197 FERC ¶ 61,037
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Laura V. Swett, Chairman;
David Rosner, Lindsay S. See,
Judy W. Chang, and David LaCerte.

Environmental Review of Natural Gas Act Applications Docket No. PL26-3-000

DRAFT POLICY STATEMENT ON EFFICIENT ENVIRONMENTAL REVIEWS OF NATURAL GAS PROJECT APPLICATIONS

(Issued October 15, 2026)

1. The Commission issues this policy statement to provide updated guidance concerning our review of operational air emissions and associated air quality effects of proposed natural gas projects under the Natural Gas Act (NGA)[1] and the National Environmental Policy Act of 1969 (NEPA).[2] Based on our experience, our consideration of recent statutory amendments and judicial precedent on NEPA, and input from Commission staff, we determine that our current approach to analyzing operational air emissions for certain natural gas projects should be modified.

2. Pursuant to existing Commission regulations and guidance, applicants for natural gas projects submit a wealth of information related to projects' potential air quality effects in order to inform the Commission's review of those projects. This includes quantitative information on emission rates, information on air permits and regulations to which the proposed facilities will be subject, and measures and manufacturers' specifications for equipment proposed to mitigate air quality effects. In addition to the above information, we have generally required applicants to provide air dispersion modeling for compressor stations or liquefied natural gas (LNG) facilities. Models of this type are used for state Clean Air Act (CAA) permits and are detailed computational and mathematical simulations of how a proposed project's emissions will spread in the atmosphere and interact with ambient background pollution and/or emissions from other nearby sources. The resulting levels are then compared to the Environmental Protection Agency's (EPA) National Ambient Air Quality Standards (NAAQS). The Commission

[1] 15 U.S.C. §§ 717 *et seq.*

[2] 42 U.S.C. §§ 4321 *et seq.*; *see also* 18 C.F.R. pt. 380 (2025) (Commission's regulations implementing NEPA).

has generally relied on such modeling as a part of its NEPA review, including in determining whether a project will have "significant" air quality effects within NEPA's meaning.[3]

3. In our view, this approach is misaligned with Congress's and the Supreme Court's instructions on the proper administration of NEPA, as well as the Commission's limited role in air regulation. It also has proven unduly burdensome for applicants, other stakeholders, and Commission staff. In the Supreme Court's words, a "course correction" is warranted.[4]

4. Accordingly, the Commission will shift to a more streamlined approach, ultimately designed to bring our NEPA analysis "back in line with the statutory text and common sense," and likewise avoid functional duplication of CAA review and permitting responsibilities entrusted to the EPA and the state air permitting agencies.[5] The Commission will continue to thoroughly address air quality effects in our NEPA documents to disclose any reasonably foreseeable environmental effects. We will also consider such effects—as well as important contextual factors such as proximity to other emissions sources and existing air quality—as subsidiary elements in our substantive decision-making under the NGA, as we currently do. And, as with other categories of environmental effects, we will continue to invite and consider input from potentially affected communities and other commenters regarding their concerns about air quality issues and address those concerns as warranted.

5. However, pursuant to this policy statement, we will no longer ordinarily seek air dispersion modeling from NGA project applicants, nor will we require use of the results of such modeling to assess whether the air quality effects of facility operation will be "significant" for NEPA purposes. Instead, we will rely on other information submitted by applicants and identified by Commission staff to analyze the air quality effects of proposed projects under NEPA. In light of our experience, Supreme Court guidance on the proper scope of NEPA review, and the role of air quality issues in our substantive decision-making, we are confident that the Commission can discharge our environmental review duties under NEPA and the NGA, without imposing undue burdens on applicants, staff, and other stakeholders under this approach. Finally, we emphasize that the

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[3] *See, e.g.*, *For a Better Bayou v. FERC*, 188 F.4th 516, 526 (D.C. Cir. 2026).

[4] *Seven Cnty. Infrastructure Coal. v. Eagle Cnty., Colo.*, 605 U.S. 168, 184 (2025) (*Seven County*).

[5] *Id.*; *cf. FCC v. Fox Television Stations, Inc.*, 556 U.S. 502, 515 (2009) (an agency may change its approach where "the new policy is permissible under the statute," "there are good reasons for it," and "the agency believes it to be better" (emphasis omitted)).

Commission's actions here do not alter in any way the CAA statutory requirement for applicants to obtain all necessary air permits for their projects.

I. Introduction and Background

A. Statutory Background

6. Under the NGA, the Commission is charged with reviewing proposals for interstate natural gas pipeline facilities, as well as natural gas import and export facilities, including LNG terminals. Section 7(e) of the NGA provides that a certificate for a proposed interstate pipeline facility shall be issued if, among other requirements, the Commission finds that the proposed project "is or will be required by the present or future public convenience and necessity," and the Commission is authorized to impose such reasonable conditions on a certificate as the public convenience and necessity may require.[6] Similarly, the Commission considers a project's consistency with the "public interest" when evaluating applications for natural gas import or export facilities under Section 3 of the NGA.[7] The scope of those standards is delimited by the "principal purpose" for which Congress enacted the NGA—namely, "to encourage the orderly development of plentiful supplies of . . . natural gas at reasonable prices."[8] Although the Commission "undoubtedly" *may* consider environmental questions as a part of its inquiry, these questions are "subsidiary" to the NGA's "principal" economic regulatory purpose.[9]

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[6] 15 U.S.C. § 717f(e).

[7] 15 U.S.C. § 717b. The regulatory functions of NGA section 3 were transferred to the Secretary of Energy in 1977 pursuant to section 301(b) of the Department of Energy Organization Act, Pub. L. No. 95-91, 42 U.S.C. §§ 7101 *et seq*. The Secretary subsequently delegated to the Commission the authority to approve or disapprove the construction and operation of natural gas import and export facilities and the site at which such facilities shall be located. The most recent delegation is in U.S. Department of Energy (DOE) Delegation Order No. S1-DEL-FERC-2006, effective May 16, 2006. The Commission does not authorize importation or exportation of the commodity itself. Rather, an application for authorization to import or export natural gas must be submitted to the DOE. *See EarthReports, Inc. v. FERC*, 828 F.3d 949, 952-53 (D.C. Cir. 2016) (detailing how regulatory oversight for the export of LNG and supporting facilities is divided between the Commission and DOE).

[8] *NAACP v. Fed. Power Comm'n*, 425 U.S. 662, 669-70 (1976); *see also Pub. Utils. Comm'n of Cal. v. FERC*, 900 F.2d 269, 280-81 (D.C. Cir. 1990).

[9] *NAACP*, 425 U.S. at 669-70 & n.6; *Citizens Action Coal. of Ind., Inc. v. FERC*, 125 F.4th 229, 244 (D.C. Cir. 2025) ("The Supreme Court has recognized that

7. The Commission is also subject to NEPA's requirements. To comply with NEPA, the Commission must prepare an environmental assessment (EA) or an environmental impact statement (EIS) describing the effects of a proposed project, unless it finds that the proposal is covered by a categorical exclusion or is excluded from NEPA review under another law or under the terms of NEPA itself.[10] The purpose of this requirement is to ensure that "important effects will not be overlooked" in the Commission's decision-making,[11] and to provide "a springboard for public comment in the agency decision-making process."[12] The procedural duty to analyze environmental effects under NEPA extends only to effects of the proposed agency action that are reasonably foreseeable[13] and have a reasonably close causal connection with the proposed agency action.[14]

8. As the Supreme Court has emphasized, NEPA is solely a procedural statute; it imposes no substantive environmental regulatory requirements, nor any requirement to mitigate environmental concerns.[15] Its purpose is not to constrain the Commission's decision-making or to "generate paperwork."[16] Rather, the purpose of NEPA review is "to inform agency decisionmaking."[17] Accordingly, in determining the depth and breadth of its analysis under NEPA, the Commission's lodestar should be "the usefulness of any additional information" to its substantive decision-making.[18] As the Supreme Court

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conservation and environmental issues are 'subsidiary purposes' that FERC *may* consider," but FERC may not "prioritize environmental concerns over the primary objective of promoting the development of natural gas markets" (quoting *NAACP*, 425 U.S. at 670)).

[10] 42 U.S.C. § 4336; *see also id.* § 4336e(10).

[11] *Robertson v. Methow Valley Citizens Council*, 490 U.S. 332, 349 (1989).

[12] *Dep't of Transp. v. Pub. Citizen*, 541 U.S. 752, 768 (2004) (*Public Citizen*) (internal quotation marks omitted).

[13] 42 U.S.C. § 4332(2)(C).

[14] *Seven County*, 605 U.S. at 187-88; *Public Citizen*, 541 U.S. at 767.

[15] *See, e.g.*, *Seven County*, 605 U.S. at 173, 177, 180; *Public Citizen*, 541 U.S. at 756-57.

[16] *Public Citizen*, 541 U.S. at 768 (citation omitted).

[17] *Seven County*, 605 U.S. at 173.

[18] *Id.* at 183 (quoting *Public Citizen*, 541 U.S. at 767).

"doubly underscore[d]" in *Seven County Infrastructure Coalition v. Eagle County*, agencies have "broad latitude" to make choices about the appropriate "depth and breadth of [their] inquiry" under NEPA and about the "length, content, and level of detail" of the resulting environmental document.[19] NEPA likewise commands that an agency "is not required to undertake new scientific or technical research unless the new scientific or technical research is essential to a reasoned choice among alternatives, and the overall costs and time frame of obtaining it are not unreasonable."[20]

9. In contrast to NEPA, the CAA deploys several approaches for controlling air pollutants. First, the NAAQS program regulates air pollutants that "may reasonably be anticipated to endanger public health or welfare" with "an adequate margin of safety."[21] EPA has established NAAQS for six criteria pollutants—carbon monoxide, lead, nitrogen dioxide, ozone, particulate matter, and sulfur dioxide.[22] Congress then directed the states to choose which sources must reduce their pollution and by how much by submitting for EPA's approval a "state implementation plan" (SIP) "designed to implement and maintain such standards within its boundaries."[23] The CAA, through state SIPs, imposes extensive substantive regulatory requirements to control and mitigate the air quality effects of stationary pollution sources, including natural gas compressor stations and LNG terminals. This includes preconstruction and operating permit requirements under the New Source Review (NSR) and Title V programs.[24] The CAA prohibits any federal agency from issuing a license or permit or otherwise approving or financing any activity that does not conform to a SIP approved by EPA.[25]

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[19] *Id.* at 182-83.

[20] 42 U.S.C. § 4336(b)(3); *see Badger Helicopters Inc. v. FAA*, 154 F.4th 902, 915 (8th Cir. 2025).

[21] 42 U.S.C. §§ 7408(a)(1), 7409(b)(1).

[22] *See* EPA, *NAAQS Table*, https://www.epa.gov/criteria-air-pollutants/naaqs-table (last updated Nov. 4, 2025).

[23] *W. Va. v. EPA*, 597 U.S. 697, 707 (2022) (citation omitted); *see* 42 U.S.C. § 7410.

[24] *See generally* EPA, *New Source Review (NSR) Permitting*, https://www.epa.gov/nsr (last updated July 1, 2026); EPA, *Operating Permits Issued Under Title V of the Clean Air Act*, https://www.epa.gov/title-v-operating-permits (last updated July 16, 2026).

[25] 42 U.S.C. § 7506(c).

10. Second, the CAA directs EPA to list "categories of stationary sources" that it determines "cause[], or contribute[] significantly to, air pollution which may reasonably be anticipated to endanger public health or welfare" and promulgate for each category "Federal standards of performance for new sources."[26] EPA promulgates New Source Performance Standards (NSPS) for new, modified, or reconstructed stationary sources to establish emission limits for criteria pollutants and certain designated non-criteria pollutants, and fuel, monitoring, notification, reporting, and recordkeeping requirements.[27]

11. In addition to controls for criteria pollutants, the CAA's Hazardous Air Pollutant (HAP) program regulates hazardous air pollutants that present "a threat of adverse human health effects," including substances known or anticipated to be "carcinogenic, mutagenic, teratogenic, neurotoxic," or otherwise "acutely or chronically toxic."[28] EPA establishes these standards under the National Emission Standards for Hazardous Air Pollutants (NESHAP) program, and state programs generally implement and enforce these rules.[29]

12. All told, the CAA provides a comprehensive system of regulation "to protect and enhance the quality of the Nation's air resources so as to promote the public health and welfare."[30] The above-described regulatory requirements are, however, administered by the EPA and state agencies pursuant to federal delegation, and not the Commission. The Act's repeated emphasis on state authority tracks Congress's finding that air pollution prevention and control at its source "is the primary responsibility of States and local governments."[31]

B. Current Commission Approach to Analyzing Air Quality Effects

13. In order to ensure that the Commission has sufficient information to discharge its duties under the NGA and NEPA, the Commission requires project applicants to submit information on the environmental effects of proposed projects, including air quality effects. The Commission's regulations require that project applicants describe both the

[26] *Id.* § 7411(b)(1).

