United States Court of Appeals
FOR THE DISTRICT OF COLUMBIA CIRCUIT

Argued March 24, 2026 Decided August 25, 2026

No. 24-1291

FOR A BETTER BAYOU, ET AL.,
PETITIONERS

v.

FEDERAL ENERGY REGULATORY COMMISSION,
RESPONDENT

VENTURE GLOBAL CP EXPRESS, LLC AND VENTURE GLOBAL CP2 LNG, LLC,
INTERVENORS

Consolidated with 24-1292, 25-1157

On Petitions for Review of Orders of the
Federal Energy Regulatory Commission

Nathan Matthews argued the cause for petitioners. With him on the joint briefs were *Megan Gibson*, *Spencer T. Gall*, *Clara Derby*, *Caroline Reiser*, *Thomas Zimpleman*, *Gillian Giannetti*, and *Rebecca McCreary*.

Scott R. Ediger, Attorney Advisor, Federal Energy Regulatory Commission, argued the cause for respondent. With him on the brief was *Robert H. Solomon*, Solicitor. *Susanna Y. Chu*, Senior Attorney, entered an appearance.

Eric Konopka argued the cause for intervenors in support of respondent. With him on the brief were *Gregory G. Garre*, *Joel P. Nevins*, *Peter Prindiville*, *Halle H. Edwards*, and *Sandra Snyder*.

Before: HENDERSON and MILLETT, *Circuit Judges*, and GINSBURG, *Senior Circuit Judge*.

Opinion for the Court filed by *Senior Circuit Judge* GINSBURG.

GINSBURG, *Senior Circuit Judge*: In December 2021 Venture Global CP2 LNG and Venture Global CP Express, the Intervenors here, sought authorization from the Federal Energy Regulatory Commission for the siting, construction, and operation of a terminal and pipeline for the exportation of liquefied natural gas (LNG). A long review process followed, resulting in two environmental impact statements, an initial authorization order, three rehearing orders and, in 2025, the FERC's approval of the project.

The petitioners are individuals and advocacy groups seeking review of those orders. Leaving no stone unturned, they improbably allege the Commission committed no fewer than eleven errors under the Natural Gas Act (NGA) and the National Environmental Policy Act (NEPA). Because these arguments lack merit, we deny the petitions for review.

I. Background

This appeal implicates not only the NGA and the NEPA, but also the Clean Air Act (CAA). We begin by discussing the relevant provisions of these laws before turning to the procedural history of the case.

A. Relevant Statutes

The NGA regulates "the business of transporting and selling natural gas for ultimate distribution to the public." 15 U.S.C. § 717(a). It prohibits the export of natural gas by any entity "without first having secured an order of the Commission authorizing it to do so." § 717b(a). A party must also obtain prior authorization before constructing a natural gas terminal or a pipeline. *See Big Bend Conservation All. v. FERC*, 896 F.3d 418, 420 (D.C. Cir. 2018).

The United States Department of Energy (DOE) has delegated authority to the FERC to "[a]pprove or disapprove" the siting, construction, and operation of particular facilities used to export natural gas, including LNG terminals. DOE, Delegation Order No. S1-DEL-FERC-2006, § 1.21A (2006); *see* § 717b(e)(1); *see also* § 717a(11) (defining "LNG terminal").[1] The Congress has laid down different standards for the approval of an LNG export terminal than it has for the approval of a pipeline used to transport natural gas. Under Section 3 of the NGA the FERC "shall issue" an order authorizing an LNG export terminal "unless" it finds the terminal "will not be consistent with the public interest." § 717b(a). By contrast, under Section 7 the FERC may not authorize the construction and operation of a pipeline unless it determines the pipeline "is or will be required by the present or future public convenience and necessity." § 717f(e).

Although the FERC exercises authority over the approval of LNG terminals, the DOE has "retained for itself the authority to authorize exports . . . of natural gas." *Sierra Club v. DOE* (*Alaska Gasline*), 134 F.4th 568, 570 n.2 (D.C. Cir. 2025). Any exportation of gas to a country with which the United States has "a free trade agreement requiring national treatment for trade in natural gas[] shall be deemed to be consistent with the public interest, and applications for such . . . exportation shall be granted without modification or delay." § 717b(c).

The FERC follows its longstanding Certificate Policy Statement when it reviews an application for the construction

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[1] "Commission" as used in the NGA refers to the Federal Power Commission, § 717a(9), the predecessor to the FERC. In 1977 the Congress "transferred to" the Secretary of Energy "the function of the Federal Power Commission." 42 U.S.C. § 7151(b), who as just mentioned, has delegated some of those functions to the FERC.

of a pipeline. *See Certification of New Interstate Nat. Gas Pipeline Facilities*, 88 FERC 61227 (1999), *clarified*, 90 FERC 61128 (2000), *further clarified*, 92 FERC 61094 (2000). The Commission first considers whether there is a "market need" for the project by asking whether it can proceed without subsidies from the applicant's existing customers. *Env't Def. Fund v. FERC*, 2 F.4th 953, 961 (D.C. Cir. 2021). If it finds there is a market need for the pipeline, then the FERC determines whether the pipeline will have an adverse effect on the applicant's existing customers, pipelines in the same market and their captive customers, or landowners and communities surrounding the project. *Id.* If the pipeline will cause an adverse effect, then the FERC balances that effect against the pipeline's public benefits. *Id.* In doing so, the Commission will "consider *all relevant factors* reflecting on the need for the project." *Id.*

Under the NEPA, the FERC must prepare an environmental impact statement (EIS) if it determines that the approval of a terminal or pipeline would constitute a "major federal action[] significantly affecting the quality of the human environment." 42 U.S.C. § 4332(2)(C); *see* § 4336(b)(1). The NEPA, however, "imposes no substantive environmental obligations or restrictions." *Seven Cnty. Infrastructure Coal. v. Eagle Cnty.*, 605 U.S. 168, 173 (2025). It is "a purely procedural statute that, as relevant here, simply requires an agency to prepare an EIS — in essence, a report." *Id.* The NEPA does not require the Commission "to weigh environmental consequences in any particular way. Rather, an agency may weigh environmental consequences as the agency reasonably sees fit under its governing statute and any relevant substantive environmental laws." *Id.* "The goal of the law is to inform agency decisionmaking, not to paralyze it." *Id.*

Still, the FERC must "look hard at the environmental effects" of the action. *Sierra Club v. FERC* (*Cumberland*), 153 F.4th 1295, 1303 (D.C. Cir. 2025). Accordingly, an EIS must consider the "reasonably foreseeable environmental effects of the proposed agency action," including any adverse effects "which cannot be avoided should the proposal be implemented." § 4332(2)(C)(i)-(ii).

Under regulations in effect at the time of the proceedings here under review, the FERC would consider the cumulative environmental effects of a proposed project as part of its NEPA analysis. *See* 40 C.F.R. § 1508.1(g)(3) (2023); *see also* 90 Fed. Reg. 10610, 10611 (2025) (final rule promulgated by the Council on Environmental Quality repealing the regulations implementing the NEPA, including § 1508). The FERC defined cumulative effects as "the incremental effects of the action when added to the effects of other past, present, and reasonably foreseeable actions." § 1508.1(g)(3).

