R. pt. 380 (2024) (Commission’s regulations implementing NEPA).  The Council on Environmental Quality’s (CEQ) final rule rescinding its NEPA regulations became effective on April 11, 2025. 90 Fed. Reg. 10,610 (Feb. 25, 2025). [↑](#footnote-ref-68)
68. Petitioners Rehearing Request at 109-16, 165-66. [↑](#footnote-ref-69)
69. *Id.* at 116-25. [↑](#footnote-ref-70)
70. *Id.* at 75-85, 125-28. [↑](#footnote-ref-71)
71. *Id.* at 128-35. [↑](#footnote-ref-72)
72. *Id.* at 162-66. [↑](#footnote-ref-73)
73. *Id.* at 64-69. [↑](#footnote-ref-74)
74. *Id.* at 166-87. [↑](#footnote-ref-75)
75. *Id.* at 188-91. [↑](#footnote-ref-76)
76. *Id.* at 85-87. The Commission’s analysis of the impacts of the Projects on communities with environmental justice concerns was based on Executive Orders 12898, 13985, and 14096. Authorization Order, 187 FERC ¶ 61,199 at section III.C.7; Final EIS at 4-299 to 4-329. These Executive Orders were revoked in January 2025. Exec. Order No. 14148, 90 Fed. Reg. 8237 (Jan. 28, 2025) (revoking Executive Orders 13985 and 14096); Exec. Order 14173, 90 Fed. Reg. 8633 (Jan. 31, 2025) (revoking Executive Order 12898). However, the Commission continues to fulfill its NEPA responsibilities by considering impacts to all potentially affected communities. *See* 42 U.S.C. § 4331 (setting forth NEPA’s environmental protection objectives, including to “assure for all Americans safe, healthful, productive, and esthetically and culturally pleasing surroundings”). Accordingly, in this order we focus on consideration of the environmental effects of the Projects on all communities as relevant to Petitioners’ arguments on rehearing. [↑](#footnote-ref-77)
77. Petitioners Rehearing Request at 135-62. [↑](#footnote-ref-78)
78. *Id.* at 75-92. [↑](#footnote-ref-79)
79. *See generally* Rehearing Order 189 FERC ¶ 61,148. [↑](#footnote-ref-80)
80. *Id.* P 185. [↑](#footnote-ref-81)
81. *Id.* [↑](#footnote-ref-82)
82. *Id.* [↑](#footnote-ref-83)
83. 89 Fed Reg. 96237 (Dec. 4, 2024). [↑](#footnote-ref-84)
84. December 10, 2024 Data Request. [↑](#footnote-ref-85)
85. Venture Global December 23, 2024 Response to Data Request. [↑](#footnote-ref-86)
86. 90 Fed. Reg. 9539 (Feb. 13, 2025). [↑](#footnote-ref-87)
87. 18 C.F.R. § 380.10(a)(1)(i) (2024). [↑](#footnote-ref-88)
88. 90 Fed. Reg. 20663 (May 15, 2025). [↑](#footnote-ref-89)
89. Final supplemental EIS at 3-4; Rehearing Order, 189 FERC ¶ 61,148 at PP 185-186. [↑](#footnote-ref-90)
90. Final supplemental EIS at 20. [↑](#footnote-ref-91)
91. FISH March 31, 2025 Motion to Intervene (citing environmental impacts on the commercial fishing industry due to the projects); Broussard et al. March 31, 2025 Motion to Intervene and Comments (citing air and noise impacts from the Moss Lake Compressor Station on their wellbeing and livelihoods). FISH previously filed a late motion to intervene in the proceeding that was denied. *See* Rehearing Order, 189 FERC ¶ 61,148 at PP 10-17. [↑](#footnote-ref-92)
92. Interventions were solicited by the Commission in the *Notice of Availability of the Draft Supplemental Environmental Impacts Statement for the Proposed CP2 LNG and CP Express Pipeline Projects*, 90 Fed. Reg. 9539 (Feb. 13, 2025). Timely, unopposed motions to intervene are granted by operation of Rule 214 of the Commission’s Rules of Practice and Procedure. 18 C.F.R. § 385.214 (2024). [↑](#footnote-ref-93)
93. Venture Global Rehearing Request at 23-25. Venture Global incorporates by references various pages of its Answer and attached them to its rehearing request as an exhibit. *See* *id.* at 25 (referencing pages 35-57 of its Answer); *see id.* at 44 (referencing pages 46-57 of its Answer). [↑](#footnote-ref-94)
94. *Id.* at 24. [↑](#footnote-ref-95)
95. *Id.* To the extent Venture Global suggests that accepting their answer to Petitioners’ request for rehearing would have obviated the need for a supplemental EIS, we note that even if the Commission accepted Venture Global’s answer, under the circumstances of this proceeding, a supplemental EIS would have still been required as explained in the Rehearing Order. Rehearing Order 189 FERC ¶ 61,148 at PP 183-186. [↑](#footnote-ref-96)
96. Venture Global Rehearing Request at 23-24. [↑](#footnote-ref-97)
97. *Id.* at 25. [↑](#footnote-ref-98)
98. 18 C.F.R. § 385.213(a)(2) (2024). [↑](#footnote-ref-99)
99. *Id.* § 385.713(d)(1) (2024). [↑](#footnote-ref-100)
100. 18 C.F.R. § 385.101(e) (2024); *Algonquin Gas Transmission, LLC*, 170 FERC ¶ 61,144, at P 5 (2020); *Nat’l Fuel Gas Supply Corp.*, 164 FERC ¶ 61,084, at P 9 (2018); *Aquila Merch. Servs., Inc.*, 127 FERC ¶ 61,218, at P 28 (2009); *Re Wis. Pub. Serv. Corp.*, 60 FERC ¶ 61,279, at 61,948 (1992). [↑](#footnote-ref-101)
101. *Re Hous. Tex. Gas & Oil Corp.*, 17 FPC 303, at 311 (1957) (“To permit such answers, giving rise in turn to requests for opportunity for replies thereto, would complicate and prolong proceedings before the Commission, would unduly delay finality of decision, and would be inconsistent with the Commission's timely execution of its functions.”). [↑](#footnote-ref-102)
102. Venture Global Aug. 15, 2024 Motion for Leave to Answer and Answer at 2 (“The Commission accepts answers to rehearing requests for good cause when they are likely to assist with its decision-making process. This answer will do just that, which provides the Commission good cause to accept it.”) (citations omitted). [↑](#footnote-ref-103)
103. *See* *Cal. Indep. Sys. Operator Corp.*, 149 FERC ¶ 61,058, at PP 20-22 (2014) (denying request for rehearing of Commission’s rejection of answer to an answer based on 18 C.F.R. § 385.213(a)(2) and agency discretion to manage its own dockets); *see also* *Kourouma v.* *FERC*, 723 F.3d 274, 279-80 (D.C. Cir. 2013) (finding it was not an abuse of discretion for the Commission to adhere to Rule 213 and deny an answer); *Fla. Mun. Power Agency v. FERC*, 315 F.3d 362, 366 (D.C. Cir. 2003) (citing *Telecomm. Resellers Assoc. v. FCC*, 141 F.3d 1193, 1196 (D.C. Cir. 1998) (administrative agencies enjoy broad discretion to manage their own dockets)); *Ameren Energy Generating Co.*, 108 FERC ¶ 61,081, at P 23 (2004) (“The courts have repeatedly recognized that the Commission has broad discretion in managing its proceedings.”) (citations omitted). [↑](#footnote-ref-104)
104. 15 U.S.C. § 717r(a). [↑](#footnote-ref-105)
105. *Colonial Pipeline Co.*, 186 FERC ¶ 61,213, at P 10 & n.19 (2024); *see also* *Ind. Util. Regul. Comm’n v. FERC*, 668 F.3d 735, 736 (D.C. Cir. 2012) (“We dismiss the petition insofar as it challenges the order on grounds [petitioner] did not raise with sufficient specificity in its request for rehearing by the Commission.”). [↑](#footnote-ref-106)
106. *Tenn. Gas Pipeline Co., L.L.C.*, 156 FERC ¶ 61,007, at P 7 (2016); *see also Alcoa Power Generating, Inc.*, 144 FERC ¶ 61,218, at P 10 (2013) (“The Commission, however, expects all grounds to be set forth in the rehearing request and will dismiss any ground only incorporated by reference”). [↑](#footnote-ref-107)
107. *Tenn. Gas Pipeline Co.*, 156 FERC ¶ 61,007 at P 7 (citing *Allegheny Power v. FERC*, 437 F.3d 1215, 1220 (D.C. Cir. 2006) (rejecting argument made on rehearing to FERC by incorporating by reference objections made in other pleadings)). [↑](#footnote-ref-108)
108. Venture Global Rehearing Request at 45-46. [↑](#footnote-ref-109)
109. *Id.* at 46. [↑](#footnote-ref-110)
110. *Id.* (citing 18 C.F.R. § 385.713(c)(3)). [↑](#footnote-ref-111)
111. *Id.* at 46-47; *see also id.* at 47 (further explaining that, therefore, a central reason for the Commission’s general policy of not considering new evidence on rehearing is not applicable). [↑](#footnote-ref-112)
112. *Id.* at 47-48 (citing *Riverstart Solar Park LLC*, 185 FERC ¶ 61,101, at P 9 (2023); *Cooley v. FERC*, 843 F.2d 1464, 1473 (D.C. Cir. 1988); and *Friends of the River v. FERC*, 720 F.2d 93, 98 n.6 (D.C. Cir. 1983) (*Friends of the River*)). [↑](#footnote-ref-113)
113. *Columbia Gulf Transmission, LLC*, 180 FERC ¶ 61,206, at P 73 (2022) (citing *Mountain Valley Pipeline, LLC*, 163 FERC ¶ 61,197, at P 16 (2018)). [↑](#footnote-ref-114)
114. 18 C.F.R. § 385.713(d)(1); *see, e.g., PJM Interconnection, L.L.C*., 126 FERC ¶ 61,030, at P 15 & n.10 (2009). [↑](#footnote-ref-115)
115. Rehearing Order, 189 FERC ¶ 61,148 at P 185 (citing the “D.C. Circuit’s specific directives to the Commission in *Healthy Gulf* and *City of Port Isabel*,” as the basis for “conducting additional environmental review”). Accordingly, we find Venture Global’s cited cases inapposite. Venture Global Rehearing Request at 47-48 (citing *Riverstart Solar Park LLC*, 185 FERC ¶ 61,101; *Cooley v. FERC*, 843 F.2d 1464; and *Friends of the River*, 720 F.2d 93). [↑](#footnote-ref-116)