[27] *See* 40 C.F.R. pt. 60 (2025).

[28] 42 U.S.C. § 7412(b)(2).

[29] *Id.* § 7412(d)(1).

[30] 42 U.S.C. § 7401(b)(1).

[31] *Id.* § 7401(a)(3).

existing air quality in the project's vicinity[32] and the impact of the project on air quality, including how applicable regulatory requirements will be met.[33] Applicants must also describe measures and manufacturer's specifications for equipment proposed to mitigate air quality effects, including emission control systems.[34]

14. Commission staff has provided additional recommendations in its *Guidance Manual for Environmental Report Preparation* (*Guidance Manual*), last revised in February 2017.[35] The *Guidance Manual* describes a range of information related to operational air emissions from aboveground facilities that staff recommends applicants submit in order to assist the Commission in completing its NEPA review. This includes, among other things, a description of the existing air quality in the area;[36] an identification of all applicable air quality regulations and air quality permits, as well as an explanation of how the project would comply with them;[37] information necessary for the Commission to complete a General Conformity review as needed under the CAA;[38] a description of all

[32] 18 C.F.R. § 380.12(k)(1) (2025).

[33] 18 C.F.R. § 380.12(k)(3).

[34] 18 C.F.R. § 380.12(k)(5).

[35] FERC Office of Energy Projects, *Guidance Manual for Environmental Report Preparation for Applications Filed Under the Natural Gas Act*, Volume 1 (Feb. 2017), https://www.ferc.gov/sites/default/files/2020-04/guidance-manual-volume-1.pdf (*Guidance Manual*).

[36] *Id.* at 4-120.

[37] *Id.* at 4-121.

[38] *Id.* at 4-121 to 4-122. Although CAA permitting is administered by other agencies, the Commission has an independent responsibility to conduct General Conformity review for projects in certain areas. *See generally* EPA, *What Is General Conformity?*, https://www.epa.gov/general-conformity/what-general-conformity (last updated Aug. 11, 2026). With few exceptions, only construction emissions are applicable to the Commission's General Conformity analyses, and the Commission sometimes includes certificate conditions to ensure compliance with General Conformity requirements. *See, e.g.*, *Transcon. Gas Pipe Line Co.*, 192 FERC ¶ 61,184, at PP 89-94 (2025), *order on reh'g*, 194 FERC ¶ 61,098 (2026); *Transcon. Gas Pipe Line Co.*, 158 FERC ¶ 61,125, at PP 113-115 (2017), *order on reh'g*, 161 FERC ¶ 61,250 (2017). The Commission is not herein making any changes in its approach to General Conformity review and compliance.

emission-generating equipment;[39] and a quantitative analysis of emission rates for each source, covering CAA criteria pollutants (except lead), HAPs, and greenhouse gases (GHG).[40] The *Guidance Manual* further reiterates the requirement to describe manufacturers' specifications or equipment the applicant commits to implementing (through air permitting or voluntarily) to mitigate air effects.[41]

15. The *Guidance Manual* also instructs that, for new or modified compressor stations or LNG facilities, applicants should provide a screening or refined air dispersion model, providing comparisons to the EPA's NAAQS. Though our regulations do not specifically require applicants to produce and submit such modeling for purposes of our NEPA review,[42] over time, it effectively became a requirement for project applicants to do so.[43] That is because the Commission and its staff developed a non-statutory and non-regulatory practice of employing such modeling to assess projects' air quality impacts under NEPA. This has included analyzing more sources than required by state SIPs and comparing the modelled estimated emissions concentrations at specific locations to the NAAQS to decide whether to treat air quality impacts as having a "significant effect on the quality of the human environment"—i.e., as sufficiently impactful to warrant the preparation of a lengthier EIS rather than an EA[44]—for purposes of NEPA.[45]

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[39] *Guidance Manual* at 4-125.

[40] *Id*.

[41] *Id.* at 4-126.

[42] *See* 18 C.F.R. § 380.12(k)(3).

[43] Applicants must "[c]onduct any studies that the Commission staff considers necessary or relevant to determine the impact of the proposal on the human environment and natural resources." 18 C.F.R. § 380.3(b)(2) (2025).

[44] *See* 42 U.S.C. § 4336(b) (requiring EIS for proposed actions with a "reasonably foreseeable significant effect on the quality of the human environment," but requiring only an EA for proposed actions that "do[] not have a reasonably foreseeable significant effect on the quality of the human environment, or if the significance of such effect is unknown").

[45] *See, e.g.*, *Transcon. Gas Pipe Line Co.*, 194 FERC ¶ 61,078, at P 93 (2026), *order on reh'g*, 195 FERC ¶ 61,217 (2026).

II. Discussion

A. Need for Reform

16. The Commission's current approach to analyzing operational air emissions of compressor stations and LNG facilities has proven increasingly unworkable for applicants, the Commission, and its staff. It is also misaligned with both the CAA and Supreme Court guidance on the proper scope of NEPA review, particularly in view of the Commission's role in air quality regulation. Given the delays this approach creates for the development of urgently needed energy infrastructure,[46] reform is warranted.

17. The Commission is not an air regulatory agency.[47] Nor is it the operator of the relevant compressor stations or LNG facilities, and Commission staff are accordingly not equipped to produce air dispersion modeling themselves. As a result, such modeling must be prepared by applicants—a burdensome process that often exceeds, duplicates or, worse, conflicts with the modeling requirements imposed by state air regulatory agencies for the same projects in connection with their substantive air permits.[48] The current approach often requires multiple rounds of data requests. This process is unnecessary, time-consuming, and costly for both applicants and staff, unduly delaying the permitting process for essential energy infrastructure and to a significant extent duplicating the efforts of the EPA and state regulators expressly tasked by Congress to implement the CAA.

18. The details of air dispersion modeling have also become an increasingly large focus of the Commission's project orders. In fact, the Commission now routinely dedicates a sizable portion of its authorization and certificate orders to air modeling

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[46] *See* Exec. Order No. 14156 at § 3, 90 Fed. Reg. 8433, 8434 (Jan. 20, 2025).

[47] As discussed above, Congress charged the EPA with authority over national air quality regulation and permitting under the CAA.

[48] *See, e.g.*, *ANR Pipeline Co.*, 194 FERC ¶ 61,059, at P 70 (2026) (noting that "while [a] project [was] not subject to the CAA's [Prevention of Significant Deterioration] permitting requirements" for major sources or major modifications, the project developer prepared, for the sake of Commission NEPA review, extensive modeling "similar to" what would be required in connection with that permitting process), *order on reh'g*, 195 FERC ¶ 61,169 (2026); *Rio Grande LNG, LLC*, 192 FERC ¶ 61,198, at P 41 (2025) (describing circumstance in which Commission staff review of modeling conflicted with conclusions of air regulatory agency), *order on reh'g*, 194 FERC ¶ 61,218 (2026).

issues, even in cases where project emissions are clearly minimal.[49] Correspondingly, air emissions have become one of the primary foci of litigation by project opponents, as the complexity of the Commission's analyses of dispersion modeling provides ample opportunities for "flyspecking" by litigants.[50] This has led to legal uncertainty for applicants and, in some instances, costly remand proceedings.[51]

19. This status quo reflects a misalignment among the Commission's NEPA processes, the reality of how air quality issues fit into the Commission's decision-making, and the broader multi-agency permitting process for Commission-jurisdictional energy projects.

20. As discussed above, the Commission is primarily an economic regulator.[52] Environmental considerations *in toto* are just one subsidiary element in the Commission's overall decision-making.[53] Air emissions, in turn, are just one environmental factor among many that the Commission analyzes and weighs when resolving project applications. In short, although air quality effects are within the scope of issues the Commission "*may*" consider as part of its holistic evaluation of project applications,[54] the Commission is not an air regulator by regulation or by Congressional charge.

21. At the same time, air emissions from Commission-jurisdictional compressor stations and LNG facilities are comprehensively regulated separately under the CAA, including through state regulations and permitting requirements pursuant to federally

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[49] *See, e.g.*, *Tenn. Gas Pipeline Co.*, 196 FERC ¶ 61,093, at PP 116-30 (2026); *Transcon.*, 194 FERC ¶ 61,078 at PP 87-96; *Dominion Transmission, Inc.*, 155 FERC ¶ 61,106, at PP 94-111 (2016), *order on reh'g*, 163 FERC ¶ 61,128 (2018), *pet. for review denied sub nom. Otsego 2000 v. FERC*, 767 F. App'x 19 (D.C. Cir. 2019).

[50] *See, e.g.*, *For a Better Bayou*, 188 F.4th at 533 ("Bayou raises several challenges under the NEPA. . . . Bayou's challenges ultimately ask us to engage in a more searching review than precedent allows.")

[51] *See Rio Grande LNG*, 192 FERC ¶ 61,198 at PP 33-49, *order on reh'g*, 194 FERC ¶ 61,218, at PP 52-71 (2026) (orders addressing air issues on remand from *City of Port Isabel v. FERC*, 111 F.4th 1198, 1214-15 (D.C. Cir. 2024)); *Commonwealth LNG, LLC*, 191 FERC ¶ 61,205, at PP 17-19 (2025) (order addressing air issues on remand from *Healthy Gulf v. FERC*, 107 F.4th 1033, 1043-44 (D.C. Cir. 2024)).

[52] *See supra* at P 6.

[53] *NAACP*, 425 U.S. at 670 & n.6.

[54] *Citizens Action Coal.*, 125 F.4th at 244 (emphasis in original).

approved SIPs.[55] For example, under the Prevention of Significant Deterioration (PSD) permitting program, "major" emission sources and major modifications at existing sources are subject to permitting requirements that themselves ensure the project must implement "best available control technology" and will not "cause, or contribute to" NAAQS violations.[56] The PSD program is intended to "assure that any decision to permit increased air pollution in any [applicable] area . . . is made only after careful evaluation of all the consequences of such a decision and after adequate procedural opportunities for informed public participation in the decisionmaking process."[57] For projects subject to PSD permitting, requiring independent Commission analysis of air modeling is duplicative and unnecessary.

22. Additionally, states choose how to address minor stationary sources of air emissions under federally approved SIPs.[58] While the state-administered permitting requirements for minor sources may vary,[59] the Clean Air Act still requires that these sources be regulated "as necessary to assure that national ambient air quality standards

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[55] *See* 15 U.S.C. § 717b(d) (excluding "the rights of States under . . . the Clean Air Act" from preemption under the NGA).

[56] *See* 42 U.S.C. § 7475(a); *Util. Air Regul. Grp. v. EPA*, 573 U.S. 302, 308-09 (2014). This applies to new major sources or major modifications at existing sources for pollutants where the area the source is located in is in attainment or unclassifiable with the NAAQS. *See generally* EPA, *Prevention of Significant Deterioration Basic Information*, https://www.epa.gov/nsr/prevention-significant-deterioration-basic-information (last updated Dec. 15, 2025). For new major sources or major modifications in nonattainment areas, the Nonattainment NSR program imposes even stricter requirements. *See* EPA, *Nonattainment NSR Basic Information*, https://www.epa.gov/nsr/nonattainment-nsr-basic-information (last updated Dec. 15, 2025).

[57] 42 U.S.C. § 7470(5).

[58] 42 U.S.C. § 7410(a)(2)(C) (requiring states to regulate "the modification and construction of *any* stationary source" (emphasis added)); 40 C.F.R. §§ 51.160-51.164 (2025) (prescribing the requirements SIPs must contain for both major and minor sources).