Two standards set by the Environmental Protection Agency are relevant to the FERC's analysis of cumulative effects on air quality. First, the EPA has identified significant impact levels (SILs) for certain air pollutants, "below which the EPA considers [the] source to have an insignificant effect on ambient air quality." *Sierra Club v. EPA*, 705 F.3d 458, 461 (D.C. Cir. 2013); *see* May 2025 Rehearing Order, 191 FERC 61153, ¶ 5 n.25 (discussing EPA guidance documents on the SILs for, as relevant here, NO_2 and $PM_{2.5}$). Second, the CAA requires the EPA to set national ambient air quality standards (NAAQS) for each air pollutant for which the EPA has issued air quality criteria. *See* 42 U.S.C. § 7409(a). The EPA must set primary NAAQS at a level "requisite to protect the public health" with "an adequate margin of safety." § 7409(b). The CAA prohibits the construction of a "major emitting facility" unless the applicant demonstrates the facility "will not cause, or contribute to, air pollution in excess of" any NAAQS. § 7475(a)(3). The EPA has delegated authority to enforce this provision to state agencies, here the Louisiana Department of Environmental Quality (the LDEQ).

When analyzing the cumulative effects of a proposed project on air quality, the FERC applied a three-step framework in accordance with EPA guidelines for evaluating a project's emissions:

1. **Preliminary screening**: The FERC first compares the project's predicted emissions to the SILs for those emissions. If the FERC predicts the emissions will fall below the SILs, then the emissions are "insignificant" and the FERC's analysis is at an end.

2. **Cumulative effects**: If the FERC predicts the emissions will exceed a relevant SIL, then the FERC adds the emissions from the source under review to those from sources already existing in the area and compares the cumulative emissions to the NAAQS. In doing so, the FERC may rely upon an emissions inventory maintained by a state agency such as the LDEQ. If the cumulative effects of the emissions do not exceed the NAAQS, then the FERC ends its analysis.

3. **Cause and contribution**: If the predicted cumulative emissions will exceed a NAAQS, then the FERC considers whether the predicted SIL exceedance and the predicted NAAQS exceedance will occur simultaneously at

> the same receptor. If it will not, then the project is deemed to "not cause or contribute to the potential NAAQS exceedance."

May 2025 Rehearing Order, 191 FERC ¶¶ 5-6 (citing 40 C.F.R. pt. 51, app. W).

B. Commission Proceedings

In December 2021 the Intervenors sought the FERC's authorization for the siting, construction, and operation of a new LNG terminal on the Calcasieu Ship Channel in Cameron Parish, Louisiana and of a natural gas pipeline running 85 miles from East Texas to the Terminal. The Pipeline will also include the Moss Lake Compressor Station.

In July 2023 FERC staff completed the EIS, which ran more than 600 pages plus appendices.[2] The EIS predicted the project would cause some adverse environmental effects and recommended more than 100 measures to reduce those effects. As for the cumulative effects analysis of the Terminal and the Compressor Station, the EIS predicted there would be exceedances of the SILs and NAAQS for $PM_{2.5}$ and NO_2, but it concluded that those exceedances would not occur simultaneously and the project therefore would not cause or contribute to any NAAQS exceedances. The EIS also concluded that the project would not cause significant harm to the commercial fishing industry.

In June 2024 the FERC issued an order authorizing the Terminal and the Pipeline. 187 FERC 61199, ¶¶ 199-200. For

[2] The Congress has since imposed a general 150-page limit for an EIS and a 300-page limit for an EIS "for a proposed agency action of extraordinary complexity." 42 U.S.C. § 4336a(e)(1).

a Better Bayou, other advocacy groups, and several individuals (together, Bayou), filed a request for rehearing, which the FERC granted in part. November 2024 Rehearing Order, 189 FERC 61148, ¶ 2. Out of concern that our decisions in *Healthy Gulf v. FERC*, 107 F.4th 1033 (2024), and *City of Port Isabel v. FERC*, 111 F.4th 1198 (2024), may have undermined part of its cumulative effects analysis, the FERC set aside its analysis of the project's NO_2 and $PM_{2.5}$ emissions and ordered an additional environmental review. *Id.* ¶ 185. The FERC also said it would address "other air quality issues raised by" Bayou in a future order; it otherwise rejected Bayou's arguments. *Id.*

In May 2025 FERC staff issued the Supplemental EIS (SEIS). Unlike the original EIS, which had predicted SIL and NAAQS exceedances for the Terminal and the Compressor Station, the SEIS predicted no NAAQS exceedances for the Terminal and no SIL exceedances for the Compressor Station. The SEIS accordingly ended its cumulative effects analysis at step one for the Compressor Station and at step two for the Terminal, concluding that "there would be no significant cumulative air quality impacts."

Two weeks later the FERC issued an order again authorizing the Terminal and the Pipeline, based upon the conclusions in the EIS and the SEIS. May 2025 Rehearing Order, 191 FERC ¶¶ 92-93. Bayou filed another request for rehearing, which the Commission denied. August 2025 Rehearing Order, 192 FERC 61157, ¶ 2.

After the Initial Authorization Order issued in June 2024, the FERC had authorized limited construction activities. Bayou sought a stay of those activities, which was twice denied by the FERC and by this court.

II. Analysis

We have jurisdiction over Bayou's petitions for review under 15 U.S.C. § 717r(b).[3] Insofar as Bayou's challenges raise questions of statutory interpretation, our review is de novo. *See Loper Bright Enters. v. Raimondo*, 603 U.S. 369, 412-13

[3] Bayou filed its first petition for review in September 2024 — after its request for rehearing had been denied by operation of law but before the Commission set aside part of its order in the November 2024 Rehearing Order. A request for rehearing will be denied by operation of law if the Commission does not act on it within thirty days, but the Commission may still modify or set aside the initial order until "the record in [the] proceeding shall have been filed in a court of appeals." § 717r(a). One month after the Commission issued the November 2024 Rehearing Order, Bayou filed a motion to clarify whether the November 2024 Rehearing Order was encompassed by its existing petition for review and, if necessary, to amend its petition to seek review of that order.

We dismiss that motion as moot. After Bayou filed the motion, the FERC issued the May 2025 Rehearing Order that modified the Commission's discussion in the first two orders and addressed Bayou's "original claims on rehearing of the Authorization order regarding air quality." 189 FERC ¶ 2. After the Commission denied Bayou's request for rehearing of the May 2025 Rehearing Order, Bayou filed a petition seeking review of the November 2024 and the May 2025 Rehearing Orders. Based upon those subsequent events, we have no reason to decide precisely which orders were covered by Bayou's initial petition for review.

We have Article III jurisdiction. Bayou has associational standing on behalf of its members who reside and fish near the project. Because "at least one [petitioner] has standing," we "may proceed" to the merits of its petitions. *Biden v. Nebraska*, 600 U.S. 477, 489 (2023); *see also Horne v. Flores*, 557 U.S. 433, 446-47 (2009); *Woodhull Freedom Found. v. United States*, 948 F.3d 363, 371 (D.C. Cir. 2020).

(2024). We review the FERC's exercise of its discretion under the NGA and its NEPA analysis under the familiar arbitrary-and-capricious standard of the Administrative Procedure Act. *See Vecinos para el Bienestar de la Comunidad Costera v. FERC*, 6 F.4th 1321, 1327, 1331 (D.C. Cir. 2021). We will set aside the Commission's action if it "has relied on factors which Congress has not intended it to consider, entirely failed to consider an important aspect of the problem, offered an explanation for its decision that runs counter to the evidence before [it]," or has reached a result that "is so implausible that it could not be ascribed to a difference in view or the product of agency expertise." *Motor Vehicle Mfrs. Ass'n of U.S., Inc. v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983); *see Cumberland*, 153 F.4th at 1305 ("We review FERC's public convenience and necessity determination for whether it was based on a consideration of the relevant factors and whether there has been a clear error of judgment" (cleaned up)). Under the NGA, "the finding of the Commission as to the facts, if supported by substantial evidence, shall be conclusive." § 717r(b).