116. *See* *City of Port Isabel*, 111 F.4th at 1210-11 (citing *Marsh v. Or. Nat. Res. Council*, 490 U.S. 360, at 371 (1989) (*Marsh*) (requiring supplemental NEPA because the Commission included significant, new analysis in an order and determining that this failure to engage in supplemental NEPA prejudiced the public’s ability to comment on the Commission’s analysis and underlying data upon which it relied, which is insufficient under NEPA); *see also* 42 U.S.C. § 4336a(c) (requiring a request for public comment).  [↑](#footnote-ref-117)
117. *Marsh*, 490 U.S. at 375-76. [↑](#footnote-ref-118)
118. *See* EPA, *Reconsideration of the Nat’l Ambient Air Quality Standards for Particulate Matter*, 89 Fed. Reg. 16202 (May 6, 2024). [↑](#footnote-ref-119)
119. Petitioners’ Rehearing Request at 151-54. [↑](#footnote-ref-120)
120. *Id.* at 155. [↑](#footnote-ref-121)
121. *See supra* section I.G. [↑](#footnote-ref-122)
122. *See* *A.M. v. U.S.*, No. 2022-2235, 2025 WL 323778, at \*1 (Fed. Cir. Jan. 29, 2025) (quoting *Chapman L. Firm Co. v. Greenleaf Constr. Co.*, 490 F.3d 934, 939 (Fed. Cir. 2007) (“A case should generally be dismissed as moot ‘[w]hen, during the course of litigation, it develops that the relief sought has been granted or that the questions originally in controversy between the parties are no longer at issue.’”); *S.C. Coastal Conservation League v. U.S. Army Corps of Eng’rs*, 789 F.3d 475, 482 (4th Cir. 2015) (“A case can become moot due either to a change in the facts or a change in the law.”); *Williams v. Ozmint*, 716 F.3d 801, 809 (4th Cir. 2013) (“A change in factual circumstances can moot a case on appeal, such as when the plaintiff receives the relief sought in his or her claim . . .”); *Hall & Assocs. v. U.S. Env’t Prot. Agency*, No. CV 18-1749 (RDM), 2021 WL 1226668, at \*8 (D.D.C. Mar. 31, 2021) (citing *Lewis v. Cont’l Bank Corp.*, 494 U.S. 472, 477–478 (1990) (“In the ordinary course, when a party receives the relief he seeks during the pendency of a litigation, the matter becomes moot and subject to dismissal.”). [↑](#footnote-ref-123)
123. Venture Global Rehearing Request at 35-37 (citing Authorization Order, 187 FERC ¶ 61,199 at P 193 and Rehearing Order, 189 FERC ¶ 61,148 at P 172); *see also id.* at 42-43 (arguing that the Commission failed to explain why *Healthy Gulf* required a supplemental EIS). [↑](#footnote-ref-124)
124. *Id.* at 41 (citing *Healthy Gulf,* 107 F.4th 1044). [↑](#footnote-ref-125)
125. *Id.* (explaining that the decision did not affect the environment in a new way not already considered by the Commission nor did it paint a seriously different picture of the environmental landscape). [↑](#footnote-ref-126)
126. *Id.* at 42 (citing *City of Port Isabel*, 111 F.4th at 1205-06, 1210); *see also id.* at 40 (citing *Marsh*, 490 U.S.at 373-74; *Stand Up for Cal.! v. Dep’t of the Interior*, 994 F.3d 616, 629 (D.C. Cir. 2021) (*Stand Up for Cal.!*); and *Price Rd. Neighborhood Ass’n. Inc. v. U.S. Dep’t of Transp.*, 113 F.3d 1505, 1510 (9th Cir. 1997)) (asserting that there were no substantial changes to the proposed action or significant new evidence or circumstances bearing on the proposed action that would provide a seriously different picture requiring supplemental NEPA). [↑](#footnote-ref-127)
127. *Id.* at 25-32, 34-35 ((citing final EIS at 4-337 through 4-355, 4-355); *see also* *id.* at 27 (citing EPA PSD Guidance); *see also id.* 27-30 (citing EPA SIL Guidance; EPA SIL Memo; and 40 C.F.R. pt. 51, app. W – Guideline on Air Quality Models (outlining the CAA PSD modeling three step process to ascertain adverse cumulative air impacts); *see id*. at 31-32 (citing EPA SIL Guidance (asserting that a modeled contribution that is less than a SIL is considered to have a negligible, non-contributory impact on air quality and that regulators have discretion to conclude that a project does not cause or contribute to NAAQS exceedances); *id.* at 42-43 (arguing that all that was required by the Commission was to provide a more complete explanation of the reasoned basis for its existing conclusions regarding cumulative air impacts). [↑](#footnote-ref-128)
128. *Id.* at 32-33. [↑](#footnote-ref-129)
129. *Id.* at 33-34 (explaining that Venture Global is required to comply with the Traffic, Noxious Weed, and Fugitive Dust Plan, the Ambient Air Quality Mitigation and Monitoring Plan, and other measures to minimize cumulative impacts such as the use of equipment that meets regulatory emission standards, minimizing idling time, proper operation and maintenance, speed limits, applying water to dusty areas, installing pads or washers at site entrances, covering open haul trucks, training construction personnel on environmental compliance, employing an environmental inspector). [↑](#footnote-ref-130)
130. *Id.* at 37. [↑](#footnote-ref-131)
131. *See supra* note 122; *see also* *Fund for Animals v. U.S. Bureau of Land Mgmt.*, 357 F.Supp.2d 225, 230 (D.D.C. 2004) (holding that a NEPA claim is moot once the government completes the action complained of because “the Court cannot undo what has already been done”) (citing *Fl. Wildlife Fed’n v. Goldschmidt*, 611 F.2d 547, 548 (5th Cir. 1980)). [↑](#footnote-ref-132)
132. *See supra* section I.B.1. [↑](#footnote-ref-133)
133. EPA Interim 1-hour NO2 SIL Guidance. [↑](#footnote-ref-134)
134. *Sierra Club v. EPA*, 705 F.3d 458, 461 (D.C. Cir. 2013) (citing EPA guidance explaining that EPA defines the SIL for PM2.5 as “numeric values derived by EPA that may be used to evaluate the impact a proposed major source or modification may have on the NAAQS or PSD increment”). *See also* EPA Ozone and PM SILs Guidance at 11 (noting that “changes in air quality within this range are not meaningful, and, thus, do not contribute to a violation of the NAAQS”). [↑](#footnote-ref-135)
135. Final EIS at app. K; *see* *supra* section I.B.2. [↑](#footnote-ref-136)
136. *Healthy Gulf*, 107 F.4th 1033, 1044. [↑](#footnote-ref-137)
137. *Marsh*, 490 U.S. at 373, 375-76; *Friends of the River*, 720 F.2d at 109-10; *see also Friends of Cap. Crescent Trail v. Fed. Transit Admin.*, 877 F.3d 1051, 1059 (D.C. Cir. 2017) (*Friends of Cap. Crescent Trail*) (“If an agency’s decision not to prepare a [supplemental EIS] turns on a factual dispute the resolution of which implicated substantial agency expertise, the court defers to the agency’s judgment.”) (quoting *Marsh*, 490 U.S. at 376). [↑](#footnote-ref-138)
138. *Marsh*, 490 U.S. at 374 (citing 42 U.S.C. § 4332(2)(C)). [↑](#footnote-ref-139)
139. *Id.*; *see also* *Nat’l Parks Conservation Ass’n v. Jewell*, 965 F. Supp. 2d 67, 78 (D.D.C. 2013) (quoting *Pub. Emps. for Envtl. Resp. v. U.S. Dep't of the Interior,* 832 F.Supp.2d 5, 29–30 (D.D.C. 2011)) (“[W]hether a change is substantial so as to warrant [a supplemental EIS] is determined not by the modification in the abstract, but rather by the significance of the environmental effects of the changes.”). [↑](#footnote-ref-140)
140. Rehearing Order, 189 FERC ¶ 61,148 at P 185. [↑](#footnote-ref-141)
141. *See supra* section I.E. [↑](#footnote-ref-142)
142. Rehearing Order, 189 FERC ¶ 61,148 at P 185 (“Given the D.C. Circuit’s specific directives to the Commission in *Healthy Gulf* and *City of Port Isabel*, we set aside the Authorization Order, in part, solely regarding the Commission’s analysis of NO2 and PM2.5, for the purpose of conducting additional environmental review.”); *see also WildEarth Guardians v. Haaland*, No. CV 21-175 (RC), 2022 WL 1773480, at \*7 (D.D.C. June 1, 2022) (mem. op.) (*Haaland*) (finding guidance provided by the court related to the Bureau of Land Management’s (BLM) environmental analysis in *WildEarth Guardians v. Zinke*, 368 F. Supp. 3d 41 (D.D.C. 2019) (*Zinke*) which utilized a similar methodology at issue in *Haaland* to be a “more-than-sufficient reason for BLM to think that the purposes of NEPA will be furthered by re-conducting that [environmental] analysis”). The Commission has an independent obligation to engage in supplemental NEPA to remedy potential NEPA deficiencies as determined on a case-by-case basis. *See Friends of Cap. Crescent Trail*, 255 F. Supp. 3d at 67 (citing *Marsh*, 490 U.S. at 374) (“an agency is obligated to prepare a supplemental EIS . . . if there remains “major Federal action to occur and if the new information is sufficient to show that the remaining action will affect the quality of the human environment in a significant manner or to a significant extent not already considered”). Accordingly, we disagree with Venture Global’s assertions that because Petitioners did not advocate for supplemental NEPA to address cumulative air issues, the Commission was not required to supplement its EIS. Venture Global Rehearing Request at 35-36. [↑](#footnote-ref-143)