[59] *See generally* Minor New Source Review Program Air Permitting Public Participation Requirements for State Implementation Plans, 91 Fed. Reg. 41591, 41594 (proposed July 7, 2026) (to be codified at 40 C.F.R. pt. 51) (explaining that the federal requirements for minor source programs are less prescriptive and thus more variable across states and describing the various mechanisms states may use to regulate minor sources, including permits, general permits, and permits-by-rule).

are achieved."[60] The variable level of review for minor sources compared to major sources and major modifications reflects the fact that similarly extensive review is not necessarily warranted for sources that are, by definition, "minor" in scale.[61]

23. The CAA has given state and local air agencies discretion to determine how to achieve the Act's goal. Insofar as the Commission has in the past required applicants for such projects to prepare mathematical air quality analyses significantly more extensive than required in connection with those projects' actual substantive air permits, we find this to be a textbook example of the NEPA overgrowth the Supreme Court condemned in *Seven County*[62] and contrary to Congress's finding that air pollution prevention and control "is the primary responsibility of States and local governments."[63]

24. As discussed, the EPA's NSPS and NESHAP programs, as well as additional state regulatory requirements, and the CAA's Nonattainment NSR requirements, provide even further protections.[64]

25. In light of this exacting regulation by the EPA and approved state agencies—the expert administrative bodies Congress *actually* charged with safeguarding the Nation's air quality—EPA has previously recognized that compliance with the CAA's emission standards has meant there would be no significant increase in emissions pursuant to NEPA.[65] The D.C. Circuit has agreed in at least on instance, appropriately deferring to an agency's determination that possible increases in emissions *within* CAA limits are not

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[60] 42 U.S.C. § 7410(a)(2)(C).

[61] *Cf.* EPA, *Minor NSR Basic Information*, https://www.epa.gov/nsr/minor-nsr-basic-information (last updated Dec. 19, 2025) (explaining states' ability to "customize the requirements of the minor NSR program" as part of their SIPs).

[62] *See Seven County*, 605 U.S. at 183-84 (decrying NEPA's "transform[ation] from a modest procedural requirement" into a source of substantial delay for "even those projects that otherwise comply with all relevant environmental laws").

[63] 42 U.S.C. § 7401(a)(3).

[64] *See supra* PP 10-11, 21 n.56.

[65] *Pub. Citizen v. NHTSA*, 848 F.2d 256, 267-68 (D.C. Cir. 1988) (upholding agency determination that no EIS was required when possible increases in emissions fall within CAA limits).

significant.[66] As discussed, the CAA prohibits any federal agency from issuing a license or permit for a proposed project that does not conform to a SIP approved by EPA.[67]

26. The depth and breadth of the Commission's analysis under NEPA should be guided by the "usefulness" of additional information to its substantive decision making.[68] We find that our separate air dispersion modeling does not add utility to the Commission's decision-making beyond the information already inherent in compliance with the CAA and state air permitting programs thereunder. We are aware of no case in which the Commission has denied a Section 3 or 7 application based either wholly or in part on its air quality impacts. The Commission's orders also directly require that applicants obtain relevant air permits as a condition of their approval. The Commission has rarely required post-certification air monitoring,[69] and the Commission has not made a practice of conditioning project certificates or authorizations to require additional mitigation measures to reduce operational air emissions.[70] This dynamic reflects the CAA's success in ensuring that the air quality impacts of essential infrastructure facilities

[66] *Id.* at 268; *see also For a Better Bayou*, 188 F.4th at 537 (finding that the Commission properly relied on the state's CAA inventory for purposes of NEPA).

[67] 42 U.S.C. § 7506(c).

[68] *Seven County*, 605 U.S. at 183 (quoting *Public Citizen*, 541 U.S. at 767).

[69] *See, e.g.*, *Transcon. Gas Pipe Line Co.*, 158 FERC ¶ 61,125 at PP 117-118 (requiring air monitoring with requirement to "contact the state air quality agency to report [any] violation and establish a plan of action . . . in accordance with the terms of the facility air permit and applicable state law").

[70] The exceptional case in which we have come the closest to requiring additional air quality mitigation, *Rio Grande LNG, LLC*, 183 FERC ¶ 61,046 (2023), *order on reh'g*, 185 FERC ¶ 61,080 (2023), proves the rule. There, we required a mitigation and monitoring plan to address short-term periods of heightened air quality impacts during overlapping construction, commissioning, and operation activities in the context of a now-defunct environmental justice analysis. 183 FERC ¶ 61,046 at PP 141-142, 147; *see also Rio Grande LNG, LLC*, 192 FERC ¶ 61,198 at PP 40-41. But the concerns that led the Commission to impose this requirement were driven by inherently unpredictable and variable construction emissions, for which dispersion modeling is not conducted under the Commission's existing NEPA practices. And, in any event, the Commission did not require reductions in the operational emissions themselves.

are minimized to the point where they are not significant. The Commission owes due deference to the regulatory judgments of agencies with greater expertise in this area.[71]

27. For purposes of making a significance finding under NEPA, the CAA's regulatory framework should be viewed holistically. Congress has given states the discretion to implement and achieve air quality standards by crafting SIPs, subject to EPA approval, detailing how NAAQS will be met and maintained within air quality control regions. Assessing impacts at individual locations failed to consider the states' comprehensive approach to air pollution control in their SIPs.

28. In these circumstances, it is not consistent with NEPA's rule of reason for the Commission to require project developers to prepare and submit air dispersion modeling as part of their applications for Commission certifications or authorizations.[72] As discussed, that approach places substantial burdens on applicants, other stakeholders, and Commission staff, significantly slows the approval process, and has been a persistent source of litigation that erodes regulatory certainty. These costs and downsides are not justifiable, particularly given what years of experience have revealed: namely, that the additional level of granular information provided by such modeling rarely, if ever, alters the Commission's substantive decision-making.

29. Nor is it consistent with NEPA's proper role as a "modest procedural requirement" for the Commission to routinely require modeling and analyze air emissions in far more detail and depth than necessary for the same projects' actual permitting under the CAA.[73] This degree of procedural burden, disconnected from the Commission's substantive decision-making, likewise stands in tension with Congress's clear instructions, through the Fiscal Responsibility Act of 2023's BUILDER Act amendments, that agencies should carefully maintain control over the depth and breadth of their NEPA analyses rather than allowing them to expand without limit.[74]

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[71] *Pub. Utils. Comm'n*, 900 F.2d at 280-81 ("The broad public interest standards in the Commission's enabling legislation are limited to the purposes that Congress had in mind when it enacted this legislation"—i.e., primarily economic considerations—which "helps confine [the Commission's] authorization to those areas in which [it] fairly may be said to have expertise." (internal quotation marks omitted)).

[72] *See Seven County*, 605 U.S. at 183 (discussing "rule of reason" "inherent in NEPA" (quoting *Public Citizen*, 541 U.S. at 767)).

[73] *Id.*; *see also supra* at P 22.

[74] Under Section 321 of the Fiscal Responsibility Act of 2023 (the "BUILDER Act"), an EIS is generally limited to 150 pages and must be completed in 2 years or less;

30. The Commission's status quo approach is the end result of a stepwise evolution, driven largely by a reactive dynamic the Supreme Court identified, and firmly chastised, in *Seven County*. Out of a desire to be responsive to commenters and wary of the attendant litigation risk, the Commission gradually expanded its analysis of air emissions.[75] Each decision to provide "just a little more process" was then incorporated into the Commission's standard practices, creating a new baseline that was itself subject to challenge and litigation.[76] As the Supreme Court admonished, a "course correction" is warranted to begin unwinding the deleterious effects of this dynamic.[77] Now that the Supreme Court and the D.C. Circuit have made clear that "the era of searching NEPA review is over,"[78] and Congress has called upon agencies to conduct more concise and expeditious environmental documents,[79] it falls upon the Commission to revisit its

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the corresponding limits for EAs are even stricter, at 75 pages and 1 year, respectively. 42 U.S.C. § 4336a(e), (g); *accord Seven County*, 605 U.S. at 181 n.3.

[75] *Seven County*, 605 U.S. at 183 (noting that "overly intrusive (and unpredictable) review in NEPA cases" has "caused litigation-averse agencies to take ever more time and to prepare ever longer" NEPA documents); *see also Rio Grande LNG, LLC*, 194 FERC ¶ 61,218, PP 7-27 (2026) (discussing revisions to air modelling based on litigation over model inputs and results).

[76] *See Seven County*, 605 U.S. at 184. This approach also supported the Commission's now obsolete practice to assess whether proposed projects could have disproportionate and adverse effects on nearby environmental justice communities. We note that all Executive orders pertaining to environmental justice were revoked in January 2025. As a result, the Commission no longer considers whether the proposed project has disproportionate and adverse effects on environmental justice communities; however, the Commission continues to fulfill its NEPA responsibilities by considering impacts on all potentially affected communities. *See* Exec. Order No. 14,148, 90 Fed. Reg. 8237 (Jan. 20, 2025); Exec. Order No. 14,173, 90 Fed. Reg. 8633 (Jan. 21, 2025).

[77] *Seven County*, 605 U.S. at 184.

[78] *Save the Sound, Inc. v. FAA*, 183 F.4th 763, 776 (D.C. Cir. 2026) (clarifying that, after *Seven County*, "the era of searching NEPA review is over" (quoting *Sierra Club v. FERC*, 153 F.4th 1295, 1311 (D.C. Cir. 2025)); *For a Better Bayou*, 188 F.4th at 533 (same).

[79] *See Seven County*, 605 U.S. at 181 n.3 (discussing BUILDER Act's statutory limitations on length and timelines for environmental documents under NEPA).

practices, retaining only those aspects of its NEPA analyses that are sufficiently useful to its decision-making to justify the associated costs and delays.[80]

B. Streamlined Review Process

31. In determining the appropriate scope of our NEPA analysis, we must begin with first principles. As noted above, NEPA is a procedural statute that requires an assessment of the environmental effects of proposed actions to ensure that "important effects will not be overlooked" in our decision-making.[81] Because "[a]n agency can always include more detail and more robust explanations in its EA or EIS,"[82] discretionary judgments must be made regarding the proper "depth and breadth" of the resulting inquiry.[83] These decisions, the Supreme Court has made clear, must be driven by an assessment of the "usefulness of any new potential information to the decisionmaking process."[84] That, in turn, must be determined by the contours of the agency's decisional process under the substantive statute it is administering.

32. Under sections 3 and 7 of the NGA, the Commission is charged with evaluating the "public interest" and the "public convenience and necessity," respectively.[85] As explained, the Commission is an economic regulator, and the scope of these standards is delimited by Congress's purpose in enacting the NGA: "to encourage the orderly development of plentiful supplies of . . . natural gas at reasonable prices."[86] While "the Commission has authority to consider" environmental questions as part of its inquiry, its role in this area is "subsidiary" to its principal status as an economic regulator tasked

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[80] *Cf. Appalachian Voices v. FERC*, 139 F.4th 903, 916 (D.C. Cir. 2025) (Henderson, J., concurring) (describing excessive NEPA review, and litigation thereunder, as a "driving factor" in the "national sclerosis" afflicting energy infrastructure development since 1970).

[81] *Robertson*, 490 U.S. at 349.

[82] *Save the Sound, Inc. v. FAA,* 183 F.4th at 776.

[83] *Seven County*, 605 U.S. at 183.

[84] *Id.* (quoting *Public Citizen*, 541 U.S. at 767).

[85] *See supra* at P 6.

[86] *NAACP*, 425 U.S. at 669-70; *see also Pub. Utils. Comm'n*, 900 F.2d at 280-81.

with ensuring wide availability of natural gas at affordable prices.[87] This is in marked contrast to the statutory role, and concomitant expertise, of the EPA and the state agencies that are entrusted with delegated authority under the CAA's cooperative federalism regime.

33. An analysis of air quality issues appropriately tailored to the Commission's regulatory role, and the place of such issues in its substantive decision-making, need not—and, for reasons articulated above, should not—require complex dispersion modeling. For example, when analyzing construction-related emissions,[88] our longstanding practice has been to quantify such emissions by pollutant type and consider the resulting emissions figures alongside qualitative evaluation of those emissions' adverse effects on nearby communities, as well as the applicant's proposed mitigation measures and the regulatory requirements (such as EPA mobile and non-road emission regulations) with which the applicant must comply. In assessing whether such emissions are expected to have a "significant effect on the quality of the human environment" under NEPA, we holistically consider their extent and scale, as informed by the foregoing information.

34. In contrast to our effective yet efficient approach to analyzing construction-related emissions, the "depth and breadth"[89] of our analysis of operational facility emissions has expanded beyond the "usefulness" [90] of the resulting information to our decision-making. This stems largely from our reliance on complex and burdensome air dispersion modeling. We believe a simpler approach is sufficient to satisfy our NEPA obligations and properly inform our decision-making as to all operational air emissions.