A. Challenges under the NGA

Bayou first challenges the FERC's authorization of the Terminal and the Pipeline under the NGA. To reiterate: Under Section 3 of that Act, the Commission "shall" authorize a terminal "unless" it finds the terminal "will not be consistent with the public interest." § 717b(a); under Section 7, the Commission will authorize a pipeline only if it determines the pipeline "is or will be required by the present or future public convenience and necessity." § 717f(e). "Section 3 is in this respect the reverse of [Section 7]." *Panhandle Producers & Royalty Owners Ass'n v. Econ. Regul. Admin.*, 822 F.2d 1105, 1111 (D.C. Cir. 1987). Whereas Section 3 "requires an affirmative showing of inconsistency with the public interest to *deny* an application," Section 7 "requires an affirmative showing of public convenience and necessity to *grant* one." *Id.*; *see also Vecinos*, 6 F.4th at 1326 (similar).

Bayou argues that the Commission's interpretation of Section 3 was arbitrary and unlawful and that its application of both Section 3 and Section 7 was arbitrary and capricious. These arguments all lack merit.

1. The Commission's interpretation of the NGA

In its first rehearing request, Bayou argued that the Commission had failed to explain how it balanced the Terminal's benefits against its harms to determine whether the Terminal would be inconsistent with the public interest. The Commission responded in the November 2024 Rehearing Order that Bayou's balancing argument was "misplaced" because "section 3 of the NGA does not charge the Commission with demonstrating that the benefits of a proposal outweigh its potential harms." 189 FERC ¶ 41 (quoting *Alaska Gasline Dev. Corp.*, 172 FERC 61214, ¶ 16 (2020)). Later in that order the Commission reiterated that it "does not weigh the public benefits against potential harms in its NGA section 3 public interest determination." *Id.* ¶ 158 n.647.

Bayou says this was wrong for several reasons. First, the Commission's position is not the "best" interpretation of Section 3. Second, the Commission offered no explanation as to the standard it applies under Section 3. Third, the Commission had previously engaged in balancing under Section 3, but it departed from its precedents without any explanation. The Commission responds that these arguments are foreclosed by our precedent or not properly before us. We agree with the Commission.

We start, as usual, with the text of the statute: As we have said, the Commission "shall" authorize the construction and operation of a terminal "unless" doing so "will not be consistent with the public interest." § 717b(a). This statute is "not neutral" but rather demonstrates a clear congressional preference for authorization. *Alaska Gasline*, 134 F.4th at 572. Consequently, we have long held that Section 3 establishes a "presumption" in favor of authorization. *See, e.g.*, *Sierra Club v. FERC* (*Saguaro*), 145 F.4th 74, 87 (2025); *Alaska Gasline*, 134 F.4th at 572-73; *Ctr. for Biological Diversity v. FERC*, 67 F.4th 1176, 1188 (2023); *Sierra Club v. DOE* (*Freeport*), 867 F.3d 189, 203 (2017); *EarthReports, Inc. v. FERC*, 828 F.3d 949, 953 (2016); *W. Va. Pub. Servs. Comm'n v. DOE*, 681 F.2d 847, 856 (1982).

This long-standing presumption conflicts with Bayou's attempt to read Section 3 as imposing a balancing requirement on the Commission. As the Intervenors explain, an ordinary balancing test would require the Commission to start its review from "equipoise," with "the scales tip[ping] in favor of a particular outcome" based upon the evidence presented. Not so here. The Commission begins its review from the position that it will — indeed, that it must — authorize a terminal unless the presumption is rebutted.

Bayou acknowledges this presumption but says it rebutted it by producing some evidence of harm, at which point the Commission needed to balance that evidence against the Terminal's benefits. If the presumption were that easy to dispel, then it is hard to imagine a case in which an opponent would fail to do so. Unsurprisingly then, our case law provides a different answer: The petitioner must "show, affirmatively, that approving the [terminal] is inconsistent with the public interest." *Saguaro*, 145 F.4th at 87. Satisfying that standard requires a petitioner to do more than simply produce some evidence of harm. *See, e.g.*, *Freeport*, 867 F.3d at 203 (holding the petitioner "fail[ed] to overcome the presumption in favor of exports" even assuming the environmental effects of the exports were "significant"); *Saguaro*, 145 F.4th at 87 (rejecting argument that the Commission "treated adverse impacts versus benefits inconsistently" and reaffirming its reliance upon the presumption in favor of authorization).[4]

Bayou next argues the Commission did not offer an adequate explanation of what Section 3 requires. It characterizes the Commission's approach to reviewing a terminal for inconsistency with the public interest as meaning "we'll know it when we see it." We disagree. Relying upon our precedent, the Commission cited the presumption in favor of authorization and explained that Bayou bore the burden of making an "affirmative showing" that the Terminal would be inconsistent with the public interest. Initial Authorization Order, 187 FERC ¶ 23; November 2024 Rehearing Order, 189 FERC ¶ 36. It then

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[4] After entirely ignoring *Saguaro* in its opening brief, Bayou argues in its reply brief that requiring it "not only to produce evidence of harm, but to prove themselves that the Terminal was inconsistent with the public interest" is "unsupported." To make that argument Bayou attempts to rewrite our precedent, claiming *Saguaro* did not establish that a petitioner's burden "entails anything more than producing evidence of harm" because the petitioners in that case did not produce any evidence of direct harm. *Saguaro* did not, however, even mention a lack of evidence of direct harm when discussing the petitioners' burden. The petitioners argued that the Commission had "asymmetrically considered benefits downstream of the [proposed facility] while dismissing adverse impacts upstream." 145 F.4th at 87. In response, we said the petitioner needed to make "an affirmative showing of inconsistency with the public interest" and affirmed the Commission's reliance upon the presumption in favor of authorization. *Id.* To the same effect, see *Freeport*, 867 F.3d at 203. Bayou makes no attempt to distinguish our discussion of this burden in *Freeport*.

discussed specific benefits and harms it had considered and concluded that Bayou had not satisfied its burden. *See* below at 18-20; Initial Authorization Order, 187 FERC ¶¶ 23-32; November 2024 Rehearing Order, 189 FERC ¶¶ 37-46.

Insofar as Bayou seeks something akin to a bright-line rule for when a terminal will be inconsistent with the public interest, it is out of luck. Whether a terminal will be inconsistent with the public interest is a fact-bound inquiry that does not easily lend itself to bright-line rules. This does not mean the Commission's discretion is limitless; as relevant here, its orders must still be "reasonable and reasonably explained, and its factual findings must be supported by substantial evidence." *Saguaro*, 145 F.4th at 80 (cleaned up); *see* § 717r(b). Those requirements have been applied by this court on many occasions and provide a sufficient standard against which to review the Commission's orders. *See, e.g.*, *Vecinos*, 6 F.4th at 1331; *Wash. Gas Light Co. v. FERC*, 532 F.3d 928, 932-33 (2008). The FERC was required to provide an explanation that was "clear enough that its path may reasonably be discerned," *Encino Motorcars, LLC v. Navarro*, 579 U.S. 211, 221 (2016) (cleaned up), which it did here.

That leaves Bayou with its argument that the Commission departed from its own precedent without explaining its decision to do so. We do not reach this argument because, as the Commission and the Intervenors point out, Bayou did not raise this argument to the Commission. *See* § 717r(b) ("No objection to the order of the Commission shall be considered by the court unless such objection shall have been urged before the Commission in the application for rehearing unless there is reasonable ground for [the] failure so to do"). Although Bayou argued the Commission was required to engage in balancing, it did not argue that the Commission's own precedent required it to do so. *See Port Isabel*, 111 F.4th at 1217-18 (holding that

§ 717r(b) prevents courts from considering "specific arguments" that were not raised to the Commission on rehearing).