143. Venture Global Rehearing Request at 37-38 (citing *Marin Audubon Soc’y v. Fed. Aviation Admin.*, 121 F.4th 902 (D.C. Cir. 2024), *reh’g denied en banc*, No. 23-1067, 2025 WL 374897 (D.C. Cir. Jan. 31, 2025) (*Marin Audubon*) (holding that CEQ’s regulations implementing NEPA are not judicially enforceable or binding)). [↑](#footnote-ref-144)
144. *See Marsh*, 490 U.S. at 371 (“Preparation of such [supplemental environmental impact] statements, however, is at times necessary to satisfy the Act’s “action-forcing” purpose.”). [↑](#footnote-ref-145)
145. Venture Global Rehearing Request at 38-39 (citing *Marsh*, 490 U.S. 360 and *Norton v. S. Utah Wilderness All.*, 542 U.S. 55, 72-73 (2004)). [↑](#footnote-ref-146)
146. *Id.* at 39. [↑](#footnote-ref-147)
147. *Hammond v. Norton*, 370 F. Supp. 2d 226, 255 (D.D.C. 2005) (citing *Citizens Against Rails–to–Trails v. Surface Transp. Bd.,* 267 F.3d 1144, 1151 (D.C.Cir.2001) (*Citizens Against Rails–to–Trails*)). [↑](#footnote-ref-148)
148. *Citizens Against Rails–to–Trails,* 267 F.3d at 1151 (citations omitted); *see also* *Macht v. Skinner,* 916 F.2d 13, 18 (D.C. Cir. 1990) (explaining the two-fold purposes of NEPA). [↑](#footnote-ref-149)
149. *See Allegheny Def. Project*, 964 F.3d at 9 (quoting 15 U.S.C. § 717r(a)); *see also* *Jack M. Fuls*, 36 FERC ¶ 61,136, at 61,342 (1986) (“Because of the pending . . . rehearing request, our order issuing license does not become final until we take action on that rehearing request, and we can amend or otherwise modify the license, or even rescind it, until we take such action.”). [↑](#footnote-ref-150)
150. *See* 18 C.F.R. § 385.713(c)(2) (2024). [↑](#footnote-ref-151)
151. *See, e.g., ZEP Grand Prairie Wind, LLC*, 183 FERC ¶ 61,150, at P 10 (2023) (rejecting argument on rehearing for lack of specificity where the petitioner “offer[ed] only [a] conclusory assertion in support of its position); *Turlock Irrigation Dist*., 140 FERC ¶ 61,207, at P 27 (2012) (finding an argument that was “nothing more than a bald assertion” as being waived for lack of specificity). [↑](#footnote-ref-152)
152. Venture Global Request for Rehearing at 43. [↑](#footnote-ref-153)
153. *Id.* (citing *Allegheny Def. Project*, 964 F.3d at 9). [↑](#footnote-ref-154)
154. *Id.* at 43-44. [↑](#footnote-ref-155)
155. *Allegheny Def. Project*, 964 F.3d at 10. [↑](#footnote-ref-156)
156. *Venture Glob. CP2 LNG, LLC*, 188 FERC ¶ 62,109 (2024) (Notice of Denial of Rehearing by Operation of Law and Providing for Further Consideration). [↑](#footnote-ref-157)
157. Venture Global Rehearing Request at 44. [↑](#footnote-ref-158)
158. *See supra* note 122. [↑](#footnote-ref-159)
159. Petitioners Rehearing Request at 154. [↑](#footnote-ref-160)
160. *Id.* at 156 (citing Sierra Club April 22, 2024 Comment on Response to March 26, 2024 Data Request). [↑](#footnote-ref-161)
161. EPA, *Guidance on Developing Background Concentrations for Use in Modeling Demonstrations* 20 (November 2024), available at https://www.epa.gov/‌system/files/documents/2024-11/background-concentrations.pdf. [↑](#footnote-ref-162)
162. *Id.* [↑](#footnote-ref-163)
163. *Id.* [↑](#footnote-ref-164)
164. *See, e.g.*, *Transcon. Gas Pipe Line Co.*, 187 FERC ¶ 61,024, at P 74 (2024) (“In carrying out its NEPA responsibilities, Commission staff relies on other agencies’ expertise, including that of the EPA and Virginia DEQ, which establish methodologies and standards for assessing air quality impacts.”); *Millennium Pipeline Co.*, 161 FERC ¶ 61,229, at P 134 (2017) (“In carrying out its NEPA responsibilities, Commission staff relies on other agencies’ expertise, including that of the EPA and New York DEC, which establish methodologies and standards for assessing air quality impacts.”); *see also* *Gas Transmission Nw. LLC*, 181 FERC ¶ 61,234, at 62,704 (2022) (citing *City of Bos. Delegation v. FERC*, 897 F.3d 241, 255 (D.C. Cir. 2018) (*City of Bos.*) and *City of Pittsburgh v. FPC*, 237 F.2d 741, 754 (D.C. Cir. 1956)) (“The Commission may, in appropriate circumstances, rely upon standards or guidance promulgated by other agencies.”). [↑](#footnote-ref-165)
165. *Millennium Pipeline Co.*, 161 FERC ¶ 61,229 at P 132; *see also EMR Network v. Fed. Commc’ns Comm’n*, 391 F.3d 269, 273 (D.C. Cir. 2004) (*EMR Network*) (finding agency properly relied on outside agency expertise). [↑](#footnote-ref-166)
166. Authorization Order, 187 FERC ¶ 61,199 at P 192; CP2 LNG April 4, 2024 Response to Environmental Information Request. [↑](#footnote-ref-167)
167. *See* CP2 LNG Apr. 4, 2024 Response to Data Request. [↑](#footnote-ref-168)
168. Authorization Order, 187 FERC ¶ 61,199 at P 192; CP2 LNG Apr. 4, 2024 Response to Data Request. [↑](#footnote-ref-169)
169. Dec. 10, 2024 Data Request at 1. [↑](#footnote-ref-170)
170. Venture Global Dec. 23, 2024 Response to Data Request at 1. [↑](#footnote-ref-171)
171. *Id.* at 2. [↑](#footnote-ref-172)
172. *Id.* [↑](#footnote-ref-173)
173. *Id.* at 2-4. [↑](#footnote-ref-174)
174. *Id.* at 2. [↑](#footnote-ref-175)
175. Authorization Order, 187 FERC ¶ 61,199 at P 194. [↑](#footnote-ref-176)
176. Petitioners Rehearing Request at 136-39 (citing *Healthy Gulf*, 107 F.4th 1042-45). [↑](#footnote-ref-177)
177. *Id.* at 137-38. [↑](#footnote-ref-178)
178. *Id.* at 138-39. [↑](#footnote-ref-179)
179. A PSD increment is the maximum allowable increase in the ambient concentration of a specific pollutant in an area that is in attainment of the NAAQS. Final EIS at 4-373. Significant deterioration of air quality is deemed to occur when the amount of additional new pollution exceeds the applicable PSD increment. *Id.* [↑](#footnote-ref-180)
180. Petitioners Rehearing Request at 161 (citing final EIS at 4-373 to 4-374, 4-548). [↑](#footnote-ref-181)
181. *Id.* [↑](#footnote-ref-182)
182. *Id.* [↑](#footnote-ref-183)
183. *See* *Healthy Gulf*, 107 F.4th at 1043 (EPA’s NAAQS set the level “requisite to protect the public health” while “allowing an adequate margin of safety”) (quoting 42 U.S.C. § 7409(b)(1)); *Transcon. Gas Pipe Line Co.*, 187 FERC ¶ 61,024 at P 74; *EMR Network*, 391 F.3d at 273 (finding agency properly relied outside agency expertise); *see Sierra Club v. La. Dep’t of Env’t Quality*, 100 F.4th 555, 567-68 (5th Cir. 2024) (affirming the use of SILs in cause and contribute analyses); *see also* Venture Global Rehearing Request at 32 (citing to *Sierra Club v. La. Dep’t of Env’t Quality*, 100 F.4th 555 and asserting that circuit courts have upheld the use of SILs in cause and contribute analyses). [↑](#footnote-ref-184)
184. The PSD increments were established to prevent air quality in clean areas, or attainment areas, from deteriorating to the level set by the NAAQS. Because the PSD increments established in 42 U.S.C. § 7473 and § 7476 and promulgated by EPA in 40 C.F.R. § 51.66(c)(1) were intended to consider clean air values while simultaneously allowing economic development in all but class I areas, the increments should not be used as a metric to measure impacts on human health. *See, e.g.*, EPA, *Prevention of Significant Air Quality Deterioration*, Final Rule, 39 Fed. Reg. 42,510, 42,510 (Dec. 5, 1974) (“The Administrator continues to feel that a Class II increment should be compatible with moderate, well-controlled development in a nationwide context, and that large-scale development should be permitted only in conjunction with a conscious decision to redesignate the area as Class III.”). [↑](#footnote-ref-185)
185. *Alaska Dep’t of Env’t Conservation v. EPA*, 540 U.S. 461, 470 (2004). [↑](#footnote-ref-186)
186. NAAQS are limits on the atmospheric concentration of criteria pollutants that are harmful to public health and the environment. *See* 42 U.S.C. § 7409; final EIS at 4-335 to 4-336. [↑](#footnote-ref-187)
187. Final supplemental EIS at 14. [↑](#footnote-ref-188)
188. *Id.* [↑](#footnote-ref-189)
189. *Id.*  [↑](#footnote-ref-190)
190. *See supra* section I.B.1. [↑](#footnote-ref-191)
191. Final supplemental EIS at 13. [↑](#footnote-ref-192)
192. *See supra* P 43 & notes 164-165. [↑](#footnote-ref-193)
193. Final supplemental EIS at 15-17. [↑](#footnote-ref-194)
194. *Id.* at 16-17 (“The EPA has indicated that facility emission impacts below the SILs would not cause ambient air quality impacts that would cause or contribute to exceedances of the NAAQS.”). [↑](#footnote-ref-195)
195. Final supplemental EIS at 16 (citing 40 C.F.R. pt. 51, app. W); *Tex. E. Transmission, LP*, 184 FERC ¶ 61,187, at P 59 (2023) (explaining that where modeling showed that ground-level concentrations of criteria pollutants would be below the SIL emissions would not cause or contribute to an exceedance of the NAAQS or PSD increments); *Golden Pass Pipeline LLC*, 181 FERC ¶ 61,050, at n.77 (2022) (stating that “a modeled result predicting that a proposed source’s maximum impact will be below the corresponding SIL value may generally be considered to be a sufficient demonstration that the proposed source will not cause or contribute to a violation of the applicable NAAQS or [PSD] increment”). [↑](#footnote-ref-196)