35. To support such an analysis, we will continue to analyze information on new equipment sources at proposed facilities, including emission factors for criteria pollutants, HAPs, and GHGs, as described in the *Guidance Manual*.[91] We will also continue to require that applicants provide information on any manufacturer's specifications or equipment they commit to implementing (through air permitting or

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[87] *NAACP*, 425 U.S. at 669-70 & n.6; *see also Citizens Action Coal.*, 125 F.4th at 244.

[88] This includes, for example, exhaust emissions and fugitive dust from on-road and off-road construction equipment and vehicles.

[89] *Seven County*, 605 U.S. at 183.

[90] *Id.* (quoting *Public Citizen*, 541 U.S. at 767).

[91] *See Guidance Manual* at 4-125.

voluntarily) to mitigate air quality effects.[92] Commission staff will then quantify the estimated operational emissions utilizing this data. This will provide quantified benchmarks for the Commission to understand and disclose the scale of projects' air emissions and approximate location of the proposed facilities, as well as detailed qualitative information about how those air emissions will be controlled and mitigated, which we believe amply suffices to discharge our sole duty under NEPA to "prepare an adequate report" on projects' air quality effects.[93] However, we will no longer require air dispersion modeling.

36. Applicants are free to continue on their own volition to provide more information than NEPA requires. For example, where an applicant has independently prepared air dispersion modeling for a facility in connection with air permitting processes, it may submit such information if desired to further inform the Commission's environmental review. Consistent with our current approach, the applicant-prepared modeling would be analyzed in the NEPA document to provide additional context. Again, however, submission of air dispersion modeling will not be required.

37. Under its current usual practice, the Commission generally looks to the results of dispersion modeling, and comparison to the EPA's NAAQS, in assessing whether a proposed project's criteria pollutant emissions are "significant" within NEPA's meaning—a term of art that indicates effects of sufficient gravity and extent to warrant preparation of a lengthier EIS.[94] We now believe, based on Commission and staff experience, that this type of detailed project-by-project analysis of mathematical dispersion models is unnecessary to determine whether effects will be "significant" in this sense. Because a project must meet the stringent requirements of the CAA, a project with a valid CAA permit should not have significant impacts from its air emissions.[95]

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[92] *Id.* at 4-126; *see* 18 C.F.R. § 380.12(k)(5).

[93] *Seven County*, 605 U.S. at 180.

[94] *See* 42 U.S.C. § 4336(b); *Food & Water Watch v. FERC*, 104 F.4th 336, 346 (D.C. Cir. 2024).

[95] We note that neither the NAAQS nor any other EPA-developed benchmarks were designed to serve as criteria for assessing whether effects are "significant" as that term is employed in NEPA jurisprudence. Thus, while evaluating potential NAAQS exceedances may be one reasonable approach to assessing NEPA significance, *see, e.g.*, *Sierra Club v. FERC*, 867 F.3d 1357, 1370 n.7 (D.C. Cir. 2017) (affirming this approach as a "reasonable" "choice" of methodology (citation omitted)), *abrogated on other grounds by Seven County*, 605 U.S. at 189-90, it is not the only one. *Cf. Seven County*, 605 U.S. at 181-82 ("[A] reviewing court must be at its most deferential" when reviewing

38. In determining whether effects are sufficiently "significant" to warrant preparation of an EIS, the pervasive regulatory regime imposed by the CAA is highly relevant. Given the extensive protections and mitigation requirements built into the CAA's highly reticulated scheme of air quality regulation, which reflect the expertise and scientific judgment of agencies like the EPA and designated state agencies, it is generally appropriate to find the air quality effects of Commission-jurisdictional projects less than "significant" within NEPA's meaning—and thus not independently warranting a more extensive EIS process—where possible increases in emissions are *within* CAA limits as reflected by the project developer's compliance with all pertinent CAA permitting and regulatory requirements.[96]

39. As stated previously, this represents a shift to a more streamlined approach, ultimately designed to bring our NEPA analysis "back in line with the statutory text and common sense," and likewise avoids functional duplication of the CAA responsibilities entrusted to the EPA and the states.[97] We emphasize, however, that we will continue to thoroughly address air quality effects in our NEPA documents to disclose any reasonably foreseeable environmental effects. We will also consider such effects—as well as important contextual factors such as proximity to other emissions sources and existing air quality—as subsidiary elements in our substantive decision-making under the NGA, as we currently do. And, as with other categories of environmental effects, we will continue to invite and consider input from potentially affected communities and other commenters regarding their concerns about air quality issues and address those concerns as warranted. For the reasons explained, we are confident that the approach described and adopted herein is both lawful and ultimately conducive to the efficient discharge of our duties under the NGA and NEPA.

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agency determinations about "what qualifies as significant" (internal quotation marks omitted)); *Cmtys. Against Runway Expansion, Inc. v. FAA*, 355 F.3d 678, 689 (D.C. Cir. 2004) (an agency's "choice among reasonable analytical methodologies is entitled to deference").

[96] *Friends of Animals v. Burgum*, 164 F.4th 738, 752 (9th Cir. 2026) (upholding agency reliance on state permitting process and regulatory compliance in determining that effects would not be significant); *accord Commonwealth LNG*, 191 FERC ¶ 61,205 at P 18 & n.57 (noting that "[g]enerally, the Commission would consider compliance with the state PSD program and any required mitigation . . . as a reasonable indication that the project's air emissions will not result in significant effects").

[97] *Seven County*, 605 U.S. at 184; *cf. Fox Television Stations*, 556 U.S. at 515 (an agency may change its approach where "the new policy is permissible under the statute," "there are good reasons for it," and "the agency believes it to be better" (emphasis omitted)).

III. Conclusion

40. The Commission is committed to maintaining efficient permitting processes that protect the environment and communities. As the Supreme Court has instructed, our discretionary judgments regarding the depth and breadth of our NEPA analyses should be determined by the usefulness of additional information to our substantive decision-making. In making such judgments, we must be mindful of our distinct role within the multi-agency permitting processes applicable to energy infrastructure projects. Consistent with those guiding principles, the reforms we adopt today will result in more efficient permitting processes while maintaining substantive environmental protections.

By the Commission. Chairman Swett is concurring with a separate statement attached.
Commissioner Rosner is concurring with a separate statement attached.
Commissioner Chang is dissenting with a separate statement attached.

(S E A L)

Carlos D. Clay,
Deputy Secretary.

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Environmental Review of Natural Gas Act Applications Docket No. PL26-3-000

(Issued October 15, 2026)

SWETT, Chairman, *concurring*:

1. In *Seven County Infrastructure Coalition v. Eagle County, Colorado*, the Supreme Court aptly described NEPA as a "1970 legislative acorn" that "has grown over the years into a judicial oak," "hinder[ing] infrastructure development" through needless procedural delay and litigation.[1] Today's draft policy statement advances the Court's call to bring NEPA "back in line with the statutory text and common sense"[2] by proposing targeted, strategic, and legally durable reforms to our review of operational air emissions in connection with Commission-jurisdictional natural gas project applications.[3] More broadly, the policy statement exemplifies this Commission's dedication to facilitating conscientious prosperity for the American economy.

I. NEPA Weaponization Is a Metastasis Upon Energy Security.

2. *Everyone* acknowledges that our primary statutory responsibility is to promote development of plentiful, reliable supplies of electricity and natural gas at reasonable prices.[4] NEPA reform, and permitting reform more broadly, is essential to that mission. "America was once a nation that built," rolling out major energy infrastructure improvements on timelines that are nearly inconceivable today.[5] Since 1970, however, "productivity growth in

[1] *Seven Cnty. Infrastructure Coal. v. Eagle Cnty., Colo.*, 605 U.S. 168, 184 (2025) (*Seven County*).

[2] *Id.*

[3] *Env't Rev. of Nat. Gas Act Applications*, 197 FERC ¶ 61,037, at PP 31-39 (2026) (Draft Policy Statement).

[4] *See, e.g.*, *id.* P 4 (Chang, Comm'r, dissenting) (Dissent) (citing *NAACP v. Fed. Power Comm'n*, 425 U.S. 662, 669-70 (1976)).

[5] *Appalachian Voices v. FERC*, 139 F.4th 903, 916 (D.C. Cir. 2025) (Henderson, J., concurring) (describing, *inter alia*, widespread electrification of American homes from 1915 to 1940).

the construction industry has been on an unyielding decline."[6] America's "power grid has become bottlenecked," and there are "more pipelines in service today that were built pre-1970 than in the fifty-five years since."[7] A "driving factor" of this "national sclerosis" is excessively burdensome NEPA review.[8]

3. The numbers are stark. In 1981, the Council on Environmental Quality (CEQ) expected and advised agencies that "even large complex energy projects would require only about 12 months for the completion of the entire [environmental impact statement] process."[9] But over the intervening decades, federal regulatory agencies layered on more and more NEPA analysis, in an effort to satisfy litigation-happy anti-infrastructure groups and to defend against overly intrusive judicial review.[10] By 2022, the average environmental impact statement preparation time was 4.2 years,[11] and NEPA documents that would have spanned a "handful of pages in the early 1970s" ballooned to thousand-page tomes.[12] NEPA—a modest procedural statute that Congress "apparently never contemplated [having] a significant role . . . in litigation"[13]—became precisely the "forum [for] . . . unjustified obstructionism" the Supreme Court warned against as early as 1978.[14]

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[6] *Id.*

[7] *Id.*

[8] *Id.*

[9] Council on Env't Quality, Forty Most Asked Questions Concerning CEQ's National Environmental Policy Act Regulations, 46 Fed. Reg. 18026, 18037 (Mar. 23, 1981).

[10] *See Seven County*, 605 U.S. at 183-84; *Appalachian Voices*, 139 F.4th at 922-23 (Henderson, J., concurring).

[11] *See* Zachary Liscow, *Getting Infrastructure Built: The Law and Economics of Permitting*, J. Econ. Perspectives, Winter 2025, at 151, 156-57.

[12] Aidan Mackenzie & Santi Ruiz, *No, NEPA Really Is a Problem for Clean Energy*, Inst. for Progress (Aug. 17, 2023), https://ifp.org/no-nepa-really-is-a-problem-for-clean-energy.

[13] Richard Lazarus, *The National Environmental Policy Act in the U.S. Supreme Court: A Reappraisal and a Peek Behind the Curtains*, 100 Geo. L.J. 1507, 1515 (2012) (cited by *Seven County*, 605 U.S. at 179 n.2).

[14] *Vt. Yankee Nuclear Power Corp. v. Nat. Res. Def. Council, Inc.*, 435 U.S. 519, 553 (1978).

4. Inured to decades of NEPA "metastasis,"[15] agencies and courts lost sight of the statute's original, modest purpose: to ensure that agencies are *adequately* apprised of environmental information that is *important* to their substantive decisional choices.[16] And while this sad charade produced a great deal of "paperwork—even excellent paperwork"[17]—it did so at the cost of kneecapping the Nation's ability to build the infrastructure we desperately need. Weaponized litigation and infrastructure obstruction greatly succeeded in crippling American development. The symptoms of this cancer permeate far beyond pipelines and are painfully evident in the choked ability of electricity generators and industrial operations to reliably obtain the gas they need in various parts of the country.

II. Finally, America Has Awoken.

5. There is now striking consensus on the critical need to halt and, crucially, *reverse* decades of NEPA overgrowth. All three branches of government are in accord. Through the BUILDER Act, Congress required agencies to shorten their NEPA documents and accelerate review timelines,[18] which necessarily requires agencies' careful discernment of what information to include in their analyses. The President, in turn, commanded agencies to "expedite and simplify the permitting process" for energy projects by "adher[ing] to only the relevant legislated requirements for environmental considerations."[19] The Supreme Court called for a "course correction" to bring NEPA review back in line with the statute's "modest procedural" purpose.[20] And the D.C. Circuit, for its part, declared that "the era of searching NEPA review is over."[21] Outside of government, commentators from across the political spectrum have amplified these calls for reform.[22]

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[15] *Appalachian Voices*, 139 F.4th at 926 (Henderson, J., concurring).

[16] *See Seven County*, 605 U.S. at 181 ("[A]gencies determine whether *and to what extent* to prepare an [environmental impact statement] based on the usefulness of any new potential information to the decisionmaking process." (quoting *Dep't of Transp. v. Pub. Citizen*, 541 U.S. 752, 767 (2004)); *see also infra* P 11 & nn.33-34.