Bayou argues it had a reasonable ground for not raising this argument earlier, namely, that the Commission had not disclaimed a balancing approach under Section 3 until the November 2024 Rehearing Order. But that is not correct. In an order issued nearly four years before the Initial Authorization Order in this case, the Commission stated that "section 3 of the NGA does not charge the Commission with demonstrating that the benefits of a proposal outweigh its potential harms." *Alaska Gasline Dev. Corp.*, 172 FERC ¶ 16. Although Bayou contends other sections of that order suggest the Commission did in fact engage in balancing, the order nonetheless put Bayou on notice that the Commission took a contrary position as to what Section 3 required.

In sum, the Commission's interpretation of Section 3 was neither unlawful nor arbitrary.

2. The Commission's application of the NGA

Bayou next argues that the Commission's application of the NGA was unlawful and arbitrary in three ways: The Commission incorrectly dismissed the project's harms as insignificant or inconsequential; failed to explain how the Terminal's benefits would outweigh its harms; and did not meaningfully balance the Pipeline's benefits and harms because it placed undue weight on a precedent agreement between the Intervenors.

a. The project's harms

Bayou claims the Commission failed to give proper weight to the evidence of the Terminal's harms or to explain its reasons for discounting them. In Bayou's view, the FERC did not take a "hard look" at the project's effects on air quality, commercial fishing, or climate change.

Bayou's arguments regarding air quality and commercial fishing overlap substantially with its NEPA claims, to the merits of which we turn below. Because its NEPA claims fail, so too do these arguments. *See Ctr. for Biological Diversity*, 67 F.4th at 1188 (holding that a petitioners' meritless NEPA challenges "fare[d] no better when framed as NGA challenges").

Bayou's argument that the Commission simply dismissed the project's contributions to climate change is without merit. The Commission cited the project's estimated greenhouse gas emissions and the social cost of those emissions, Initial Authorization Order, 187 FERC ¶¶ 165, 168; compared the project's greenhouse gas emissions to the existing national and state levels, *id.* ¶¶ 171-73; and approved mitigation measures proposed by the Intervenors, which responded to recommendations made by the EPA, *id.* ¶¶ 176-77. The Commission also explained that it would not characterize the project's emissions as significant or insignificant because "there currently are no accepted tools or methods for [it] to use to determine significance," but it had still "taken the required 'hard look'" at the evidence. *Id.* ¶¶ 179-80; *see also* November 2024 Rehearing Order, 189 FERC ¶¶ 90-99. Although Bayou says the Commission should have done more to explain why the project's greenhouse gas emissions did not warrant the denial of the project, we have previously approved similar analyses by the Commission. *See, e.g.*, *Citizens Action Coal. of Ind., Inc. v. FERC*, 125 F.4th 229, 240-42 (2025); *Food & Water Watch v. FERC*, 104 F.4th 336, 346-47 (2024); *Ala. Mun. Distribs. Grp. v. FERC*, 100 F.4th 207, 214-15 (2024); *Ctr. for Biological Diversity*, 67 F.4th at 1183-84. Bayou has not provided any reason we should not do the same here.

b. The Terminal's benefits

Insofar as the Commission attempted to balance the Terminal's benefits against its harms, Bayou argues the record does not support the Commission's decision to authorize the Terminal. For the reasons discussed above at 14-15, the Commission did not bear that burden; it was Bayou that needed to make an affirmative showing that the Terminal would be inconsistent with the public interest. *See Saguaro*, 145 F.4th at 87.

In any event, the Commission explained why the Terminal would not be inconsistent with the public interest. In addition to invoking the presumption in favor of authorization, the Commission cited § 717b(c), which provides that the exportation of gas to any country with which the United States has entered into a free trade agreement "shall be deemed to be consistent with the public interest." Initial Authorization Order, 187 FERC ¶ 23; November 2024 Rehearing Order, 189 FERC ¶¶ 39, 46. Here the DOE had authorized the Terminal to export LNG to such countries. Initial Authorization Order, 187 FERC ¶ 8. Bayou attempts to minimize the significance of these considerations, but the Commission was obligated to consider them. *See Saguaro*, 145 F.4th at 87; § 717b(c).

The Commission also acknowledged the potential adverse effects of the Terminal, but it found that those effects "would not be significant or would be reduced to less-than-significant levels with the implementation of avoidance, minimization, and mitigation measures recommended in the EIS and adopted by the [Commission]." Initial Authorization Order, 187 FERC ¶ 29. The Commission therefore concluded that Bayou had not made "the affirmative showing of inconsistency with the public interest that [was] necessary to overcome the presumption in section 3." *Id.*; *see* November 2024 Rehearing Order, 189

FERC ¶ 37. That conclusion was reasonable, reasonably explained, and supported by substantial evidence.

c. The authorization of the Pipeline

As we have said, the Commission will issue a certificate for the construction of a pipeline only if the pipeline "is or will be required by the present or future public convenience and necessity." § 717f(e). Recall that the Commission follows a three-step approach under Section 7, asking whether there is a "market need" for the pipeline; whether the project will cause certain adverse effects; and if so, whether the pipeline's benefits are greater than its adverse effects. *Env't Def. Fund*, 2 F.4th at 961.

Bayou primarily takes issue with the Commission's analysis at the first and third steps. In Bayou's telling, the Commission relied "almost exclusively on a single precedent agreement between two Venture Global subsidiaries" to take the Pipeline's full capacity. A precedent agreement is a "preconstruction contract[] . . . for the natural gas the pipeline would transport." *Id.* at 959. Bayou argues the Commission's reliance upon the precedent agreement was arbitrary because the benefits of the Pipeline identified by the Commission depended upon the Terminal, the approval of which was itself arbitrary, and the Commission did not explain why those benefits outweighed the harms caused by the Pipeline.

We can easily dispose of Bayou's first argument. For the reasons explained above at 13-20, the Commission's approval of the Terminal complied with the NGA. Consequently, it could consider the benefits stemming from the Terminal when considering the application for the Pipeline.

As for Bayou's second argument, we see no error in the Commission's weighing of the Pipeline's benefits and harms.

At the first step — identifying a "market need" — the Commission cited the long-term precedent agreement between the Venture Global subsidiaries to take the Pipeline's full capacity. *See* Initial Authorization Order, 187 FERC ¶¶ 37-38; November 2024 Rehearing Order, 189 FERC ¶¶ 48-51. "As a general rule," we have held that the "FERC may find market need by relying solely on a precedent agreement." *Cumberland*, 153 F.4th at 1309. True, as Bayou notes, we had previously said that a precedent agreement is not "always *sufficient*" to show market need. *Env't Def. Fund*, 2 F.4th at 972. As we have since clarified, however, that decision provided only a narrow exception to the general rule "when an agreement involves affiliated entities and there is plausible evidence of self-dealing." *Cumberland*, 153 F.4th at 1309 (cleaned up). As the Commission found below and the Intervenors note on appeal, Bayou has not presented evidence of — or even alleged — self-dealing by the Intervenors. *See* November 2024 Rehearing Order, 189 FERC ¶ 48 ("Here, there is no evidence of impropriety or self-dealing to indicate anti-competitive behavior or affiliate abuse"). "[A]bsent self-dealing, FERC was entitled to rely on the precedent agreement without considering additional evidence." *Cumberland*, 153 F.4th at 1310.

Bayou also argues the Commission used the precedent agreement as "a proxy for the foreign sales the Terminal would enable," which was inappropriate because the DOE exercises exclusive authority over those exports. The Congress has already settled this issue by declaring that exports to countries with which the United States has a free trade agreement are "consistent with the public interest." § 717b(c). Accepting Bayou's position would "thwart Congress' directive and intent, as expressed in Section 3." *City of Oberlin v. FERC*, 39 F.4th 719, 727 (D.C. Cir. 2022) (cleaned up). Accordingly, we have held "[n]othing in Section 7 prohibits considering export precedent agreements in the public convenience and necessity analysis." *Id.* at 726. In *Oberlin* we upheld the Commission's approval of a pipeline precisely because the Commission had relied upon a precedent agreement for the exportation of gas to a free-trade-agreement country. *See id.* at 726-27. "We would be hard pressed," we explained, "to conclude that FERC's reliance on [the] clear statutory directive [in § 717b(c)] was unjustified." *Id.* at 727. So too here. It was reasonable for the Commission, when determining whether to approve the Pipeline, to consider how the Pipeline would support the Terminal and, hence, the exports authorized by the DOE. *See* November 2024 Rehearing Order, 189 FERC ¶ 58; above at 19.