196. Final supplemental EIS at 17. [↑](#footnote-ref-197)
197. *See supra* note 122. [↑](#footnote-ref-198)
198. Authorization Order, 187 FERC ¶ 61,199 at PP 157-158, 183-189. [↑](#footnote-ref-199)
199. Final supplemental EIS at 17-19. [↑](#footnote-ref-200)
200. Venture Global Dec. 23, 2024 Response to Data Request at 12; final supplemental EIS at 17-19. [↑](#footnote-ref-201)
201. Final supplemental EIS at 18; *see also id.* at n.43 (“The background sources inventory included all sources within the area of impact plus 15 kilometers and all major sources within the area of impact plus 20 kilometers (in either case the area of impact would not extend beyond a 50 kilometer by 50 kilometer grid from the [CP2 LNG Project] due to the accuracy constraints of dispersion models).”); Venture Global Dec. 23, 2024 Response to Data Request at 13. [↑](#footnote-ref-202)
202. Final EISat 4-296 to 4-301; Venture Global Dec. 23, 2024 Response to Data Request at 12-14. [↑](#footnote-ref-203)
203. *See* CP2 LNG Aug. 1, 2022 *Supplemental Response to Environmental Information Request No. 3*, app. E (listing the Louisiana DEQ offsite sources). *See also* Venture Global Dec. 23, 2024 Response to Data Request at 11-14 (detailing the cumulative air quality modeling conducted for the CP2 LNG Project). [↑](#footnote-ref-204)
204. Final supplemental EIS at 19. Although we acknowledge that the final EIS predicted NAAQS exceedances for 1-hour NO2, the updated model’s prediction of no NAAQS exceedances is largely due to changes in Louisiana’s emissions inventory, as well as refinements of emission rates and sources. *See* Venture Global Dec. 23, 2024 Response to Data Request at 13 (stating that the updated modeling used for the supplemental EIS “used the most recent validated air quality monitor data and the most recent emissions inventory revisions provided by the LDEQ for facilities within the [radius of impact]” as well as updated emissions factors). [↑](#footnote-ref-205)
205. Final supplemental EIS at 19. [↑](#footnote-ref-206)
206. *See supra* note 122. [↑](#footnote-ref-207)
207. Petitioners Rehearing Request at 141 (citing *Healthy Gulf*, 107 F.4th 1033 and 40 C.F.R. § 1508.1(i)(3) (2024)); *id.* (citing Authorization Order, 187 FERC ¶ 61,199 at PP 196-197); *id.* at 146. [↑](#footnote-ref-208)
208. *Id.* at 142; *see also id.* at 143-44 (citing Authorization Order, 187 FERC ¶ 61,199 at P 186) (disagreeing with the Commission’s finding that it had no obligation to include mobile source emissions from other terminals because it would not change the analysis and argues that the Commission was required to take a hard look at cumulative effects). [↑](#footnote-ref-209)
209. *Id.* at 142 (citing Authorization Order, 187 FERC ¶ 61,199 at PP 184-188). [↑](#footnote-ref-210)
210. *Id.* at 142-43 (citing *Healthy Gulf*, 107 F.4th at 1043-44 and *Sabal Trail*, 867 F.3d at 1375 (citing *Calvert Cliffs’ Coord. Comm. v. Atomic Energy Comm’n*, 449 F.2d 1109, 1122–23 (D.C. Cir. 1971))). [↑](#footnote-ref-211)
211. *Id.* at 143. [↑](#footnote-ref-212)
212. *Id.* (citing Authorization Order, 187 FERC ¶ 61,199 at P 193). [↑](#footnote-ref-213)
213. *Id.* (citing *Rio Grande LNG, LLC*, 169 FERC ¶ 61,131 (2019), *order on reh’g*, 170 FERC ¶ 61,046, at P 55 (2020)); *id.* at 144-46 (detailing, in a table, the NOX emissions from mobile sources and comparing them as a percentage to stationary sources for nearby LNG facilities). [↑](#footnote-ref-214)
214. *Id.* at 144. [↑](#footnote-ref-215)
215. *Id.* (citing final EIS 4-369 to 4-370 and Authorization Order, 187 FERC ¶ 61,199 at P 187). [↑](#footnote-ref-216)
216. Final supplemental EIS at 16. [↑](#footnote-ref-217)
217. *See supra* note 122. [↑](#footnote-ref-218)
218. 42 U.S.C. § 4332(2)(C)(i). [↑](#footnote-ref-219)
219. We also note that the Commission consulted with the EPA and LDEQ throughout the preparation of the final supplemental EIS regarding the methodologies for various impact analyses—including air quality—and neither suggested that the Commission should analyze mobile source emissions more than it had already done. *Coal. for Advancement of Reg’l Transp. v. Fed. Highway Admin.,* 576 F. App’x 477, 491–92 (6th Cir. 2014) (citing *Tinicum Twp., Pa. v. U.S. Dep’t of Transp.*, 685 F.3d 288, 296 (3d Cir. 2012) (*Tinicum Twp.*)) (“Moreover, the record shows that defendants consulted with the EPA throughout the preparation of the Supplemental Final EIS regarding the methodologies for various impact analyses—including air quality—and at no time did EPA suggest that defendants should analyze “ultra-fine” particulates. ‘While additional data might enable a more detailed environmental analysis, NEPA does not require maximum detail. Rather, it requires agencies to make a series of line-drawing decisions based on the significance and usefulness of additional information.’”). [↑](#footnote-ref-220)
220. These assumptions include calculating emissions based on the upper limit of ships that the applicant can utilize, which itself is based on: (1) how much LNG the applicant is actually able to produce, and (2) how many ships may traverse the waterway based on the Waterway Suitability Assessment.  Moreover, vessel emissions calculations involve a confluence of additional assumptions, including distance, the size and type of vessel, and the changing nature of the LNG ship fleet.  *See* final EIS at 4-361 to 4-364 (detailing assumptions including main engine size of vessels; length of time for maneuvering, holding, and hoteling; and vessel power requirements); *see also* Venture Global Dec. 23, 2024 Response to Data Request att. Air-3-2 (describing assumptions for various CP1 LNG vessels including, their activities, power requirements, and emissions).  [↑](#footnote-ref-221)
221. AERMOD is an air quality modeling system preferred by the EPA. EPA, *Support Center for Regulatory Atmospheric Modeling (SCRAM) -Air Quality Dispersion Modeling-Preferred and Recommended Models*, https://www.epa.gov/scram/air-quality-dispersion-modeling-preferred-and-recommended-models. AERMOD meets the EPA’s modeling guidance in Appendix W to 40 CFR part 51 and is a steady state gaussian plume air model used to estimate concentrations due to air emissions on receptors up to 50 km from the source.  EPA, *AERMOD Implementation Guide* (Nov. 2024), available at https://gaftp.epa.gov/aqmg/SCRAM/models/preferred/aermod/aermod\_implementation\_guide.pdf. [↑](#footnote-ref-222)
222. The two additional terminals were Texas LNG and Annova LNG. [↑](#footnote-ref-223)
223. *Rio Grande LNG, LLC*, 170 FERC ¶ 61,046 at P 50. [↑](#footnote-ref-224)
224. Rio Grande LNG, final EIS, Docket Nos. CP16-454-000, et al., app. P at P-1 (issued Apr. 26, 2019). [↑](#footnote-ref-225)
225. *See supra* note 220; *Citizens for Smart Growth v. Sec’y of Dep’t of Transp.*, 669 F.3d 1203, 1215 (11th Cir. 2012) (citing *City of Oxford v. FAA*, 428 F.3d 1346, 1356 (11th Cir. 2005) (“agencies cannot be ‘forced to analyze the environmental impact of a project, the parameters and specifics of which would be a mere guess.”). [↑](#footnote-ref-226)
226. 90 Fed. Reg. 10,610 (Feb. 25, 2025). [↑](#footnote-ref-227)
227. Final supplemental EIS at 14. [↑](#footnote-ref-228)
228. *Id.* at 17-19. [↑](#footnote-ref-229)
229. Authorization Order, 187 FERC ¶ 61,199 at P 185 (citing LDEQ, Air Emissions Inventory, https://deq.louisiana.gov/index.cfm?md=pagebuilder&tmp=home&‌pid=EmissionsInventory (last updated Dec. 26, 2024)). We note that the inclusion of mobile sources from the CP1 LNG terminal does not mean that the Commission, or any other agency only included mobile sources from facilities under common ownership. Petitioners Rehearing Request at 143. The CP2 LNG Project will be built next to the CP1 LNG terminal, which tends to explain its inclusion in the air quality models submitted to LDEQ. [↑](#footnote-ref-230)
230. 40 C.F.R. part 51, Appendix W – Guideline on Air Quality Models. *See also* Authorization Order, 187 FERC ¶ 61,199 at P 185 & n.450; *Utah Physicians for a Healthy Env’t v. Diesel Power Gear, LLC*, 21 F.4th 1229, 1235 (10th Cir. 2021) (“As a general rule, the States’ principal responsibility is stationary sources like factories and power plants (governed by Title I of the CAA), while the EPA has primary responsibility over mobile sources (governed by Title II of the Act).”). [↑](#footnote-ref-231)