[17] *Pub. Citizen*, 541 U.S. at 768 (citation omitted).

[18] 42 U.S.C. § 4336a(e), (g); *accord Seven County*, 605 U.S. at 181 n.3.

[19] Exec. Order No. 14,154, 90 Fed. Reg. 8353, 8355-56 (Jan. 20, 2025).

[20] *Seven County*, 605 U.S. at 184.

[21] *Save the Sound, Inc. v. FAA*, 183 F.4th 763, 776 (D.C. Cir. 2026) (quoting *Sierra Club v. FERC*, 153 F.4th 1295, 1311 (D.C. Cir. 2025)).

[22] *See* Diane Katz, *Curbing Abuses of a Politicized NEPA*, Heritage Found. (Aug. 25,

6. If the Supreme Court's envisioned "course correction" is to become a reality, agencies must move. The courts can only police agencies for doing too *little* NEPA analysis, not too *much*.[23] So unless agencies proactively reassess their NEPA practices and pare back where appropriate, the only consequence of the Supreme Court's call for reform will be to freeze agencies' 2025-era NEPA practices in amber. That is not good enough for the country, nor for me.[24]

III. *This* FERC Is Restoring Sanity for the Greater Good.

7. Today's draft policy statement is one component of the Commission's broader effort to bring sanity and proportionality back to our NEPA reviews. FERC is not an air regulator by congressional charge or by expertise; thus its project approvals are an inappropriate forum for opponents to litigate the details of mathematically complex air dispersion models. That does not mean the Commission should not assess and consider operational air emissions and associated air quality effects under NEPA or the NGA. As the draft policy statement explains, we will continue to do so.[25] The only question is the appropriate "depth and breadth"[26] of analysis in light of the Commission's statutorily limited role in air emissions, and particularly operational air emissions that are separately subject to the oversight of *actual* expert air regulatory agencies.

2020), https://www.heritage.org/government-regulation/report/curbing-abuses-politicized-nepa; Mark Levitt, *Reboot NEPA*, Breakthrough Inst. (Oct. 27, 2025), https://thebreakthrough.org/issues/environmental-regulatory-reform/reboot-nepa; Ezra Klein & Derek Thompson, *Abundance* 96 (2025); Mackenzie & Ruiz, *supra* note 12.

[23] *See Seven County*, 605 U.S. at 186 n.5.

[24] Our sister agencies have recognized this imperative as well. The Departments of Energy, Agriculture, and the Interior have all made significant NEPA reforms this year, as have the Nuclear Regulatory Commission and numerous other agencies. And CEQ, acknowledging the call for NEPA reform from "all three branches of government at the highest possible levels," finalized the rescission of its NEPA regulations this January. Council on Env't Quality, Removal of National Environmental Policy Act Implementing Regulations, 91 Fed. Reg. 618, 620 (Jan. 8, 2026); *see also, e.g.*, U.S. Dep't of Agric., National Environmental Policy Act, 91 Fed. Reg. 17062, 17065 (Apr. 3, 2026) (revising NEPA implementing regulations to reflect recent "guidance given . . . by the President and the Supreme Court").

[25] Draft Policy Statement, 197 FERC ¶ 61,037 at P 4.

[26] *Id.* PP 8, 31 (quoting *Seven County*, 605 U.S. at 183).

8. The more streamlined approach described in today's draft policy statement is not motivated by a mere desire to reduce the word counts of our NEPA documents. The costs, delays, and regulatory uncertainty associated with the Commission's current, modeling-focused approach are grave.[27] More to the point, those costs and delays are *staggeringly* disproportionate to the limited usefulness of the resulting information for the Commission's NGA-prescribed decision-making. As the draft policy statement outlines, the Commission simply does not (and should not) employ its NGA conditioning authority to act as a second substantive regulator of air emissions permitted under the Clean Air Act (CAA).[28] It is a gross misuse of resources to routinely impose months of delay and associated financial harm—doubtless hundreds of millions of dollars over time, from an opportunity-cost standpoint—to provide ourselves with complex air dispersion modeling that contributes little to our substantive administration of the NGA.

9. The dissent disagrees. It acknowledges *Seven County*'s message, but balks at today's considered, bipartisan effort to trim a single branch from the gnarled oak of our pre-*Seven County* NEPA practice. At the heart of the dissent lies a simple and very wrong premise: that if it is *possible* for us to acquire more detailed information about an environmental effect, then it is *mandatory* for us to do so.

10. That approach to NEPA contradicts clear judicial precedent, common sense, and the apparent consensus of all three branches of government.[29] Departing markedly from that consensus, the dissent contends that the methodology described in the draft policy statement is not "adequate[]" because it may generate NEPA documents that are less "robust" than the

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[27] *Cf. id.* P 17.

[28] *Id.* P 26.

[29] *See supra* PP 5, 6 n.24; *see also* Tenn. Valley Auth., Continued Operation of the Cumberland Fossil Plant Final Supplemental Impact Statement (SEIS 455-00-000-1760704971), at vi, 47-50 (Feb. 2026) (in matter involving analysis of air impacts from continued operation of coal plant, emphasizing that "[c]ompliance with [CAA] permit requirements would be protective of ambient air quality"). The dissent suggests that our proposed approach will "deviate from how other federal agencies assess operational air impacts under NEPA post-*Seven County*," Dissent at P 47, citing three environmental impact statements prepared by other agencies, s*ee id.* P 47 n.62. But all three examples involve proceedings initiated or applications filed *before* the Supreme Court issued its judgment in *Seven County*. I leave it for the reader to judge whether an agency's discussion of air modeling prepared pre-*Seven County* is probative when discerning "post-*Seven County*" practice. In any case, none of the documents the dissent references include any analysis by our peer agencies suggesting that the approach we outline today is any way legally infirm.

maximally "detailed assessment" that is theoretically achievable.[30] This is precisely the type of "Kafkaesque" NEPA revanchism that *Seven County* intended to eliminate.[31] As the D.C. Circuit has observed, "[a]n agency can always include more detail and more robust explanations" in its NEPA review.[32] This principle of "more and more" could apply to all the environmental effects we consider. For example, in assessing effects on common, non-protected wildlife, the Commission could require every applicant to prepare acre-by-acre quantitative effects estimates, on a per-species basis—but it does not. Or, in assessing impacts to the acreage of forested land, it could require an applicant to quantify the number and species of individual trees—but it does not. In other words, the Commission does *not* demand that applicants produce maximally detailed studies on every category of effects.

11. Thus, as to every resource area and category of environmental effects, the critical question is not whether we *can* require more detailed information, but whether we *should*.[33] That judgment call necessarily depends on the "usefulness of any [further] information to [our] decisionmaking process."[34] We must determine whether the costs of more detailed analysis are worth the informational benefits for our substantive decision-making. And in so doing, we operate "within a broad range of reasonableness."[35] That is the core premise upon which *Seven County* is based, and it is the core issue on which the draft policy statement takes a stand.

12. The dissent fails to contend with this critical point. Instead, it is largely a treatise about how air dispersion modeling works and what information it is intended to provide.[36]

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[30] Dissent at PP 1, 28-29.

[31] *Seven County*, 605 U.S. at 183.

[32] *Save the Sound*, 183 F.4th at 776.

[33] *See Tinicum Twp., Pa. v. U.S. Dep't of Transp.*, 685 F.3d 288, 296 (3d Cir. 2012) ("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.").

[34] *Seven County*, 605 U.S. at 183 (quoting *Pub. Citizen*, 541 U.S. at 767); *see Cascadia Wildlands v. U.S. Bureau of Land Mgmt.*, 153 F.4th 869, 903 (9th Cir. 2025) ("Particularly in light of the Supreme Court's guidance in *Seven County Infrastructure Coalition*, we will not micromanage or unduly scrutinize the agency's assessment as to the level of detail to provide. . . .").

[35] *Save the Sound*, 183 F.4th at 776; *accord Seven County*, 605 U.S. at 183.

[36] Dissent at PP 22-31.

Those are not the pertinent questions. The critical, "policy-laden" issue we must confront is whether this depth of analysis is *warranted given its lack of usefulness to our decision-making*.[37]

13. The dissent accuses us of making an "exception" for air quality impacts under NEPA or the NGA.[38] But that is obviously not true. As the draft policy statement explains, we will continue to address air quality effects in our NEPA documents, evaluating a wealth of quantitative and qualitative information submitted by applicants and identified by Commission staff.[39] As Commissioner Rosner ably explains in his concurrence, the approach outlined in the draft policy statement will continue to "give the Commission and the public a clear picture" of a project's air-related effects, thus "satisfy[ing] our NEPA obligations" while also avoiding the need to "duplicat[e] modeling" that our partners in state government already require where needed.[40] Indeed, even the dissent itself eventually concedes that the approach outlined today will suffice to apprise us of "the general nature and magnitude of [a project's] expected impact" on air quality.[41] In fact, it will do quite a lot more than that, providing detailed information about existing air quality; quantified, pollutant-by-pollutant emissions figures; and a rigorous understanding of how the applicant proposes to lessen and mitigate those effects.[42] In other words, it will allow us to identify proposed projects' air quality effects, describe those effects' magnitude, and consider feasible alternatives, precisely as NEPA requires.[43]

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[37] *Seven County*, 605 U.S. at 183. Nor is it a "technical flaw[]" that the draft policy statement answers this question in a way the dissent doesn't like. Dissent at P 20. Readers will note that the dissent identifies no flaws in the new policy's methods, save that they entail less extensive analysis than the incumbent approach. That is not a "technical" failing, but a deliberate choice made for well-considered reasons.

[38] Dissent at P 2.

[39] *See* Draft Policy Statement, 197 FERC ¶ 61,037 at P 35.

[40] *Id.* P 3 (Rosner, Comm'r, concurring).

[41] Dissent at P 30.

[42] *See* Draft Policy Statement, 197 FERC ¶ 61,037 at P 14; *accord* 18 C.F.R. § 380.12(k) (2025).

[43] *See Seven County*, 605 U.S. at 177.

14. The dissent nonetheless declares the draft policy statement "insufficient."[44] But it provides no explanation of why, save the repeated observation that more detail is in principle available—albeit, as the dissent does not dispute, at the cost of substantial expense and delay for project applicants and the Commission. As for whether the associated expense and delay is warranted in light of the highly limited usefulness of the additional information at issue, the dissent is virtually silent.[45]

15. This Commission will not sweep NEPA's costs under the rug in the post-BUILDER Act, post-*Seven County* landscape. To reiterate, the Commission's incumbent modeling-based approach can substantially delay much-needed projects as Commission staff exchanges iterative data requests and responses with applicants[46]—all in service of gathering information that duplicates or exceeds what is required in connection with CAA permitting. Perhaps such performances could be justified if the resultant information proved useful to the Commission's substantive decision-making. But, as the draft policy statement explains, that plainly is not the case. We are not air regulators by congressional charge and, as our decisions bear out, we do not act as air regulators in practice.[47] We should not erect complex

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[44] Dissent at P 20.

[45] Consider, in this regard, the "simple example" the dissent offers to illustrate the new policy's purported inadequacies: a compressor station expansion the emissions from which are so low that the governing air regulatory agency doesn't even require a permit, let alone detailed dispersion modeling. *Id.* P 35. Under our new policy, we would acknowledge, quantify, and discuss those emissions, assessing them against the backdrop of existing ambient air quality and evaluating any applicant-proposed mitigation measures. But, the dissent observes, we would not (as we do now) require a level of analysis far surpassing what the air regulatory agency administering delegated CAA authority would deem warranted for such a small-fry project. The dissent calls this a worrisome analytic "gap," *id.*; I call it a return to sanity. *Of course* our "modest procedural" "cross-check" under NEPA should not force projects with sufficiently marginal emissions to go through costly and time-consuming analysis that substantive air regulatory agencies have deemed unnecessary given the level of emissions involved. *Seven County*, 605 U.S. at 173, 183; *see id.* at 183 (lamenting NEPA's use to "delay[] even those projects that otherwise comply with all relevant substantive environmental laws"). Only someone badly desensitized to fifty years of NEPA bloat could think otherwise.

[46] *See* Draft Policy Statement, 197 FERC ¶ 61,037 at P 17.