At the third step, Bayou claims the Commission did not adequately explain how the benefits of the Pipeline outweighed the adverse effects. We find the Commission's explanation sufficiently clear. In the November 2024 Rehearing Order the FERC addressed Bayou's argument about the Pipeline's adverse effects on landowners, noting that Venture Global CP Express had already taken steps to mitigate those effects, such as by revising the route of the Pipeline. 189 FERC ¶ 63. As for the Pipeline's benefits, the Commission cited not only the precedent agreement; it also found the project would "provide domestic public benefits, including: adding new transportation options for producers and shippers; boosting the domestic economy and the balance of international trade; and supporting domestic jobs in gas production and transportation." *Id.* ¶ 68; *see also id.* ¶ 69 (citing "an increase in the local population, increased employment opportunities, increased demand for housing and public services, and an increase in state and local government revenues" as other benefits associated with the Pipeline). The Commission also cited "minor positive economic impacts" that would occur during the construction of the project, including increased employment and spending. *Id.* ¶ 69 & n.299. That the Commission considered some of these benefits to be "minor" compared to the precedent agreement is of no moment because it was obligated to consider "*all* relevant factors." *Env't Def. Fund*, 2 F.4th at 959; *see Atl. Refin. Co. v. Pub. Serv. Comm'n of N.Y.*, 360 U.S. 378, 391 (1959) (Section 7 "requires the Commission to evaluate all factors bearing on the public interest").

The Commission therefore concluded that the "net positive benefit to the domestic economy . . . . in addition to the significant evidence of need as demonstrated by the long-term, binding precedent agreement," demonstrated that the Pipeline was required by public convenience and necessity. November 2024 Rehearing Order, 189 FERC ¶ 69. Bayou may disagree with the result of the Commission's balancing, but its decision was reasonably explained and supported by substantial evidence. We therefore reject Bayou's challenge to the authorization of the Pipeline.

B. Challenges under the NEPA

Bayou raises several challenges under the NEPA. As the Supreme Court recently explained, "The bedrock principle of judicial review in NEPA cases can be stated in a word: Deference." *Seven Cnty.*, 605 U.S. at 185.

Bayou's challenges ultimately ask us to engage in a more searching review than precedent allows. *See Cumberland*, 153 F.4th at 1311 ("After *Seven County*, the era of searching NEPA review is over"). Considering the "substantial judicial deference required in NEPA cases," *Seven Cnty.*, 605 U.S. at 174, we must reject Bayou's NEPA challenges.

1. The Terminal's cumulative effects

Bayou first takes issue with the FERC's analysis of the Terminal's cumulative effects on air quality. At step two of the analysis, the EIS predicted exceedances of the 1-hour NAAQS for NO_2. The SEIS, however, did not predict any exceedances of the NAAQS for NO_2 or $PM_{2.5}$. The FERC adopted the findings of the SEIS in the May 2025 Rehearing Order. 191 FERC ¶ 55.

Bayou asserts this was arbitrary for three reasons. First, the Commission relied upon a new model in the SEIS "without demonstrating awareness of why it reached a different conclusion" than it had in prior analyses, referring to the EIS for this project and to its review of other nearby terminals. Second, the FERC did not account for emissions from the Magnolia LNG Terminal in the SEIS, a project which was included in the cumulative effects analysis in the EIS. Third, the FERC did not account for emissions from marine vessels serving other nearby terminals.

a. New model

The record squarely contradicts Bayou's first argument. The SEIS explained that the updated air quality modeling submitted by Venture Global CP2 LNG "used the most recent validated air quality monitor data and the most recent emissions inventory revisions provided by the LDEQ." The FERC then showed its awareness of that update in both its May and August 2025 Rehearing Orders. The FERC noted that the updated air quality modeling relied upon the "most recent emissions inventory" data from the LDEQ, which had changed since the EIS and which "largely" accounted for the differences between the modeling in the EIS and the SEIS. August 2025 Rehearing Order, 192 FERC ¶ 13; May 2025 Rehearing Order, 191 FERC ¶¶ 55 n.204, 63. The FERC also explained that it reached a different conclusion in the SEIS than it had in its analyses of other nearby terminals because of differences in the air dispersion modeling, "including differences in emission rates, stack heights, variability in terrain near each facility, and other terminal-specific factors." August 2025 Rehearing Order, 192 FERC ¶ 13; May 2025 Rehearing Order, 191 FERC ¶ 65. The FERC did not detail every particular change to the inventory, but it was not required to do so; "all we may demand" is "a reasonable level of detail." *Save the Sound, Inc. v. FAA*, No. 24-1028, 2026 WL 2093931, at *5 (D.C. Cir. July 26, 2026) (citing *Seven Cnty.*, 605 U.S. at 180-81).

b. Magnolia Terminal

Bayou next challenges the FERC's omission of the Magnolia Terminal from the cumulative effects analysis in the SEIS. The FERC had authorized the Magnolia Terminal, which was also located on the Calcasieu Ship Channel, in 2016. Before the FERC completed the SEIS for this terminal, however, the Magnolia Terminal's LDEQ-issued air permits had expired, and the LDEQ had accordingly omitted the Magnolia Terminal from its emissions inventory. *See* August 2025 Rehearing Order, 192 FERC ¶ 14. This was one of several changes the LDEQ had made to its emissions inventory.[5] According to Bayou, the Magnolia Terminal nonetheless remained a "reasonably foreseeable" source of emissions because the loss of its permits did not invalidate the FERC's authorization of the terminal, so the FERC needed to include it in the cumulative effects analysis.

The FERC reasonably explained its reasons for omitting the Magnolia Terminal. The Commission considered the LDEQ's emissions inventory "the most reliable data input for the cumulative [effects] analysis," and that agency had omitted the Magnolia Terminal because its air permits had expired. August 2025 Rehearing Order, 192 FERC ¶ 15. Bayou argues

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[5] *See* LDEQ, *Public Notice*, at 261-65 (Jan. 31, 2025), https://edms.deq.louisiana.gov/app/doc/view?doc=14632557.

that the Commission still should have included the Magnolia Terminal because it did not say that terminal was no longer a "reasonably foreseeable" source of emissions. But that is, as a practical matter, just what the Commission concluded. The FERC noted that the Magnolia Terminal's authorization under § 717b remained in effect, but finding "no record evidence explaining why Magnolia LNG's air permits ha[d] allegedly expired," declined to "speculate as to the reasons why." *Id.* Instead, it "grant[ed] the LDEQ — the state agency tasked with implementing the CAA — a presumption of regularity formed by general principles of administrative law." *Id.*

This was consistent with the Commission's longstanding practice of relying upon "other agencies' expertise in carrying out its NEPA responsibilities." May 2025 Rehearing Order, 191 FERC ¶ 61. It was neither unreasonable nor arbitrary for the FERC to rely upon the LDEQ's most recent emissions inventory, to grant that inventory a presumption of regularity, and to omit the effects of a terminal the future of which was not foreseeable. *Cf. Appalachian Voices v. FERC*, 139 F.4th 903, 927 (D.C. Cir. 2025) (Henderson, J., concurring) ("[C]ourts cannot demand that agencies run down every rabbit hole").