231. *Millennium Pipeline Co., L.L.C.*, 145 FERC ¶ 61,007, at P 50 (2013). Notably, emissions from mobile sources are covered by the state monitoring program for increases in “background” emissions. *See* 40 CFR parts 50, 51, 53, and 58. With approval from the EPA, states may adjust their implementation plans for permitting if an area/pollutant in a region exceeded attainment thresholds (i.e., nonattainment). Therefore, Louisiana could implement measures to bring its air quality into attainment if future emissions, including those from mobile sources, exceeded attainment thresholds. *Sierra Club v. EPA*, 47 F.4th 738, 740 (D.C. Cir. 2022) (citing 42 U.S.C. §§ 7502(c)(1), (6), 7407(d)(3)(E), 7505a(a)) (“SIPs for nonattainment areas must include emission reduction measures designed to bring the areas into compliance with the NAAQS. Once EPA approves a nonattainment designation for a particular area, it can be redesignated to attainment only upon satisfaction of five statutory conditions, including approval by the agency of a ‘maintenance plan’ assuring that the area will continue to meet the NAAQS for at least 10 years.”). [↑](#footnote-ref-232)
232. *See supra* P 43 & notes 164-165; *City of Bos.*, 897 F.3d at 255 (upholding the Commission’s reliance on conclusions of another agency); *EMR Network*, 391 F.3d at 273 (finding agency properly relied outside agency expertise); *Saguaro Connector Pipeline, LLC*, 188 FERC ¶ 61,029, at P 114 (2024); *Commonwealth LNG, LLC*, 183 FERC ¶ 61,173, at P 66 (2023); *Millennium Pipeline Co.*, 161 FERC ¶ 61,229 at P 132; *see also* *Algonquin Gas Transmission, LLC*, 154 FERC ¶ 61,048, at P 203 (2016) (“[T]he Commission is entitled to rely on an agency’s expertise. The Commission’s capability to assess different types of environmental impacts, while extensive, is not infinite. Accordingly, we routinely rely on the expertise of other agencies to evaluate the environmental or safety impacts of proposed projects, provided we are satisfied as to their competence and the validity of their basic data and analysis.”). [↑](#footnote-ref-233)
233. *Hillsdale Env’t Loss Prevention, Inc. v. U.S. Army Corps of Eng’rs*, 702 F.3d 1156, 1178 (10th Cir. 2012) (“An agency has discretion to choose a methodology, so long as it explains why it is reliable.”). [↑](#footnote-ref-234)
234. *Duncan’s Point Lot Owners Ass’n, Inc. v. FERC,* 522 F.3d 371, 376 (D.C. Cir. 2008) (quoting *Coal. on Sensible Transp., Inc. v. Dole*, 826 F.2d 60, 66 (D.C. Cir. 1987)) (citations omitted). [↑](#footnote-ref-235)
235. *Tinicum Twp.*, 685 F.3d at 296 (citing *Coal. on Sensible Transp. Inc. v. Dole,* 826 F.2d at 66). In these circumstances, the number and importance of the many assumptions that the Commission would need to make to develop a useful emissions estimate goes well beyond the sort of “reasonable forecasting and speculation” that NEPA requires. *Sierra Club v. U.S. Dep’t of Energy*, 867 F.3d 189, 198 (D.C. Cir. 2017) (citing *Del. Riverkeeper Network v. FERC*, 713 F.3d 1304, 1310 (D.C. Cir. 2014) (“‘*reasonable*’being the operative word”)); *see also Tenn. Gas Pipeline Co.*, 187 FERC ¶ 61,136, at P 56 (2024) (declining to accept alternative calculations due to uncertain variables). [↑](#footnote-ref-236)
236. LDEQ, Louisiana Guidance for Air Permitting Actions at 147, https://www.deq.louisiana.gov/assets/docs/Air/Air\_Permit\_Applications/r06\_LouisianaGuidanceforAirPermittingActions.pdf (Dec. 12, 2024) (“For those engines that are located on barges or other marine vessels, these engines should not be represented in air permits at all. These engines are not subject to any state air permitting requirements. These engines would either be classified as nonroad engines or as marine engines depending on their use and/or method of installation. Both engine types are regulated by federal regulations that have not been delegated to LDEQ.”). [↑](#footnote-ref-237)
237. *Diné Citizens*, 59 F.4th at 1046 (“[c]omparison to standards set by administrative bodies to determine whether healthy levels of pollutants would be exceeded constitutes a hard look at the health impacts”); *see also* *Coal. for Advancement of Reg’l Transp. v. Fed. Highway Admin.,* 576 F. App’x at 491–92 (upholding NEPA analysis that omitted pollutant that was not regulated under NAAQS and recognizing that NEPA’s requirements are per se satisfied by demonstrating conformity with NAAQS); *Sierra Club v. Fed. Highway Admin.*, 715 F. Supp. 2d 721, 741 (S.D. Tex. 2010), *aff’d*, 435 F. App’x 368 (5th Cir. 2011) (“The defendants’ decision to consider air pollution issues through the same framework used by the EPA to enforce the Clean Air Act cannot be considered arbitrary or capricious.”); *Mountain Valley Pipeline, LLC*, 172 FERC ¶ 61,261, at P 24 (2020) (finding it appropriate to rely on NAAQS). [↑](#footnote-ref-238)
238. *See* *Rio Grande LNG, LLC*, 170 FERC ¶ 61,046 at P 49 (noting that the Commission presented air quality impacts modeling that extended beyond the federal and state required analyses by examining emissions from both mobile sources and terminal operations, and the cumulative impacts modeling examining mobile and operational emissions from nearby LNG terminals). [↑](#footnote-ref-239)
239. Final supplemental EIS at 18. [↑](#footnote-ref-240)
240. *Id.* [↑](#footnote-ref-241)
241. *Id*. at 17-19. [↑](#footnote-ref-242)
242. *Id.* at 18 & n.43. [↑](#footnote-ref-243)
243. Final EIS at 4-552 to 4-553. These sources were not removed from the modeling performed for the final supplemental EIS. [↑](#footnote-ref-244)
244. Final supplemental EIS at 19. [↑](#footnote-ref-245)
245. Petitioners Rehearing Request at 146. [↑](#footnote-ref-246)
246. *Id.* [↑](#footnote-ref-247)
247. *Id.* at 146-47. [↑](#footnote-ref-248)
248. Final supplemental EIS at 17-19; Commonwealth LNG, draft supplemental EIS, Docket No. CP19-502-000, et al., at 15-19 (issued Feb. 14, 2025). [↑](#footnote-ref-249)
249. Venture Global Apr. 21, 2025 Response to Comments at 39 (“Moreover, stack heights and diameters and other key characteristics of the turbines, flares, and other facility sources differ at each facility and the locations are different—all of which contribute to different modeling results.”). [↑](#footnote-ref-250)
250. Final EIS at 4-365 (citing La. Admin. Code tit. 33, part III § 509.J). [↑](#footnote-ref-251)
251. *Id.* at 4-366. [↑](#footnote-ref-252)
252. *Id.* [↑](#footnote-ref-253)
253. *Id.* [↑](#footnote-ref-254)
254. *Id.* [↑](#footnote-ref-255)
255. *Id.* [↑](#footnote-ref-256)
256. *Id.* at 2-5. [↑](#footnote-ref-257)
257. *Id.* at 4-366. [↑](#footnote-ref-258)
258. *Id.* 4-359, Table 4.12.1-12 (908.2 tons per year (tpy) of NOx for the CP2 LNG Project); Commonwealth LNG, final EIS, Docket No. CP19-502-000, et al., at 4-224, Table 4.11.1-7 (issued Sept. 9, 2022) (554 tpy of NOx for Commonwealth LNG). [↑](#footnote-ref-259)
259. *Fla. Se. Connection, LLC*, 163 FERC ¶ 61,158, at P 42 (2018); CEQ, *Considering Cumulative Effects Under the Nat’l Envt’l Pol’y Act* at 12-16 (Jan. 1997); *see also* final EIS at 4-506 to 4-507. [↑](#footnote-ref-260)
260. Final EIS at 4-508, Table 4.14-1. [↑](#footnote-ref-261)
261. *Id.* at 4-552. [↑](#footnote-ref-262)
262. *Id.*; *see also* final supplemental EIS at 18 & n.43 (“The background sources inventory included all sources within the area of impact plus 15 kilometers and all major sources within the area of impact plus 20 kilometers (in either case the area of impact would not extend beyond a 50-kilometer by 50-kilometer grid from the LNG Terminal due to the accuracy constraints of dispersion models).”). [↑](#footnote-ref-263)
263. Commonwealth LNG, final EIS, Docket No. CP19-502-000, et al., at 4-229 to 4-231, 4-345 (Sept. 9, 2022) (using 50 km for NO2). [↑](#footnote-ref-264)
264. *Saguaro Connector Pipeline, LLC*, 188 FERC ¶ 61,029 at P 104; *Tex. E. Transmission, LP*, 131 FERC ¶ 61,164, at P 67 (2010). [↑](#footnote-ref-265)
265. *Algonquin Gas Transmission, LLC*, 158 FERC ¶ 61,061, at P 103 (2017); *Algonquin Gas Transmission, LLC*, 154 FERC ¶ 61,048 at P 129. [↑](#footnote-ref-266)
266. *Kleppe v. Sierra Club*, 427 U.S. 390, 413-14 (1976) (*Kleppe*); *see also Neighbors of Cuddy Mountain v. Alexander*, 303 F.3d 1059, 1071 & n.6 (9th Cir. 2002) (“we defer to the agency’s determination of the geographic scope of its analysis under NEPA”). [↑](#footnote-ref-267)
267. The Commission is not required to consider cumulative effects or impacts that are outside the geographic scope of a project*. Sierra Club v. FERC*, 38 F.4th 220, 234 (D.C. Cir. 2022) (deferring to the Commission’s technical and scientific expertise where the Commission omitted certain projects outside the geographic scope of analysis); *Columbia Gas Transmission, LLC*, 170 FERC ¶ 61,246, at P 33 (2020) (stating that certain issues were outside the geographic scope of the proposed project and thus correctly not part of the cumulative impacts analysis); *Fla. Se. Connection, LLC*, 163 FERC ¶ 61,158 at P 43 (“Other projects and actions located outside a geographic scope are generally not considered because their potential to contribute to a cumulative impact diminishes with increasing distance from the proposed project. The EA appropriately omits them from the cumulative impact analysis.”). [↑](#footnote-ref-268)