[47] *See id.* P 26. As the draft policy statement emphasizes, this does not reflect an abdication of responsibility on our part; rather, it reflects a salutary *division* of responsibility, and the success of the CAA and the agencies that administer it in controlling project emissions. *Id.*

and burdensome procedural barriers to timely infrastructure development that do not materially assist us in carrying out our regulatory responsibilities. Nor, as *Seven County* makes clear, does NEPA require that we do so.

16. The dissent's attempt to counter this logic inadvertently confirms it. The sole support offered for the assertion that our burdensome, time-consuming modeling analysis has beneficial "real world impacts"[48] is two cited instances—over a decade-long time span—in which we required project developers to monitor air emissions and submit reports.[49] The number of examples cited where our modeling analysis under NEPA led to an actual reduction in operational emissions, beyond what was already inherent in compliance with governing CAA requirements, is zero.

17. In light of this reality, the dissent sidesteps the critical questions that *Seven County* implores us to confront directly. How much delay in energy project permitting is warranted to enable review of additional air modeling data, especially given that such data is demonstrably unlikely to influence the Commission's decision-making? For how many months should homeowners and businesses be forced to live with outdated or inadequate infrastructure, raising their energy bills and potentially delaying the roll-out of new facilities that are more efficient, safer, and often environmentally superior? How many man-hours of well-paying work should skilled employees and contractors be forced to do without, until we have satisfied our desire for "just a little more process"?[50] For how long should our allies be deprived of additional liquefied natural gas, which our Nation's industry stands ready and willing to deliver *now*, in order to indulge performative regulation? And how is any of that consistent with the President's declaration of an energy emergency, and clear direction for agencies to eliminate barriers to infrastructure development?[51]

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[48] Dissent at P 54.

[49] *Id.* P 43 n.52; *see* Draft Policy Statement, 197 FERC ¶ 61,037 at P 26 nn.68-69 (discussing same orders).

[50] *Seven County*, 605 U.S. at 184.

[51] Exec. Order No. 14,156, 90 Fed. Reg. 8433, 8434 (Jan. 20, 2025); Exec. Order No. 14,154, 90 Fed. Reg. at 8355-56. Nor can the dissent invoke NEPA's "public information purpose" as an escape hatch. *Contra* Dissent at PP 37-38. The Supreme Court rejected a structurally identical argument in *Department of Transportation v. Public Citizen*, explaining that where "NEPA's core focus on improving agency decisionmaking" is not served by conducting further analysis, the statute imposes no freestanding duty to do so for "informational purposes." 541 U.S. at 768-69 & n.2. That makes eminent sense, given that NEPA's purpose is to inform agency *action*, not to produce reports for their own sake. *Id.* at 768-69.

IV. The Law Does Not Tie Our Hands, nor Does It Force Us to Maintain the Status Quo as the Dissent Implies.

18. The dissent primarily focuses on the importance the draft policy statement places on the CAA's comprehensive regulatory scheme. But nothing about that approach is novel. The Commission always has placed major emphasis on applicants' compliance with governing state and federal regulatory requirements in our analysis of air quality effects under NEPA[52]—just as we do in assessing the significance of other project effects subject to extensive regulation under separate statutory schemes.[53]

19. The dissent insists that state air quality permitting cannot "substitute" for NEPA review,[54] but the new policy proposes nothing of the sort. On the contrary, the Commission will continue to analyze air quality effects under NEPA, including effects from operational facility emissions, and we will continue to welcome and consider stakeholder comments and concerns regarding such effects. All the draft policy statement proposes is to foreground applicants' compliance with the CAA and state permits thereunder in our assessment of whether effects are "significant"[55] within NEPA's meaning—which really amounts to a determination of whether those effects are sufficiently severe to warrant preparation of a

[52] *See* 18 C.F.R. § 380.12(k)(3) (requiring applicants to address "how existing [air] regulatory standards would be met" and, for major sources, provide copies of CAA permit applications); FERC Office of Energy Projects, *Guidance Manual for Environmental Report Preparation for Applications Filed Under the Natural Gas Act*, Volume 1, at 4-121 (Feb. 2017), https://www.ferc.gov/sites/default/files/2020-04/guidance-manual-volume-1.pdf (advising applicants to identify and describe applicable federal, state, and local air quality regulations and permits, as well as how the project facilities would comply with each).

[53] For example, compliance with Pipeline and Hazardous Materials Safety Administration standards is central to our consideration of pipelines' public-safety effects under NEPA. *See, e.g.*, *Port Arthur Pipeline, LLC*, 187 FERC ¶ 61,105, at P 16 (2024); *Rio Bravo Pipeline Co.*, 187 FERC ¶ 61,104, at PP 57-58 (2024).

[54] Dissent at PP 33, 36.

[55] Draft Policy Statement, 197 FERC ¶ 61,037 at P 38.

lengthier environmental impact statement.[56] That approach breaks no new ground[57] and has been repeatedly upheld by the courts.[58] It is also simple common sense.[59]

20. Nonetheless, the dissent urges that we must not rely on CAA compliance in assessing the significance of projects' air effects, because although the CAA's comprehensive regulatory scheme ensures the maintenance of air quality at the level of air quality control regions,[60] it does not necessarily foreclose more localized exceedances.[61] But NEPA requires us to assess whether a project has a "significant effect on the quality *of the human*

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[56] *Cf. Food & Water Watch v. FERC*, 104 F.4th 336, 346 (D.C. Cir. 2024). (explaining the role of "significance" determinations under NEPA).

[57] *See, e.g.*, *Commonwealth LNG, LLC*, 191 FERC ¶ 61,205, at P 18 & n.57 (2025) ("Generally, the Commission would consider compliance with the state PSD program and any required mitigation . . . as a reasonable indication that the project's air emissions will not result in significant effects.").

[58] *See, e.g.*, *Pub. Citizen v. NHTSA*, 848 F.2d 256, 267-68 (D.C. Cir. 1988) (Ruth Bader Ginsburg, J.) (upholding agency determination that no environmental impact statement was required when possible increases in emissions fall within CAA limits); *Friends of Animals v. Burgum*, 164 F.4th 738, 752 (9th Cir. 2026) (upholding agency reliance on state permitting process and regulatory compliance in determining that effects would not be significant); *Gunpowder Riverkeeper v. FERC*, 807 F.3d 267, 281 (D.C. Cir. 2015) (Rogers, J., dissenting in part and concurring in the judgment) (explaining that Commission acted appropriately by relying on other agencies' permitting processes to conclude that environmental effects would not be significant).

[59] The dissent prominently relies on *Calvert Cliffs' Coordinating Committee, Inc. v. U.S. Atomic Energy Commission*, 449 F.2d 1109 (D.C. Cir. 1971). But *Calvert Cliffs*, which addressed an agency's refusal to consider effects regulated by other agencies *at all*, or even accept comments thereon, *see id.* at 1122, is not implicated here. Regardless, I gravely doubt that *Calvert Cliffs*—a decision that opened by forthrightly lauding NEPA's potential to slow down what its author viewed as "the destructive engine of material 'progress,'" *id.* at 1111—meaningfully survives *Seven County*, at least beyond its narrowest application. *Cf. Appalachian Voices*, 139 F.4th at 921-922 (Henderson, J., concurring) (criticizing *Calvert Cliffs* as exemplary of the judiciary's improper expansion of NEPA, as chronicled in *Seven County*). At minimum, we should be taking our cues on appropriate NEPA practice from Congress, the President, and the Supreme Court, not the ghost of J. Skelly Wright.

[60] These regions number in the hundreds. *See generally* 40 C.F.R. pt. 81 (2025).

[61] Dissent at P 32.

environment,"[62] not to classify effects as "significant" or "less than significant" relative to any and all levels of geographic focus, however narrow.

21. That is why even the pre-*Seven County* cases the dissent cites (which, in any event, were largely based on since-repealed CEQ regulations)[63] recognized that agencies have broad discretion in determining the appropriate level of geographic specificity with which they discuss effects' significance.[64] That principle holds even more strongly after *Seven County*, which "doubly underscore[d]" and reinforced agencies' discretion to draw a "manageable line," appropriately tailored to their informational needs, when determining the appropriate depth and detail of analysis.[65] Although the dissent would clearly prefer a more granular quantitative analysis, even for projects whose incremental emissions are extremely minor,[66] nothing in NEPA requires such approach.

22. The dissent also raises concerns about compliance with the CAA's General Conformity requirements.[67] But the draft policy statement is crystal clear that the Commission is not changing its approach to General Conformity review and compliance, which is legally distinct from NEPA.[68] The Commission's extraordinary staff is well-versed in the General Conformity program's requirements, and if case-specific circumstances

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[62] 42 U.S.C. § 4336(b)(1)-(2) (emphasis added); *see id.* § 4332(2)(C).

[63] *See WildEarth Guardians v. U.S. Dep't of Agric. Animal & Plant Health Inspection Serv. Wildlife Servs.*, 135 F.4th 717, 728-29 (9th Cir. 2025) (relying on 40 C.F.R. § 1508.27 (2020)); *Anderson v. Evans*, 371 F.3d 475, 490 (9th Cir. 2004) (same). Those CEQ regulations, which in many respects went beyond NEPA's statutory requirements, *see, e.g.*, *E. Gas Trans. & Storage, Inc.*, 195 FERC ¶ 61,218 at P 25, have now been rescinded. *See supra* P 6 n.24; *cf. Appalachian Voices*, 139 F.4th at 924 (Henderson, J., concurring) (explaining that CEQ's regulations historically imposed requirements that "appear[] nowhere in NEPA itself").

[64] *E.g.*, *WildEarth Guardians*, 135 F.4th at 730.

[65] *Seven County*, 605 U.S. at 182-83 (citation omitted).

[66] *See, e.g.*, Dissent at P 35.

[67] *Id.* PP 49-53.

[68] Draft Policy Statement, 197 FERC ¶ 61,037 at P 14 n.37.

require dispersion modeling in order to discharge our General Conformity responsibilities, staff can and will require applicants to submit the necessary information.[69]

23. Finally, the dissent raises concerns about litigation risk for project developers.[70] After spending my career litigating FERC orders from both sides, no one on this Commission is more painfully cognizant than I of the importance of ensuring our orders are legally durable. But, as the D.C. Circuit has now repeatedly explained, "the era of searching NEPA review is over."[71] We cannot forswear reasonable, targeted, and thoroughly justified NEPA reforms out of fear that a future judicial panel may depart from explicit post-*Seven County* precedent. Such a posture of administrative timidity would render a half-century of NEPA overgrowth permanent, effectively betraying the promise of *Seven County*, and guidance from both Congress and the President.[72]

24. Nevertheless, the dissent's concerns about litigation risk are misplaced. To begin, project applicants who wish to submit dispersion modeling are welcome to do so, if they believe submission would provide a more fulsome administrative record on which the Commission may base its decisions.[73] Moreover, the dissent's premise that the Commission's incumbent approach provides greater legal certainty or durability collapses under scrutiny. On the contrary, it is precisely our reliance on mathematically complex dispersion modeling that has provided project opponents ample opportunities to "flyspeck" our analyses on appeal, making air-related issues a primary source of litigation risk for project developers under the incumbent approach.[74] In the long run, project developers, the energy markets, and the U.S. economy will be far better served by a clear, simple, and straightforward approach.

25. My legacy will not be cowering timidity. It will be surgical, strategic, aggressive reform that propels the country and our next generations into energy security and prosperity.

For these reasons, I respectfully concur.

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[69] *See* 18 C.F.R. § 380.3(b)(2) (2025).

[70] *See* Dissent at PP 44-48.

[71] *Save the Sound*, 183 F.4th at 776 (quoting *Sierra Club*, 153 F.4th at 1311).

[72] *See supra* PP 5-6.

[73] Draft Policy Statement, 197 FERC ¶ 61,037 at P 36.

[74] *See id.* P 18 & nn.49-50.

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Laura V. Swett
Chairman

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Environmental Review of Natural Gas Act Applications Docket No. PL26-3-000

(Issued October 15, 2026)

ROSNER, Commissioner, *concurring*:

1. I concur. Today's draft is a measured, practical step toward a more focused and efficient permitting process. Taking a hard look at how projects affect the people who live near them is central to the Commission's responsibilities under the Natural Gas Act (NGA) and the National Environmental Policy Act (NEPA), and is one of my own priorities as a Commissioner. In my view, doing this work well and doing it efficiently are not competing goals. Public comment from the full range of stakeholders will help us determine how our reviews can become more timely while remaining thorough, legally durable, and tailored to the decisions Congress entrusted us to make.