Bayou also argues the FERC needed to consider the Magnolia Terminal because the Magnolia Terminal's authorization under § 717b remained in effect, so the Commission would not have another opportunity to consider the cumulative effects of the proposed Terminal and the Magnolia Terminal if the latter were to obtain new air permits. Under the NEPA, however, an agency is supposed to focus upon "the project at hand." *Seven Cnty.*, 605 U.S. at 186-87. That is what the FERC did by excluding the speculative re-emergence of a different project.[6]

c. Marine vessels serving other terminals

When considering the cumulative effects of the Terminal, the FERC limited its consideration of mobile source emissions to those attributable to the proposed Terminal and to Global Venture's Calcasieu Pass LNG Terminal. Initial Authorization Order, 187 FERC ¶ 185; May 2025 Rehearing Order, 191 FERC ¶ 61. Bayou claims the FERC should have also considered emissions from ship traffic related to six other terminals.

The FERC included the mobile source emissions attributable to the Terminal and to the Calcasieu Pass LNG Terminal principally because of their proximity to each other and because the Commission had updated emissions data for the Calcasieu Pass LNG Terminal. May 2025 Rehearing Order, 191 FERC ¶ 61 & n.229. In order to account for their emissions, the FERC treated these mobile sources as stationary

[6] Bayou also alleges the FERC included the Magnolia Terminal in the cumulative effects analysis of an SEIS issued one week after it issued the SEIS in this proceeding. In both instances the FERC relied upon the emissions inventory from the LDEQ. In the other SEIS, however, the FERC explained in response to comments that the emissions inventory used in the initial EIS "was not the subject of the court proceeding and remand" in *Healthy Gulf* and thus was "outside the scope of th[e] supplemental final EIS." Commonwealth LNG SEIS, No. CP19-502-001, Accession No. 20250516-3002, app. D at 5 (May 16, 2025). The timing of the inventory used in the proceedings may therefore explain the Commission's treatment of the Magnolia Terminal. We express no view on the Commission's decision not to update the emissions inventory in the other proceeding. Here we conclude only that it was reasonable for the FERC to rely upon the most recent emissions inventory from the LDEQ in preparing the SEIS.

sources. *Id.* ¶ 58. This approach involved a "large number of assumptions," including "calculating emissions based on the upper limit of ships that the applicant can utilize." *Id.* ¶ 58 & n.220.

The FERC then explained why applying that approach to mobile sources related to the six terminals would have been too speculative. Specifically, the FERC addressed the EPA's preferred air-dispersion model (AERMOD), which Bayou says the FERC should have used to model mobile source emissions. Given the large number of assumptions the FERC needed to make in order to model the mobile source emissions related to the two Venture Global terminals, the FERC concluded that extending this approach to other mobile sources "would not provide accurate" information. *Id.* ¶ 60. Emissions from those other mobile sources were therefore not "reasonably foreseeable." *Id.*; *see Del. Riverkeeper Network v. FERC*, 753 F.3d 1304, 1310 (D.C. Cir. 2014) (stating the NEPA "does not demand forecasting that is not meaningfully possible" (cleaned up)).

Bayou did not point to any methodology other than AERMOD the FERC could have used to measure the emissions from additional mobile sources. In insisting the FERC could have used the AERMOD tool to measure mobile source emissions, Bayou cites one case in which the FERC did that. The FERC persuasively distinguished that case in the May 2025 Rehearing Order: The cumulative effects modeling in that case "reflected unique situational circumstances" because "all three [relevant] LNG terminals were simultaneously undergoing initial environmental review at the time." 191 FERC ¶ 59. The FERC therefore included mobile emissions from those terminals because it "possessed current, facility-specific mobile source emissions data for each individual project." *Id.* In this case the FERC was not currently reviewing all the other terminals, *id.*, and those terminals "may have undergone changes" since the FERC had completed its NEPA analysis of them several years earlier, August 2025 Rehearing Order, 192 FERC ¶ 20; *see* J.A. 786 (Bayou's Request for Rehearing of the Initial Authorization Order citing EIS's completed between 2015 and 2022 for other terminals). So much for Bayou's claim that the Commission "offer[ed] no facts distinguishing the scenario here from [the] other scenario[] in which AERMOD was successfully used to model the impact of ship emissions."

The FERC also explained that its decision to omit mobile source emissions from the other six terminals was consistent with both EPA regulations and with the LDEQ's emissions inventory. *See* May 2025 Rehearing Order, 191 FERC ¶ 61 (citing 40 C.F.R. pt. 51, App. W). The FERC consulted with both agencies when preparing the SEIS, and "neither suggested that the Commission should analyze mobile source emissions more than it had already done." *Id.* ¶ 58 n.219. For the reasons already explained above at 25-26, and those discussed below at 31-33, the FERC was entitled to rely upon the expertise of those agencies.

In order to comply with its NEPA obligations, "an agency will invariably make a series of fact-dependent, context-specific, and policy-laden choices about the depth and breadth of its inquiry." *Seven Cnty.*, 605 U.S. at 182-83. We will affirm those choices "so long as they fall within a broad zone of reasonableness." *Id.* at 183. The FERC provided its reasons for excluding the disputed emissions sources in its cumulative effects analysis. Under our deferential standard of review, we may not set aside that well-reasoned decision.

2. The Commission's use of NAAQS in the cumulative effects analysis

Even accepting the FERC's conclusion that the Terminal's emissions would not cause exceedances of the NAAQS for NO_2 and $PM_{2.5}$, Bayou says the Terminal's emissions would still cause harms such as "premature deaths, asthma, and lost days of school and work." Bayou claims it was arbitrary and capricious for the FERC to rely upon the NAAQS rather than the EPA's CO-Benefits Risk Assessment Health Impacts Screening and Mapping Tool (COBRA), which Bayou says would have more accurately accounted for the health effects of the Terminal's emissions. We disagree.

As an initial matter, the FERC and the Intervenors argue that Bayou forfeited this argument by failing to raise it in its first request for rehearing. We will not ordinarily consider an objection that was not "urged before the Commission in the application for rehearing," unless, that is, there is a "reasonable ground for [the] failure so to do." § 717r(b). Bayou acknowledges that it did not challenge the Commission's reliance upon the NAAQS until its second rehearing request but argues its delay should be excused because only the "SEIS and subsequent rehearing orders . . . made relevant the question of whether air pollution below the NAAQS was safe." But it seems Bayou was on notice of, and aggrieved by, the Commission's reliance upon the NAAQS long before it raised its challenge; the EIS predicted that the O_3 emissions from both the Terminal and the Compressor Station would exceed the SILs but not the relevant NAAQS. As for the NO_2 and $PM_{2.5}$ emissions, the EIS predicted no exceedances of the annual NAAQS for NO_2 or of the annual and 24-hour NAAQS for $PM_{2.5}$ with respect to the Terminal. In short, the Commission's use of the NAAQS as a threshold in the cumulative effects analysis was clear before Bayou filed its first rehearing request.

In any event, even assuming Bayou had reasonable ground for not raising this argument earlier, it fails on the merits. The EPA sets NAAQS at a level “requisite to protect the public health” with “an adequate margin of safety.” 42 U.S.C. § 7409(b)(1). We have previously held the FERC “appropriately relied on [NAAQS] as a standard of comparison for air-quality impacts” because that approach “enabled decisionmakers and the public to meaningfully evaluate the project’s air-pollution effects by reference to a generally accepted standard.” *Sierra Club v. FERC* (*Sabal Trail*), 867 F.3d 1357, 1370 n.7 (2017), *abrogated on other grounds by Seven Cnty.*, 605 U.S. 168. Other circuits have similarly held that federal agencies may rely upon the NAAQS in making their own health-related determinations consistent with the NEPA. *See, e.g.*, *Diné Citizens Against Ruining Our Env’t v. Haaland*, 59 F.4th 1016, 1045-46 (10th Cir. 2023) (Bureau of Land Management’s review of applications for permits to drill for oil and gas); *Lowman v. FAA*, 83 F.4th 1345, 1364-66 (11th Cir. 2023) (Federal Aviation Administration’s review of proposed airport expansion); *Coal. for Advancement of Reg’l Transp. v. Fed. Highway Admin.*, 576 F. App’x 477, 491-92 & n.1 (6th Cir. 2014) (Federal Highway Administration’s review of the proposed construction of bridges).