268. Final EIS at 1-17; final supplemental EIS at 20. [↑](#footnote-ref-269)
269. Final EIS at 4-509. The three additional projects included in the cumulative impacts table were the Belle Savanne, Carlyss Place, and Graywood residential subdivision projects. *See* *id.* at 4-516 to 4-517. [↑](#footnote-ref-270)
270. *Id.* at 4-509. [↑](#footnote-ref-271)
271. *See* Petitioners’ Rehearing Request at 161-62 (arguing that the Commission’s analysis failed to account for the reasonably foreseeable and cumulative air pollution impacts, which it asserts affects the Commission’s environmental justice analysis). [↑](#footnote-ref-272)
272. *Id.* (citing EPA, *Primary Nat’l Ambient Air Quality Standards for Nitrogen Dioxide*, 75 Fed. Reg. 6474, 6480 (Feb. 9, 2010)); *see also id.* at 158-59 (maintaining that although NAAQS for ozone is 70 parts per billion, EPA has recognized that ozone levels as low as 60 parts per billion can have adverse impacts). [↑](#footnote-ref-273)
273. *Id.* at 84; *see also id*. (explaining that intervenor Travis Dardar was forced to relocate due to health consequences and the CP2 LNG Project); *see also* *id.* at 156-59, 162 (arguing that the Commission failed to take a hard look at the impacts to air quality in environmental justice communities). [↑](#footnote-ref-274)
274. Final EIS at 4-334; final supplemental EIS at 11. [↑](#footnote-ref-275)
275. Final EIS at 4-334; final supplemental EIS at 11. [↑](#footnote-ref-276)
276. Final EIS at 4-334; final supplemental EIS at 11. [↑](#footnote-ref-277)
277. Final EIS at 4-334; final supplemental EIS at 12. [↑](#footnote-ref-278)
278. Final EIS at 4-334; final supplemental EIS at 12. [↑](#footnote-ref-279)
279. *See Algonquin Gas Transmission, LLC*, 154 FERC ¶ 61,048 at P 182. [↑](#footnote-ref-280)
280. *See id.* [↑](#footnote-ref-281)
281. EPA, *Review of the Primary Nat’l Ambient Air Quality Standards for Oxides of Nitrogen*, 83 Fed. Reg. 17226, 17230-17274 (Apr. 18, 2018) (codified at 40 C.F.R. §§ 50 *et seq.* (2024)). [↑](#footnote-ref-282)
282. *See Millennium Pipeline Co.*, 161 FERC ¶ 61,229 at P 135 (citing 42 U.S.C. § 7409). [↑](#footnote-ref-283)
283. *See id.*  [↑](#footnote-ref-284)
284. Final supplemental EIS at 12-13 (citing La. Admin. Code tit. 33, Part III, §§ 711). [↑](#footnote-ref-285)
285. Final EIS at 5-21 to 5-22; final supplemental EIS at 15-20. [↑](#footnote-ref-286)
286. *Cmtys. Against Runway Expansion, Inc. v. F.A.A.*, 355 F.3d 678, 689 (D.C. Cir. 2004). *See Sierra Club v. FERC*, 38 F.4th at 228 (holding that “the Commission’s judgment is supported by substantial evidence and that the methodology used in arriving at that judgment is either consistent with past practice or adequately justified”). [↑](#footnote-ref-287)
287. *Sabal Trail*, 867 F.3d at 1370, n.7; *Diné Citizens*, 59 F.4th at 1046 (finding the Bureau of Land Management appropriately relied on the NAAQS in its cumulative effects analysis for oil and gas drilling permit applications); *Lowman*, 83 F.4th at 1364–66 (upholding the Federal Aviation Administration’s reliance on its regulations defining a significance threshold for air quality as one where the “action would cause pollutant concentrations to exceed one or more of the NAAQS”). [↑](#footnote-ref-288)
288. *Sabal Trail*, 867 F.3d at 1370, n.7. [↑](#footnote-ref-289)
289. *See supra* P 43 & notes 164-165, 183. [↑](#footnote-ref-290)
290. Final EIS at 4-327. [↑](#footnote-ref-291)
291. *Id.* [↑](#footnote-ref-292)
292. EPA, *Human Health Risk Assessment Protocol for Hazardous Waste Combustion Facilities*, EPA530-D-05-006 (2005) (Health Risk Assessment Protocol). The Human Health Risk Assessment Protocol incorporates risk assessment guidance and methods from the EPA, as well as the experience EPA has gained through conducting and reviewing combustion risk assessments, to provide a comprehensive method of assessing human health risk from combustion emissions. It provides a standardized methodology for conducting combustion risk assessments and, therefore, was chosen as the most appropriate guidance to follow. [↑](#footnote-ref-293)
293. Lucy Fraiser Toxicology Consulting LLC, *CP2 LNG Terminal & Mobile Sources Human Health Risk Assessment*, June 30, 2023 (Health Risk Assessment). *See* final EIS, app. O. [↑](#footnote-ref-294)
294. Final EIS at 5-21. [↑](#footnote-ref-295)
295. *Id.*; *see* Authorization Order, 187 FERC ¶ 61,199 at PP 140-142 (explaining EPA’s risk management objectives); *see also* EPA, Office of Emergency and Remedial Response, Risk Assessment Guidance for Superfund Volume I: Human Health Evaluation Manual (Part A) Interim Final (December 1989) at 8-1 to 8-28, https://www.epa.gov/system/files/documents/2024-10/rags\_a\_508.pdf (outlining risk characterization and hazard quotients). [↑](#footnote-ref-296)
296. *See supra* P 43 & notes 164-165; *EMR Network*, 391 F.3d at 273 (finding agency properly relied outside agency expertise); *Saguaro Connector Pipeline, LLC*, 188 FERC ¶ 61,029 at P 114. [↑](#footnote-ref-297)
297. *Nat. Res. Def. Council v. U.S. Nuclear Regul. Comm’n*, 879 F.3d 1202, 1214 (D.C. Cir. 2018) (citing *Theodore Roosevelt Conservation P’ship v. Salazar*, 616 F.3d 497, 515–17 (D.C. Cir. 2010)). [↑](#footnote-ref-298)
298. *Id.* at 4-327 to 4-328; final supplemental EIS at 15-20. [↑](#footnote-ref-299)
299. Petitioners Rehearing Request at 159. [↑](#footnote-ref-300)
300. *Id.* at 159-60. [↑](#footnote-ref-301)
301. *Transcon. Gas Pipe Line Co.*, 185 FERC ¶ 61,133, at P 69 (2023). [↑](#footnote-ref-302)
302. Final EIS at 4-337 to 4-338, Table 4.12.1-2; Authorization Order, 187 FERC ¶ 61,199 at P 140. [↑](#footnote-ref-303)
303. Final supplemental EIS at 15-20. [↑](#footnote-ref-304)
304. Authorization Order, 187 FERC ¶ 61,199 at P 140 (citing final EIS at 4-324). [↑](#footnote-ref-305)
305. Petitioners Rehearing Request at 160 (citing final EIS at 4-324). [↑](#footnote-ref-306)
306. *Id.* [↑](#footnote-ref-307)
307. *Id.* at 160-61 (citing final EIS at 4-324 to 4-325); *but see supra* note 76 (explaining that Executive Orders 12898, 13985, and 14096 have been revoked). [↑](#footnote-ref-308)
308. *See supra* note 76. [↑](#footnote-ref-309)
309. Final EIS at 4-333 to 4-346. [↑](#footnote-ref-310)
310. *Transcon. Gas Pipe Line Co.*, 187 FERC ¶ 61,024 at n.236; *Algonquin Gas Transmission, LLC*, 154 FERC ¶ 61,048 at P 182 (stating that a health impact assessment would be redundant). We further note that a health impact assessment is not required by NEPA. *Alaska Gasline Dev. Corp.*, 172 FERC ¶ 61,214, at P 116 (2020). [↑](#footnote-ref-311)
311. *Algonquin Gas Transmission, LLC*, 154 FERC ¶ 61,048 at P 182. [↑](#footnote-ref-312)
312. *Id.* [↑](#footnote-ref-313)
313. *Id.* (in response to substantially similar arguments, finding “no basis to duplicate work already performed under EPA rulemakings that were subject to public comment”). [↑](#footnote-ref-314)
314. Health Risk Assessment Protocol; *see supra* note 292. [↑](#footnote-ref-315)
315. *See* Health Risk Assessment; *see supra* note 293. *See* final EIS, app. O. [↑](#footnote-ref-316)
316. Final EIS at 4-324, 4-374 to 4-376; *see also id.* app. O. [↑](#footnote-ref-317)
317. *Id.* app. O at 3-7 to 3-9, 3-18 to 3-22. [↑](#footnote-ref-318)
318. *Id.* at 4-549. [↑](#footnote-ref-319)
319. Petitioners Rehearing Request at 147 (citing final EIS at 2-8, 4-356, 4-358). [↑](#footnote-ref-320)
320. *Id.* (citing *Del. Riverkeeper Network v. FERC*, 753 F.3d 1304, 1310 (D.C. Cir. 2014) (*Del. Riverkeeper*) (quoting *Scientists’ Inst. for Pub. Info., Inc. v. Atomic Energy Comm’n*, 481 F.2d 1079, 1092 (D.C. Cir. 1973) (*Scientists’ Inst.*)). We note that, elsewhere in their rehearing request, Petitioners argue that the CP2 LNG Project will not even have enough offtake agreements in place to proceed to Phase II of construction (i.e., 10 to 14 MTPA). Here, Petitioners insinuate that CP2 LNG will be operating at peak achievable capacity of 28 MTPA. These inconsistent positions undermine Petitioners’ arguments. [↑](#footnote-ref-321)
321. Authorization Order, 187 FERC ¶ 61,199 at P 5 [↑](#footnote-ref-322)
322. Final EIS at 2-8. [↑](#footnote-ref-323)