2. The law governing environmental review has changed considerably, and our practices should keep pace. Congress recently directed agencies to produce more focused and timely environmental documents,[1] and a unanimous Supreme Court confirmed that agencies may calibrate the depth of their review to how useful additional information would be to the decision at hand.[2] A bipartisan proposal now before Congress shows that the national effort to improve federal environmental review is far from finished. Given all of this, it is only sensible to ask whether current practices meet the moment.

3. The draft focuses our review on the information we need to carry out our statutory responsibilities. The Commission will independently assess a project's operational air emissions much as we have long assessed construction emissions: using equipment-specific data and anticipated operating schedules. Paired with information about where a facility is located, existing air quality in the area, and enforceable permit requirements, this approach will give the Commission and the public a clear picture of what that means for the surrounding community. It will inform our NGA public-interest determination and satisfy our NEPA obligations, without duplicating modeling the state air permitting

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[1] *See* 42 U.S.C. § 4336a(e), (g); Fiscal Responsibility Act of 2023, Pub. L. No. 118-5, § 321, 137 Stat. 10, 38-46 (2023) (Builder Act).

[2] *See Seven Cnty. Infrastructure Coal. v. Eagle Cnty., Colorado*, 605 U.S. 168, 181 (2025). *See also Sierra Club v. FERC*, 153 F.4th 1295, 1311 (D.C. Cir. 2025) ("After *Seven County*, the era of searching NEPA review is over. . . .").

agency already requires or routinely requiring additional modeling where the state Clean Air Act (CAA) permitting process requires none.

4. Drawing on state air CAA permits strengthens, rather than replaces the Commission's independent review. Under the CAA, states play a central role in protecting local air quality through programs approved and overseen by the Environmental Protection Agency,[3] and courts have recognized that an agency may account for protections imposed by another agency that Congress charged with regulating the effects at issue.[4] We already take this approach with water resources by conducting our own analysis while drawing on the expertise of state regulators. State CAA permits will inform our independent judgment, not substitute for it.

5. Today's action starts this inquiry; it does not end it. Although I believe the draft strikes a reasonable balance, I encourage commenters to address whether the Commission should require applicants to file in our docket the same materials they submit to state regulators.

For these reasons, I respectfully concur.

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David Rosner
Commissioner

[3] *See* 42 U.S.C. §§ 7401, 7410, 7475. The CAA declares in its statement of purpose that "air pollution control at its source is the primary responsibility of States and local governments." *Id*. § 7401(a)(3). The CAA authorizes the EPA to regulate criteria air pollutants including particulate matter, ozone, carbon monoxide, sulfur dioxide, nitrogen dioxide, and lead, also hazardous air pollutants, and other regulated emissions.

[4] *Friends of Animals v. Burgum*, 164 F.4th 738, 752 (9th Cir. 2026) (upholding Bureau of Land Management's analysis of environmental effects, which accounted for protections imposed through state permitting to conclude that impacts would be negligible).

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Environmental Review of Natural Gas Act Applications Docket No. PL26-3-000

(Issued October 15, 2026)

CHANG, Commissioner, *dissenting*:

1. Today's policy statement establishes a new method for assessing air quality impacts as part of the Commission's review of pipeline certificate and liquified natural gas (LNG) authorization applications under the Natural Gas Act (NGA) and the National Environmental Policy Act (NEPA). The policy statement's new method for assessing air quality impacts departs from our current court-affirmed approach and will no longer adequately consider the local air quality effects from projects that we authorize. If implemented, the policy change will leave the Commission with insufficient information about the severity of potential local air quality and human-health effects, and will deny the public an in-depth understanding of the extent of a project's emissions and whether adverse impacts from those emissions will reach their communities.

2. Accordingly, I dissent from today's order given the Commission's legal obligation under the NGA and NEPA to disclose and assess all reasonably foreseeable direct adverse effects on local air quality from projects we authorize. I share the concern that the Commission's existing requirements and methodology have, at times, been applied inconsistently, and I support providing additional clarity and certainty about our regulatory requirements to alleviate confusion and make our review process more efficient. However, we must do so carefully to ensure that we stay within the bounds of what is legally permissible. Today's order endeavors to test a novel legal theory: that in passing the Clean Air Act (CAA), Congress intended to carve out a heretofore unrecognized NGA and NEPA exception that allows the Commission to forgo any balancing of adverse air quality impacts on local communities under the NGA or disclosure and analysis of the effects of direct air emissions on local air quality under NEPA. As a result, the policy change creates greater uncertainty for the Commission and project developers, while simultaneously depriving the public of local air quality information as required by NEPA and relevant judicial precedent.

I. Background

A. NGA Requirements

3. Section 7 of the NGA requires entities constructing facilities for the purpose of engaging in Commission-jurisdictional transportation or sales of natural gas to first

obtain a certificate from the Commission.[1] Section 7(e) states that a certificate shall be issued if, among other requirements, the Commission finds that the proposed activity "is or will be required by the public convenience and necessity."[2] Section 3 of the NGA provides the Commission with federal jurisdiction over facilities used to export or import natural gas,[3] stating in section 3(e)(1) that "[t]he Commission shall have the exclusive authority to approve or deny an application for the siting, construction, expansion, or operation of an LNG terminal."[4] Section 3 provides that an application for the exportation or importation of natural gas shall be approved unless the proposal "will not be consistent with the public interest."[5]

4. Under the public convenience and necessity standard, the Commission must "evaluate all factors bearing on the public interest" within the statute's scope.[6] The "principal purpose" of the NGA is to "encourage the orderly development of plentiful supplies of . . . natural gas at reasonable prices."[7] The Supreme Court has indicated that "subsidiary purposes" of the NGA include "conservation, environmental, and antitrust" considerations.[8]

B. NEPA Requirements

5. NEPA requires the Commission to take a "hard look" at the reasonably foreseeable environmental effects of a proposed action and disclose our analyses to the public before taking or authorizing a major federal action that may significantly affect the

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[1] 15 U.S.C. § 717f(c).

[2] 15 U.S.C. § 717f(e).

[3] 15 U.S.C. § 717b(a).

[4] 15 U.S.C. § 717b(e)(1).

[5] 15 U.S.C. § 717b(a). "The Commission has long regarded Section 3's 'public interest' standard and Section 7's 'public convenience and necessity' standard as substantially equivalent." *Distragas Corp. v. Fed. Power Comm'n.*, 495 F.2d 1057, 1065 (D.C. Cir. 1974) (citing *El Paso Natural Gas Co.*, 38 F.P.C. 311, 319 (1967); *The Montana Power Co.*, 11 F.P.C. 1, 7 (1952)).

[6] *Atl. Ref. Co. v. Pub. Serv. Comm'n of State of N.Y.*, 360 U.S. 378, 391 (1959).

[7] *Nat'l Ass'n for Advancement of Colored People v. Fed. Power Comm'n*, 425 U.S. 662, 669-70 (1976).

[8] *Id.* at 670 n.6.

quality of the human environment.[9] That statute sets out procedures to be followed by federal agencies to ensure that the environmental effects of proposed actions are "adequately identified and evaluated."[10]

6. To comply with NEPA, the Commission is required to evaluate the effects of a proposed action through the preparation of either an Environmental Impact Statement (EIS) or an Environmental Assessment (EA), unless we find that the proposed action is covered by a categorical exclusion or is exempt from NEPA review under another law.[11] NEPA requires preparation of an EIS for major federal actions that have a "reasonably foreseeable significant effect on the quality of the human environment."[12] For the Commission, most larger projects or proposals require preparation of an EIS and most smaller projects or proposals require preparation of an EA.[13] Under NEPA's requirements, when preparing an EIS, the Commission must:

- evaluate "any reasonably foreseeable adverse environmental effects which cannot be avoided should the proposal be implemented";[14] and

- identify and evaluate "a reasonable range of alternatives to proposed action…that are technically and economically feasible, and meet the purpose and need of the proposal."[15]

7. These statutory requirements ensure the Commission carefully considers information concerning environmental impacts and that the information is made available to the public to inform comments that can, in turn, be factored into the agency's decision-

[9] 42 U.S.C. § 4332(C); *see also Baltimore Gas & Elec. Co. v. Nat. Res. Def. Council, Inc.*, 462 U.S. 87, 89 (1983).

[10] *Robertson v. Methow Valley Citizens Council*, 490 U.S. 332, 350 (1989) (*Robertson*).

[11] 42 U.S.C. § 4336(a)(2), (b)(2).

[12] 42 U.S.C. § 4336(b)(1).

[13] *See* 18 C.F.R. §§ 380.5, 380.6 (2025) (identifying actions that require an EA or EIS, respectively).

[14] 42 U.S.C. § 4332(C)(ii).

[15] 42 U.S.C. § 4332(C)(iii).

making process.[16] NEPA does not provide an independent cause of action for those seeking to challenge the Commission's decisions. Instead, courts review an agency's NEPA compliance under the Administrative Procedure Act's (APA's) arbitrary and capricious standard.[17]

C. The Clean Air Act

8. As the nation's primary statute governing air quality, the CAA seeks to protect human health and the environment by regulating air emissions that pollute ambient air.[18] The statute is administered by the Environmental Protection Agency (EPA), with certain compliance authority delegated to state regulatory agencies under a cooperative federalism framework. Under this framework, the EPA establishes minimum national air quality standards for the six criteria pollutants (referred to as National Ambient Air Quality Standards, or NAAQS)[19] and state and local air permitting agencies have the primary responsibility to ensure compliance with the standards.

9. The CAA requires states to develop and adopt State Implementation Plans (SIPs) to attain and maintain the federal NAAQS. A SIP details the implementation, maintenance, and enforcement of the NAAQS across interstate or intrastate regions designated by EPA.[20] Through the framework established in each SIP, EPA and state agencies regulate and permit air emissions and enforce air quality standards for stationary sources of air pollution, including emissions from natural gas compressor stations and LNG terminals.

10. The CAA requires major stationary sources and other sources subject to federal standards to obtain operating permits that assure compliance with all CAA requirements. In most areas, state agencies issue the permits. "Major" emission sources and major

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[16] *See, e.g.*, *Dep't of Transp. v. Pub. Citizen*, 541 U.S. 752, 768 (2004) (explaining that NEPA "ensures that the agency, in reaching its decision, will have available, and will carefully consider, detailed information concerning significant environmental impacts.").

[17] *See Seven Cnty. Infrastructure Coal. v. Eagle Cnty., Colorado*, 605 U.S. 168, 180 (2025) (*Seven County*).

[18] 42 U.S.C. § 7401 *et seq*.

[19] The CAA requires the EPA to establish NAAQS for certain air pollutants, 42 U.S.C. § 7409, which are adopted by states at the regional level, 42 U.S.C. §7410(a)(1).

[20] 42 U.S.C. § 7410(a)(1). A state implementation plan is a collection of regulations and documents used by a state, territory, or local air district to implement, maintain, and enforce NAAQS and to fulfill other requirements under the CAA.

modifications at existing sources are subject to permitting requirements under EPA's Prevention of Significant Deterioration (PSD) permitting program, including that the project must implement "best available control technology" and will not "cause, or contribute to" NAAQS violations.[21]

11. State permitting agencies typically require that permit applicants submit air dispersion modeling as part of the PSD permitting process.[22] Generally, a state's analysis of anticipated air quality impacts in the Air Quality Control Regions (Air Regions) under their oversight[23] involves up to three steps. The three steps include: (1) a preliminary screening step that compares emissions estimates to significant impact levels (SILs)[24] established by EPA; (2) if necessary, an impact analysis that uses air dispersion modeling including emissions from nearby sources to assess potential NAAQS exceedances; and (3) if necessary, a cause and contribute (i.e., culpability) analysis.

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[21] *See* 42 U.S.C. § 7475; *Util. Air Regul. Grp. v. EPA*, 573 U.S. 302, 308-09 (2014). This applies to new major sources or major modifications at existing sources for pollutants where the area the source is located in is in attainment or unclassifiable with the NAAQS. *See generally* EPA, *Prevention of Significant Deterioration Basic Information*, https://www.epa.gov/nsr/prevention-significant-deterioration-basic-information (last updated Dec. 15, 2025). For new major sources or major modifications in nonattainment areas, the Nonattainment NSR program imposes even stricter requirements. *See* EPA, *Nonattainment NSR Basic Information*, https://www.epa.gov/nsr/nonattainment-nsr-basic-information (last updated Dec. 15, 2025).