As the FERC notes, Bayou has not pointed us to a single case in which a court has overturned an agency’s reliance upon the NAAQS as part of its NEPA analysis. Bayou instead argues our decision in *Sabal Trail*, upholding the FERC’s use of NAAQS in its cumulative effects analysis, does not apply here because the petitioners in that case did not present evidence “directly forecasting the health impacts that the specific project’s pollution would cause.” Our reasoning in *Sabal Trail*, however, did not rest upon a lack of evidence. We specifically approved the Commission’s reliance on NAAQS because they provided a “generally accepted standard” against which interested parties could "meaningfully evaluate" the proposed project. 867 F.3d at 1370 n.7.

Bayou also disputes the FERC's assertion that the NAAQS are "designated as safe by [the] EPA." Bayou again argues that NAAQS-compliant emissions are not completely harmless and points to the benefits of achieving an emissions level below the NAAQS. We do not doubt that achieving an emissions level below the NAAQS may result in additional benefits, but that does not mean the NAAQS are not set at a "safe" level. Again, federal law mandates that the EPA set primary NAAQS at a level "requisite to protect the public health" with an "adequate margin of safety." 42 U.S.C. § 7409(b)(1). Therefore, "the Agency's establishment of . . . NAAQS demonstrates that it did reach a conclusion regarding 'safe' . . . levels." *Am. Trucking Ass'ns v. EPA*, 283 F.3d 355, 368 (D.C. Cir. 2002).

Finally, Bayou touts the utility of the COBRA, but the FERC explained its reasons for choosing instead to rely upon the NAAQS: The EPA is "the air quality authority with the expertise to establish air quality thresholds/limits to protect public health required by the CAA." August 2025 Rehearing Order, 192 FERC ¶ 29 (quoting May 2025 Rehearing Order, 191 FERC ¶ 49). According to the EPA, the NAAQS are "designed to ensure public safety by setting acceptable concentration limits that minimize health risks and to protect sensitive populations." *Id.* And the EPA must "periodically review the NAAQS and the data used to develop the standards," ensuring that the standards remain up to date. May 2025 Rehearing Order, 191 FERC ¶ 72. In contrast, the EPA had described the COBRA as a "screening tool" used primarily at "the state or county level" that was not yet appropriate for the modeling of "project-specific analyses" because of remaining uncertainties regarding "key components" of the model. August 2025 Rehearing Order, 192 FERC ¶ 29 & n.116.

The FERC thus did not blindly defer to the NAAQS but rather made an independent judgment that using them as part of its cumulative effects analysis was more appropriate than using the COBRA. Bayou may disagree with the FERC's decision, but the FERC's "choice among reasonable analytical methodologies is entitled to deference." *Sabal Trail*, 867 F.3d at 1370 n.7 (quoting *Cmtys. Against Runway Expansion, Inc. v. FAA*, 355 F.3d 678, 689 (D.C. Cir. 2004)); *cf. Ala. Mun. Distribs.*, 100 F.4th at 214 (holding the FERC was not required to use the "social cost of carbon tool" when it had not yet determined how to "render that tool useful for project-level analyses").

3. The Moss Lake Compressor Station's cumulative effects

The SEIS concluded at step one of its cumulative effects analysis that the Compressor Station's emissions would not exceed any SILs for any criteria pollutant. Bayou argues the FERC's decision to end its analysis there is inconsistent with our decision in *Healthy Gulf*.

In *Healthy Gulf*, the petitioners argued the FERC's cumulative effects analysis of a project's NO_2 emissions was arbitrary because of the way the FERC relied upon the SILs. 107 F.4th at 1043. After the FERC determined the project's NO_2 emissions would not exceed the relevant SIL, the FERC "then redeployed the SIL to determine whether the Project's cumulative effects were significant." *Id.* The FERC concluded the project's cumulative effects were insignificant because its incremental NO_2 emissions did not exceed the relevant SIL at each NAAQS exceedance location. *Id.* "In other words, the Commission said that because the project's incremental effects were insignificant, its cumulative effects were, too." *Id.* at 1044. This "non sequitur" made the FERC's decision arbitrary:

> NEPA requires the Commission to assess the Project's cumulative effects, which are the effects on the environment that result from the incremental effects of the action *when added to* the effects of other past, present, and reasonably foreseeable actions. Simply measuring the Project's own emissions against the SIL fails to satisfy that requirement. Indeed, on the Commission's view, the cumulative effect of a Project's emissions would never be deemed significant unless the Project's incremental emissions were already significant on their own. That approach would eviscerate the purpose behind requiring a distinct cumulative effects analysis in the first place, which is to account for collectively significant environmental impacts that may result from individually minor actions.

Id. (cleaned up). We remanded the matter for the Commission either to explain how its use of the SILs was "consistent with a proper cumulative effects analysis" or to use a different methodology. *Id.*

Bayou argues this reasoning also applies to the Commission's analysis of the cumulative effects of the Compressor Station. For its part, the FERC reads *Healthy Gulf* as a case about the third step of the cumulative effects analysis — *i.e.*, whether a project's predicted SIL exceedance and its NAAQS exceedance will occur simultaneously. On that reading of *Healthy Gulf*, the FERC says it can still end its analysis at step one if it determines that a project's emissions will not exceed the relevant SIL. *See* August 2025 Rehearing Order, 192 FERC ¶ 23 (concluding that "*Healthy Gulf* disagreed with the Commission's re-use of the SIL" at step three but not with its initial use at step one).

Healthy Gulf is not applicable only to the third step of the FERC's cumulative effects analysis. In that case the FERC's error occurred at the third step, but nothing in the opinion suggests our reasoning turned on that. Rather, we explained without regard to the step that the Commission's approach "would eviscerate the purpose behind requiring a distinct cumulative effects analysis." 107 F.4th at 1044.

Still, nothing in *Healthy Gulf* requires us to remand this matter. After all, we did not hold the FERC could never end its analysis of cumulative effects after finding that a project's emissions would not exceed the relevant SIL, that is, at step one. On the contrary, we left open the possibility that the FERC could explain on remand "how its use of the . . . SIL [was] consistent with a proper cumulative effects analysis." *Id.*

The FERC provided that explanation in this case. The SEIS reported that "the maximum emission impacts for all criteria pollutants" from the Compressor Station were "effectively insignificant," so the emissions did not "add any meaningful amount when combined with past, present, and reasonably foreseeable emissions within the regional air environment." In reaching this conclusion, the SEIS also looked at "facilities in the vicinity of the Moss Lake Compressor Station" and determined that the cumulative effects of the NO_2 and $PM_{2.5}$ emissions were not significant based upon four considerations: (1) the magnitude of the emissions and the distance between the Compressor Station and other emitting facilities; (2) that the facilities were subject to permitting programs under the CAA that ensured they would not cause or contribute to any NAAQS exceedances; (3) that local monitors showed ambient levels below the NAAQS; and (4) that the magnitude of the effects of the Compression Station were below the SILs. *See* May 2025 Rehearing Order, 191 FERC ¶¶ 51-52.