323. *Id.* at 4-356, tables 4.12.1-14 (summarizing the estimated highest annual emissions associated with: (1) LNG carriers and tugboats maneuvering from the turning basin to the CP2 LNG Project pier; and (2) LNG carriers hoteling at the pier and tugboats idling nearby) and 4.12.15 (summarizing estimated highest annual emissions associated with the following other operations of marine vessels: (1) LNG carriers and assist tugboats transiting the Calcasieu Ship Channel and operating in state waters; and (2) pilot boats operating in state waters). [↑](#footnote-ref-324)
324. *Id.* at 4-356; *see also* *id.* at 2-8 (explaining that the marine berths on Monkey Island would accommodate LNG carriers ranging in size from 120,000 to 210,000 m3). [↑](#footnote-ref-325)
325. Converting 28 MTPA into cubic meters per year results in approximately 62,720,000 m3 per year assuming an average LNG density of 446 kilograms per cubic meter (kg/m3). Typical range of LNG densities within carriers is between 420 through 470 kg/m3. Assuming 412 carrier calls per year, the average ship size required would be 152,223 m3 which is less than the average carrier size. Therefore, 412 carrier calls per year would be more than sufficient under peak operating conditions. [↑](#footnote-ref-326)
326. Final EIS at 4-361 to 4-364. [↑](#footnote-ref-327)
327. Petitioners Rehearing Request at 148. [↑](#footnote-ref-328)
328. *Id.* [↑](#footnote-ref-329)
329. *Id.* (citing Magnolia LNG, LLC, Notice of Application, 83 Fed. Reg. 63849 (Dec. 12, 2018); Golden Pass LNG Terminal LLC, Notice of Application, 85 Fed. Reg. 34187 (June 3, 2020)). [↑](#footnote-ref-330)
330. *Id.* [↑](#footnote-ref-331)
331. *Id.* at 148-49. [↑](#footnote-ref-332)
332. *Nat’l Wildlife Fed’n v. FERC*, 912 F.2d 1471, 1478 (D.C. Cir. 1990) (*Nat’l Wildlife*); *Kleppe*, 427 U.S. at 410. [↑](#footnote-ref-333)
333. 912 F.2d at 1477-79. [↑](#footnote-ref-334)
334. Petitioners Rehearing Request at 148; *see, e.g.,* *Freeport LNG Dev., L.P.*, 180 FERC ¶ 61,055 (2022) (amending authorization under NGA section 3 to reflect uprated capacity); *Sabine Pass Liquefaction, LLC*, 177 FERC ¶ 61,030 (2021) (same). [↑](#footnote-ref-335)
335. Petitioners Rehearing Request at 149-50. [↑](#footnote-ref-336)
336. *Id.* at 149-51 (citing EPA March 13, 2023 Comments to Draft EIS at 3 and EPA September 1, 2023 Comments to Final EIS). [↑](#footnote-ref-337)
337. *Id.* at 150-51 (citing *Cabinet Mountains Wilderness/Scothman’s Peak Grizzly Bears v. Peterson*, 685 F.2d 678, 681-82 (D.C. Cir. 1982) and *O’Reilly v. U.S. Army Corps of Eng’rs*, 477 F.3d 225, 234 (5th Cir. 2007)). [↑](#footnote-ref-338)
338. *Id.* at 151 (citing Authorization Order, 187 FERC ¶ 61,199 at P 118). [↑](#footnote-ref-339)
339. Authorization Order, 187 FERC ¶ 61,199 at P 115 (citing EPA September 1, 2023 Comments at 2). [↑](#footnote-ref-340)
340. *Id.* P 117 (citing final EIS at 3-355 to 3-356). [↑](#footnote-ref-341)
341. *Id.* P 118 (citing final EIS at 1-14). [↑](#footnote-ref-342)
342. *Id.* envtl cond. 6. For more information regarding the Air Quality Plan, *see* *id.* P 118 and final EIS 1-14, 4-323 to 4-324, 4-355 to 4-356, 4-551, and 5-21. [↑](#footnote-ref-343)
343. *Tex. LNG Brownsville LLC*, 183 FERC ¶ 61,047, at P 70 (2023), *vacated on other grounds*, *City of Port Isabel*, 111 F.4th 1198; *Rio Grande LNG, LLC*, 183 FERC ¶ 61,046, at P 142 (2023), *vacated on other grounds*, *City of Port Isabel*, 111 F.4th 1198; *see also* *Transcon. Gas Pipe Line Co.*, 160 FERC ¶ 61,042, at P 10 (2017) (requiring applicant to monitor air quality and develop a plan of action to correct any violation of the NAAQS). [↑](#footnote-ref-344)
344. In fact, “NEPA not only does not require agencies to discuss any particular mitigation plans that they might put in place, it does not require agencies—or third parties—to effect any.” *Citizens Against Burlington, Inc. v. Busey*, 938 F.2d 190, 206 (D.C. Cir. 1991) (citing *Methow Valley*, 490 U.S. at 352-53 & n.16). Accordingly, the Supreme Court has held that “it would be inconsistent with NEPA’s reliance on procedural mechanisms—as opposed to substantive, result-based standards—to demand the presence of a fully developed plan that will mitigate environmental harm before an agency can act.” *Methow Valley*, 490 U.S. at 353. [↑](#footnote-ref-345)
345. Petitioners Rehearing Request at 151. [↑](#footnote-ref-346)
346. Final EIS at 4-346 to 4-356. As discussed above, the Commission appropriately relied on state-submitted air modeling, which excluded mobile sources. *See supra* section I.B.1 & PP 61-63. The Commission, however, appropriately included the cumulative impacts from construction activities of nearby projects, including CP1 LNG, Driftwood LNG, the Lake Charles Liquefaction Project, the Louisiana Connector Project, and the Hackberry Storage Project.  *See* final EIS at 4-511 to 4-517 (listing, in total, 24 projects and reasonably foreseeable future action with the potential to contribute to cumulative impacts). [↑](#footnote-ref-347)
347. Final EIS at 4-354. [↑](#footnote-ref-348)
348. *Id.* [↑](#footnote-ref-349)
349. *Id.* [↑](#footnote-ref-350)
350. *Id.* at 4-348. [↑](#footnote-ref-351)
351. *Id.* at 4-354. [↑](#footnote-ref-352)
352. *Id.* at 4-354 to 4-356. [↑](#footnote-ref-353)
353. *Id.* at 4-551. [↑](#footnote-ref-354)
354. Petitioners Rehearing Request at 154. [↑](#footnote-ref-355)
355. *Id.* at 156. [↑](#footnote-ref-356)
356. *See supra* note 122. [↑](#footnote-ref-357)
357. We note that just because Commission staff did not issue a data request regarding the most recent air modeling does not mean the information was not independently evaluated. [↑](#footnote-ref-358)
358. 18 C.F.R. §§ 385.2005(a)(2)(ii), (b)(1) (2024); *see also* *id*. § 157.6(a)(4)(i) (2024) (“The signature on a filing constitutes a certification that: The signer has read the filing signed and knows the contents of the paper copies and electronic filing; the paper copies contain the same information as contained in the electronic filing; the contents as stated in the copies and in the electronic filing are true to the best knowledge and belief of the signer; and the signer possesses full power and authority to sign the filing.”). [↑](#footnote-ref-359)
359. *Trunkline Gas Co.*, 179 FERC ¶ 61,086, at P 11 (2022); *Mich. Pub. Power Agency v. FERC*, 963 F.2d 1574, 1580 (D.C. Cir. 1992) (“We see no grounds to require [the Commission] to allocate its limited resources to full-fledged investigation of the . . . claims, which were primarily hypotheticals with no evident basis in fact or experience. Administrative agencies are afforded wide deference in predicting the likelihood of future events.”). [↑](#footnote-ref-360)
360. *Am. Whitewater v. FERC*, 125 F.4th 1139, 1153 (D.C. Cir. 2025) (quoting *Honeywell Int’l, Inc. v. EPA*, 372 F.3d 441, 447 (D.C. Cir. 2004)) (stating that absent evidence to the contrary, the Commission is entitled to rely on representations by parties who are uniquely in a position to know the relevant information); *Mich. Consol. Gas Co. v. FERC*, 883 F.2d 117, 124 (D.C. Cir. 1989) (“That evidence comes from a single source does not alone make it either invalid or insubstantial.”). Courts generally defer to Commission expertise in assessing the reliability of record evidence. *Ind. Mun. Power Agency v. FERC*, 56 F.3d 247, 255 (D.C. Cir. 1995); *Transcon. Gas Pipe Line Co.*, 182 FERC ¶ 61,148, at P 61 (2023) (quoting *Marsh*, 490 U.S. at 377) (An agency’s decision concerning the evidence before it “involves primarily issues of fact” and “because analysis of the relevant documents ‘requires a high level of technical expertise,’ [courts] defer to ‘the informed discretion of the responsible federal agency.”’); *see also* *Freeport LNG Dev., L.P.*, 182 FERC ¶ 61,112, at P 7 & n.14 (2023) (stating that the Commission may rely on statement from applicants in the absence of contradicting evidence). [↑](#footnote-ref-361)
361. We note that no environmental recommendations were proposed in the final supplemental EIS. [↑](#footnote-ref-362)
362. Authorization Order, 187 FERC ¶ 61,199 at P 198. [↑](#footnote-ref-363)
363. Although the analysis in the final EIS and final supplemental EIS provides substantial evidence for our conclusions in this order, it is the order itself that serves as our record of decision. The order supersedes any inconsistent discussion, analysis, or finding in the final EIS and final supplemental EIS. [↑](#footnote-ref-364)
364. Authorization Order, 187 FERC ¶ 61,199 at P 199. [↑](#footnote-ref-365)
365. *Id.* P 200. [↑](#footnote-ref-366)
366. Venture Global Rehearing Request at 48-49 (citing Rehearing Order, 189 FERC ¶ 61,148 at P 186). [↑](#footnote-ref-367)
367. *See id.* at 49-50 (citing Order Denying Stay, 189 FERC ¶ 61,005 at P 23) (asserting that the Commission’s action is inconsistent with its statement in the Order Denying Stay that halting construction would harm Venture Global and its customers); *see also id.* at 50-51 (asserting that the Commission’s action is inconsistent with its statement in the Rehearing Order that the Authorization Order remains in full force and effect). [↑](#footnote-ref-368)