"Black-letter administrative law instructs that when an agency makes those kinds of . . . predictive or scientific judgments, and decides what qualifies as significant or feasible or the like, a reviewing court must be at its 'most deferential.'" *Seven Cnty.*, 605 U.S. at 182 (quoting *Balt. Gas & Elec. Co. v. NRDC*, 462 U.S. 87, 103 (1983)); *see also Save the Sound*, 2026 WL 2093931, at *5 (collecting cases demonstrating our long history of deference to agency decisions requiring "technical expertise"). This is particularly appropriate here, because "requiring extensive air modeling for every source is costly and overly burdensome, especially where the source is projected to emit insignificant amounts of pollution." *Sierra Club v. LDEQ*, 100 F.4th 555, 565 (5th Cir. 2024).

In sum, the Commission reasonably explained why, in the context of this proceeding, the Compressor Station's emissions did not warrant further analysis.[7] Given the deference we owe the Commission on this point, we reject Bayou's argument to the contrary.

[7] Bayou also questions whether it was appropriate for the FERC to use the SILs as a statistical threshold because they also reflect policy considerations. We do not share this concern. As mentioned above at 7, we have described SILs as a numerical value "below which the EPA considers a source to have an insignificant effect on ambient air quality." *Sierra Club*, 705 F.3d at 461. We have no reason to think that does not hold true here considering the FERC consulted with the EPA on the final SEIS "regarding the methodologies for various impact analyses." May 2025 Rehearing Order, 191 FERC ¶ 58 n.219.

4. The harm to the commercial fishing industry

Finally, Bayou argues the FERC failed to take a hard look at the Terminal's effects on the commercial fishing industry in Cameron Parish. According to Bayou, the FERC "downplayed the harm" to the commercial fishing industry by describing it as "temporary" and erroneously concluding that the Terminal's effects would be "localized."

a. Temporary harm

Bayou argues the FERC failed to consider whether the adverse effects on the aquatic ecosystem would have a long-term effect on the commercial fishing industry, namely, that a single season with a reduced catch could force commercial fishers out of business permanently. But the FERC did not ignore this potential effect.

In the Initial Authorization Order the FERC acknowledged comments claiming the Terminal would "threaten[] the viability of the fishing and shrimping industries . . . in the project area." 187 FERC ¶ 107. The Commission also noted that the EIS analyzed the "potential socioeconomic impacts on commercial fisheries and shrimping, impacts to commercial fisheries and fishermen in environmental justice communities, and cumulative temporary and permanent impacts on commercial fishing." *Id.* ¶ 110 (cleaned up). For example, the Commission observed that construction would occur "during peak fishing and recreational seasons," *id.* ¶ 111, and cited potential effects such as increased vessel traffic, obstructed access to certain fishing locations, and changes to the population of shrimp, fish, and crab, *id.* ¶ 112. The FERC even acknowledged that "[p]ermanent impacts on recreational and commercial fisheries in the ship channel may occur due to the loss of available fishing areas from operation of the LNG terminal's marine facilities and LNG carrier traffic." *Id.* ¶ 111.

The FERC went on, however, to consider efforts to mitigate these potential harms as recommended in the EIS. Those efforts included project-specific procedures designed to minimize the effects on wildlife and habitats, a training program to inform workers about wildlife and endangerment factors, and an engagement plan to allow local fishers and residents to communicate problems directly to Venture Global. *Id.* ¶¶ 109, 113. The Commission also concluded the "overall size of the waterway and access to and maneuverability within the Calcasieu Ship Channel" would minimize the effects of the "proposed use of barges" on fishing activities. *Id.* ¶ 111.

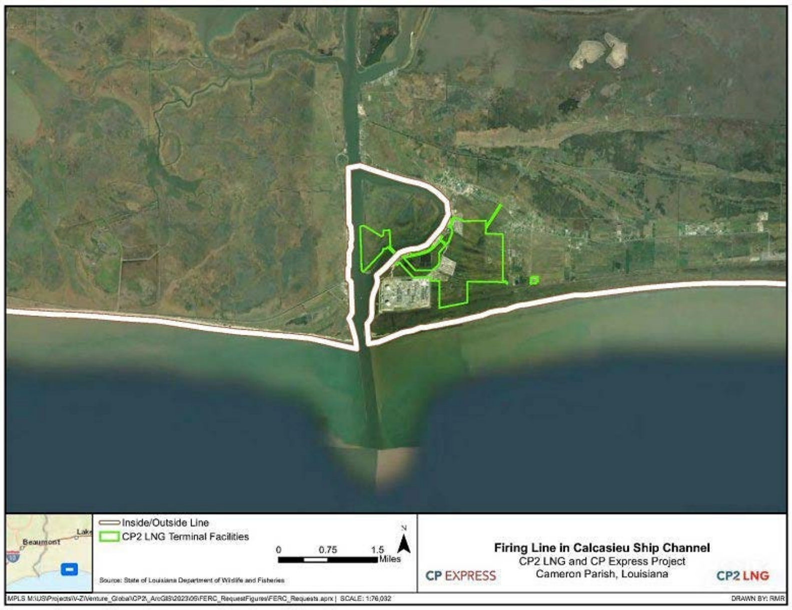
The FERC again considered Bayou's argument in the November 2024 Rehearing Order,189 FERC ¶ 101, once more acknowledged the "serious and potentially long-term impacts" identified in the EIS, *id.* ¶ 102, and again emphasized the mitigation efforts recommended in the EIS and adopted by the Commission, *id.*; *see also id.* ¶¶ 106-08. Based upon these orders, we readily conclude that the FERC considered the potential long-term effects on the commercial fishing industry and provided a reasoned explanation for approving the Terminal despite those potential effects.

b. Localized harm

Bayou next disputes the FERC's conclusion that the Terminal's effects "would be localized." *Id.* ¶ 112. Specifically, Bayou argues the FERC erroneously concluded that the area near the Terminal does not have any "unique features" not found in other parts of the Calcasieu Ship Channel. *Id.* ¶ 114.

The EIS explained that the waters near the terminal are divided by what is referred to as the "Firing Line." In waters north of the Firing Line, shrimp harvesting season varies by year; south of the line, where the Terminal is located, shrimp harvesting occurs year-round. According to Bayou, this means the area near the Terminal is "prime real estate" because it is "the *only* portion of the Calcasieu Ship Channel that is open for commercial shrimp harvesting year-round." Bayou further claims the Terminal will cover part of the area through which shrimp migrate to and from Calcasieu Lake.

Citing the EIS, the FERC recognized that "impacts on shrimping vessels would be greatest near the Terminal." *Id.* ¶ 109. It further explained, however, that the waters around the Terminal do not have any "unique features or habitat characteristics" not found in "other locations within the Calcasieu Ship Channel" and that the Terminal would "leav[e] approximately 25 river miles upstream" available with "the same fish common to the lower estuarine area." *Id.* ¶¶ 109, 114. Bayou says this was erroneous, again emphasizing the distinction between waters north and south of the Firing Line. As the Intervenors note, however — and as shown on the map below — the Terminal (outlined in green) covers only a small portion of the area south of the Firing Line (outlined in white). Even accepting Bayou's characterization of waters south of the Firing Line as "prime real estate," the Terminal leaves most of those waters available to commercial fishers.



The Commission also explained that commercial fishing vessels would still have access to those waters. "[D]ue to the overall size of the waterway and access to and maneuverability within the Calcasieu Ship Channel," fishing activities "would not be significantly affected by the proposed use of barges" during the construction of the Terminal. *Id.* ¶ 106. The FERC acknowledged that once the Terminal becomes operational, "LNG carriers in transit could impact commercial and recreational fishing vessels" in the Channel insofar as those vessels would have to give way until the LNG carrier passed, but they could then resume their activities throughout the Channel. *Id.* ¶ 107. This meant the Terminal "would have a moderate, but not significant impact on commercial fishing." *Id.* ¶¶ 107-08. Bayou gives us no reason to disturb the FERC's conclusion on this point.

III. Conclusion

For the reasons stated, the petitions for review are

Denied.