368. *Id.* at 51 (asserting that the Commission failed to provide a NEPA or other legal justification). [↑](#footnote-ref-369)
369. *Id.* at 51-52 (referring to Implementation Plans pending before the Commission). [↑](#footnote-ref-370)
370. *Id.* at 52. [↑](#footnote-ref-371)
371. *Id.* at 52-53 (citing final EIS at 4-263, 4-274 to 4-276) (explaining that the total estimated construction cost would exceed $10 billion, that construction will support tens of thousands of jobs across 33 states (including more than 7,400 on-site construction workers during peak construction), and that the Projects will result in the payment of more than $4 billion in taxes to Cameron Parish during its operations). [↑](#footnote-ref-372)
372. *Id.* at 54 (citing *Limiting Authorizations to Proceed with Constr. Activities Pending Rehearing*, Order No. 871-B, 175 FERC ¶ 61,098 (2021)). [↑](#footnote-ref-373)
373. *Id.* at 55 (citing Order No. 871-B, 175 FERC ¶ 61,098 at P 26). [↑](#footnote-ref-374)
374. *Id.* at 55-56 (citing Order No. 871-B, 175 FERC ¶ 61,098 at P 49). [↑](#footnote-ref-375)
375. *Id.* at 56. [↑](#footnote-ref-376)
376. *Id.* (citing *Stop H-3 Ass’n v. Dole*, 870 F.2d 1419, 1426-27 (9th Cir. 1989) (*Stop H-3*)) (stating that “there is no authority for the proposition that the decision to prepare a Supplemental EIS after a Final EIS has been approved requires that work outside the area affected by the Supplemental EIS be halted. . . . NEPA permits work on those parts of a project unrelated to a Supplemental EIS to go forward when the project is already the subject of an adequate Final EIS.”). As discussed below, we find Venture Global’s reliance on *Stop H-3* misplaced. *See infra* note 390. [↑](#footnote-ref-377)
377. Venture Global Rehearing Request at 57. [↑](#footnote-ref-378)
378. *Id.* [↑](#footnote-ref-379)
379. *Id.* [↑](#footnote-ref-380)
380. *Id.* at 53; *see also* *id.* at 51 (citing pleadings in *City of Port Isabel* wherein the Commission made arguments against vacatur due to NEPA violations). [↑](#footnote-ref-381)
381. *Id.* at 53 (citing Rio Grande LNG, Notice of Intent to Prepare a Supplemental EIS, Docket No. CP16-454-000, et al. (issued Sept. 13, 2024) and Texas LNG, Notice of Intent to Prepare a Supplemental EIS, Docket No. CP16-116-000, et al. (issued Sept. 13, 2024)). As explained above, the D.C. Circuit in *City of Port Isabel* has since granted rehearing and amended its opinion to remand without vacatur. [↑](#footnote-ref-382)
382. *Id.* at 53-54 (citing Commonwealth LNG, Notice of Schedule for the Preparation of a Supplemental EIS, Docket No. CP19-502-000, at al., (issued Nov. 27, 2024)). [↑](#footnote-ref-383)
383. *Id.* at 54. [↑](#footnote-ref-384)
384. *See supra* note 122. [↑](#footnote-ref-385)
385. Authorization Order, 187 FERC ¶ 61,199 at envtl. cond. 10 (requiring Venture Global file documentation with the Commission that it has received all applicable authorizations required under federal law and receive written authorization before commencing construction of project facilities). [↑](#footnote-ref-386)
386. Venture Global Apr. 21, 2025 Response to Comments at 10 (stating that the Title V and PSD permits for the CP2 LNG Project and Moss Lake Compressor Station are still under review by the LDEQ); Venture Global Mar. 21, 2025 Updated Permit Table, att. 1 at 3 (indicating that Venture Global expects the outstanding Title V and PSD permits in the third quarter of 2025). *See* 42 U.S.C. § 7475(a)(3) (generally prohibiting construction of a major emitting facility unless the facility operator demonstrates that emissions from construction or operation of such facility will not cause, or contribute to, air pollution in excess of any: (a) maximum allowable increase or maximum allowable concentration for any pollutant in any area to which this part applies more than one time per year, (b) NAAQS in any air quality control region, or (c) any other applicable emission standard or standard of performance under this chapter). [↑](#footnote-ref-387)
387. Authorization Order, 187 FERC ¶ 61,199 at P 201. [↑](#footnote-ref-388)
388. Authorization Order, 187 FERC ¶ 61,199 at envtl. cond. 10 (requiring Venture Global obtain all applicable authorizations under federal law). Following issuance of the Rehearing Order, Commission staff has continued to process Venture Global’s Implementation Plans, and Venture Global has submitted responses to the Commission’s continuing data requests related to those Implementation Plans. [↑](#footnote-ref-389)
389. *See, e.g.*, *Mobil Oil Corp. v. FTC*, 562 F.2d 170, 173 (2d Cir. 1977) (citing 42 U.S.C. § 4332(2)(c)(v)), *Sierra Club v. Peterson*, 717 F.2d 1409, 1415 (D.C. Cir. 1983) (explaining that federal agencies must “evaluate the environmental consequences of their actions *prior* to commitment to any actions which might affect the quality of the human environment” and “[i]f *any* ‘significant’ environmental impacts might result from the proposed agency action then an EIS must be prepared *before* the action is taken”). [↑](#footnote-ref-390)
390. *Nat. Res. Def. Council, Inc. v. Callaway*, 524 F.2d 79, 92 (2d Cir. 1975) (“Although an EIS may be supplemented, the critical agency decision must, of course, be made after the supplement has been circulated, considered and discussed in the light of the alternatives, not before. Otherwise, the process becomes a useless ritual, defeating the purpose of NEPA, and rather making a mockery of it.”). Although Venture Global argues that it should be permitted to start construction on areas “not affected by the supplemental EIS”, *see* Venture Global Rehearing Request at 56 (citing *Stop H-3*, 870 F.2d at 1426-27), we find *Stop H-3* distinguishable from the instant proceeding where there remains major federal action under agency consideration. [↑](#footnote-ref-391)
391. Venture Global Rehearing Request at 50-51. [↑](#footnote-ref-392)
392. Order Denying Stay, 189 FERC ¶ 61,005, at P 4; *id*. at P 22 (“We find that granting a stay of the Projects’ authorizations, thereby halting any and all project construction *for an undefined period of time*, would cause delay and therefore harm to CP2 LNG and CP Express and their customers who are relying on the Projects to provide needed transportation capacity and export of natural gas—exports that have been approved following the Department of Energy’s (DOE) application of the public interest standard under NGA section 3.”) (emphasis added). [↑](#footnote-ref-393)
393. Order No. 871-B, 175 FERC ¶ 61,098 at P 46 (citing *Allegheny Def. Project*, 964 F.3d at 8). [↑](#footnote-ref-394)
394. Rehearing Order, 189 FERC ¶ 61,148 at P 186. [↑](#footnote-ref-395)
395. Venture Global Rehearing Request at 53-54. [↑](#footnote-ref-396)
396. *Supra* sections III.C & IV.A.; *see Oglala Sioux Tribe v. U.S. Nuclear Regul. Comm’n*, 896 F.3d 520, 536 (D.C. Cir. 2018); *see also id.* (citing *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 23 (2008)) (“Part of the harm NEPA attempts to prevent in requiring an EIS is that, without one, there may be little if any information about *prospective* environmental harms and potential mitigating measures.”) (emphasis in original); *Found. on Econ. Trends v. Weinberger*, 610 F. Supp. 829, 843 (D.D.C. 1985) (citing *Sierra Club v. Peterson,* 717 F.2d at 1414 and *Scientists’ Inst.*, 481 F.2d at 1098) (“Should the defendants seek to proceed with the construction of the proposed facility, they must recognize that now is the appropriate time for filing an adequate environmental assessment, before an ‘irretrievable commitment[ ] of resources is invested in the construction of the proposed facility.’”). [↑](#footnote-ref-397)
397. Venture Global Rehearing Request at 57. [↑](#footnote-ref-398)
398. *Id.* (citing Order No. 871-B, 175 FERC ¶ 61,098 at PP 16-17). [↑](#footnote-ref-399)
399. *Id.* at 57-58. [↑](#footnote-ref-400)
400. In addition, any further rehearing requests would not implicate the initial authorizing order and, therefore, we agree that application of section 157.23 of the Commission’s regulations, as amended in Order No. 871-B, is inapplicable here. *See* Order No. 871-B, 175 FERC ¶ 61,098 at PP 16-17 (“To the extent that a non-initial order merely implements the terms, conditions, or other provisions of an initial authorizing order—such as a delegated order issuing a notice to proceed with construction, approving a variance request, or allowing the applicant to place the project, or a portion thereof, in service— a request for rehearing of that order would not implicate the initial authorizing order and so we agree that the rule would not apply.”). [↑](#footnote-ref-401)