[22] Air dispersion modeling results can be used to map the "cloud" of emissions and estimate the concentration of the air pollution and "spread" of the emissions. Most models identify specific receptor locations of interest, such as potential sensitive human exposure locations (schools, hospitals, care centers for the elderly), as well as designated ecological receptors and protected areas.

[23] Air Regions are designated geographic areas used by the federal government and states to monitor, manage, and enforce compliance with federal air pollution standards under the CAA. There are nearly 250 Air Regions across the country, ranging in size from a single metropolitan area to entire states. *See* https://aqs.epa.gov/aqsweb/documents/codetables/aqcrs.html

[24] EPA developed SILs as a threshold that permitting authorities can use to determine whether emissions from a proposed project (emissions source) or modification of an existing project could cause or contribute to air pollution in excess of the NAAQS.

D. The Commission's Current Three-Step Approach to Assessing Impacts on Local Air Quality and Determining Significance Under NEPA

12. The Commission currently uses a three-step approach, described below, to assess air quality effects from compressor stations and LNG facilities and determine the "significance" of air quality impacts in our environmental reviews under NEPA. While this approach is modeled after the analytical approach taken by states when considering issuing an air quality permit, the Commission's review differs from that undertaken by states in both *purpose* and *scope*. State air permitting programs are aimed at maintaining the state's compliance with its SIP across entire interstate or intrastate Air Regions, which can be as large as an entire state. In contrast, the Commission's focus is on reviewing the severity of emissions impacts on local ambient air quality as part of our NEPA review, with a review area typically extending no further than a 50-kilometer radius around the project.

13. Generally, step one of the Commission's three-step approach is a preliminary screening step that compares the proposed facility's projected maximum ambient air quality impact to a SIL to determine if the project's anticipated emissions exceed the SIL.[25] If the projected emission levels for a particular NAAQS criteria pollutant are below the applicable SIL, then no further analysis is typically required. If a particular projected pollutant concentration exceeds the applicable SIL, then step two typically requires a dispersion modeling impact analysis for that pollutant. Under such a step two analysis, each criteria pollutant that exceeded the SIL for a specified time period in step one is modeled independently. In this step, the dispersion model analysis considers the background emissions from existing sources in the area combined with the project's emissions within the potential area of impact around the project.[26] If there are no projected NAAQS exceedances identified in step two of the analysis, there is no need to proceed to step three, which determines whether the project's emissions will cause or contribute to NAAQS exceedances in the local area, or in the vicinity of the proposed project.

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[25] *See Commonwealth LNG, LLC*, 191 FERC ¶ 61,205, at P 4 (2025).

[26] *See id.* For expansion projects, the Commission typically requires applicants to add the air emissions calculated in step one (the expansion emissions concentration) to existing project emissions and background concentrations and compare the total concentration to the NAAQS even if the expansion itself would not cause emissions that exceed the SIL. Commission staff uses this step two to disclose and assess the local air quality impacts of expansion projects for all pollutants and averaging periods in NEPA documents. An air quality receptor is a specific geographic location or point where air pollution concentrations are measured, monitored, or calculated using computer models.

14. Together, these three steps provide an analytical framework that allows the Commission to adequately consider impacts to local air quality and to determine whether the emissions will have a "significant" impact under NEPA. The Commission has explained that this approach of tying the "significance" of local air quality impacts under NEPA to potential NAAQS exceedances in the vicinity of a project is justified because 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.[27] Accordingly, when the Commission assesses impacts from emissions on local air quality in comparison to the NAAQS, we are using the NAAQS as a proxy for assessing potential human health impacts in the vicinity of a project. Although states also use NAAQS thresholds for air permitting purposes, states are not using NAAQS to determine potential human health impacts in the vicinity of the project, but rather to determine appropriate conditions to ensure compliance with the applicable SIP across the Air Region.

E. Summary of the Air Policy Statement

15. The policy statement rolls back the Commission's review of air quality impacts in two ways. First, the policy statement states that the Commission will no longer require air dispersion modeling for *any* NGA projects, including projects with projected substantial impacts such as compressor stations and LNG export facilities. Second, the policy statement indicates that unless an applicant asks it to, the Commission will not use the results of air dispersion modeling to determine whether the impacts from a project will be "significant" under NEPA.

16. Under this new approach, the Commission will require applicants to disclose the types of equipment they intend to install, including emissions factors[28] for criteria pollutants, and Commission staff will prepare *qualitative* information (rather than the *quantitative* information that air dispersion modeling would provide) about how air emissions may be controlled or mitigated due to state air permitting requirements or voluntary commitments.

17. Instead of using the Commission's existing three-step process to determine whether a proposed project's criteria pollutant emissions are "significant" under NEPA, going forward, the Commission will simply *presume* that no proposed project that we

[27] 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*. (2025); *See, e.g.*, *Algonquin Gas Transmission, LLC*, 154 FERC ¶ 61,048, at P 182 (2016).

[28] An emissions factor is used to determine the amount of pollutants released into the atmosphere per specific operational activity.

consider will have a "significant" air quality impact—under the assumption that a project with a valid state-issued CAA permit will not cause "significant" adverse air emissions effects. Because a state air permit is necessary to receive final Commission approval, under this new policy, no project will *ever* trigger the preparation of an EIS due to its air emissions.

18. In practice, the new policy will remove the consideration of air dispersion model results from the Commission's analysis of natural gas projects' air emissions impacts. In doing so, the Commission will no longer be able to conduct a thorough or accurate analysis of how much a proposed project will adversely impact local air quality. Instead, the Commission will simply rely on operational emission estimates by using manufacturers' specifications for the equipment used in the project. In cases where the project applicants voluntarily submit their air dispersion modeling, the Commission will analyze those results, but such modeling will no longer be required for any NGA projects.

19. The policy statement argues that this update is necessary because the responsibility of air regulation has been vested with the EPA and states through the CAA, and thus the Commission's actions are duplicative and an overgrowth of the agency's responsibility under NEPA.[29] The policy statement also argues that the Commission's existing practice has placed unnecessary burden on applicants, other stakeholders, and Commission staff, without adding substantive value to the Commission's decision-making process. As discussed below, I disagree with the policy statement's characterization of the Commission's use of air dispersion modeling to inform decision-making under the NGA and NEPA as unimportant, inconsequential, or redundant to the air quality permitting authority of the EPA and states under the CAA.

II. The New Policy Falls Short of the Commission's Legal Responsibilities Under the NGA and NEPA and Will Lead to Appellate Risk

20. By foregoing collection and analysis of air dispersion modeling results, the new policy will leave the Commission with insufficient information to fulfill our statutory responsibilities. This includes balancing the public interest under the NGA and taking a "hard look" under NEPA at *all* reasonably foreseeable impacts, such as emissions impacts on local air quality. The legal and technical flaws in the revised policy will lead to appellate risk and less certainty for project developers and the Commission.

[29] I note that the EPA, the agency charged with oversight of the CAA, has commented on the majority of the Commission's NEPA review documents and has never suggested that the Commission has overstepped our jurisdictional review by considering impacts on local air quality.

A. The Commission's Revised Policy Fails to Meet Our NEPA Obligations

1. The Air Quality Assessment Method Announced in the Policy Statement is Inadequate to Fulfill NEPA's Requirement that the Commission Take a "Hard Look" at All Reasonably Foreseeable Impacts

21. NEPA requires the Commission take a "hard look" at all reasonably foreseeable environmental effects of a proposed action before authorizing a major federal action that may significantly affect the quality of the human environment.[30] If the revised policy were implemented, the Commission would fall short of meeting its legal obligation because although direct air emission impacts on local air quality are entirely foreseeable, the Commission will no longer disclose or assess how project emissions will impact local ambient air quality. Furthermore, because NEPA requires that the Commission identify and assess all reasonably foreseeable impacts *prior* to issuing an authorization, relying on a promise of *future* compliance with a state air quality permit is inadequate. Additionally, if the Commission's NEPA review and NGA authorization are predicated on compliance with a state air quality permit, the legal viability of the Commission's authorization can be called into question when an operator fails to comply with its air permit.

a. The Policy Statement's New Methodology is Technically Flawed

22. The revised method for estimating and disclosing operational emissions falls short of the level of analysis needed to accurately assess reasonably foreseeable local air quality impacts as required by NEPA.

23. As previously discussed, the Commission currently fulfills its NEPA obligation to identify and assess reasonably foreseeable emissions impacts on local air quality through our three-step approach. Steps two and three of the process use air dispersion model results to assess impacts if the step one analysis shows that emissions from a project exceed the set limits. The Commission does *not* request dispersion modeling results so that we may act as an air regulatory agency in the place of the EPA or states. The policy statement's claim that "independent Commission analysis of air modeling is duplicative and unnecessary" for "projects subject to PSD permitting" mischaracterizes the purpose of requesting modeling, which is NEPA compliance.

24. To understand what the policy statement does *not* do, it is instructive to first understand what air dispersion modeling *does* do, and specifically how it helps the

[30] 42 U.S.C. § 4332(C); *Baltimore Gas & Elec. Co. v. Nat. Res. Def. Council, Inc.*, 462 U.S. 87, 97.

Commission satisfy its obligation to take a "hard look" at the local air emission impacts of a proposed project. The use of air dispersion models provides critical information regarding a project's incremental emissions in the context of its surroundings. Air dispersion models are simulation tools that account for the design of the facility (i.e., the height and diameter of the smokestack and the velocity of the emissions as the plume enters the atmosphere, building locations, and distance of the facility relative to the project's fence line), the topography of the surrounding area, the meteorology of the area (such as the wind direction and speed at and near the facilities to estimate how the wind might dilute the plume), and atmospheric turbulence to estimate how the emissions would "flow through" or "downwash" around the vicinity of the facilities, causing elevated ground level concentrations.[31]

25. By analyzing the air dispersion modeling results, the Commission determines, discloses, and evaluates how a proposed project's emissions will spread and interact with ambient background pollution and/or emissions from other nearby sources. Through air dispersion modeling, a project applicant provides the Commission with information about how incrementally added emissions will spread and impact the overall air quality in the communities where projects are located. The modeling results allow the Commission to properly and accurately consider the context of how an individual project would impact existing ambient air quality by factoring in the background levels of emissions from other sources.

26. Dispersion models are also uniquely valuable for capturing some of the complex dynamics of criteria pollutants once they are emitted. Air pollutants may undergo chemical changes depending on characteristics of the plume itself and concentrations of specific reactants in the atmosphere. For example, some criteria pollutants—such as ozone and fine particulate matter (PM2.5)—are secondary emissions that result from chemical reactions.[32] Air dispersion models can inform the Commission of these interactions and the projected impacts from proposed projects. These are important

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[31] *See* EPA, *Air Quality Dispersion Modeling - Preferred and Recommended Models*, https://www.epa.gov/scram/air-quality-dispersion-modeling-preferred-and-recommended-models (last updated Oct 6, 2026); Robynn Andracsek, Robert Lambrechts, *Air Dispersion Modeling in the Major Source Construction Permitting Process*, Nat. Resources & Env't, Summer 2013, at 29; James A. Westbrook, *Air Dispersion Models: Tools to Assess Impacts from Pollution Sources*, Nat. Resources & Env't, SPRING 1999.

[32] Specifically, ozone is formed from reactions between volatile organic compounds (VOCs) and Nitrogen Oxides (NOx). As a result, ozone concentrations may only be predicted through modeling that relies on an inventory of VOC and NOx emissions from both the proposed action and sources across a geographic area.

factors in the Commission's decision-making. Turning a blind eye to such information is inconsistent with the requirement to take a "hard look" at all reasonably foreseeable environmental effects of a proposed action before authorizing a major federal action and thus fails to meet the Commission's legal obligations.

27. While the policy statement characterizes the Commission's three-step approach to assessing air quality impacts under NEPA as "unworkable for applicants, the Commission, and its staff" and as "misaligned with both the CAA and Supreme Court guidance on the proper scope of NEPA review,"[33] using a multi-step method that includes air dispersion modeling information to assess air quality impacts is common among other federal agencies reviewing air quality impacts under NEPA.[34]

28. By comparison, the new approach announced in the policy statement is more of a "quick glance" than the "hard look" required by the statute. Instead of the detailed assessment provided by air dispersion modeling, under the new method, the Commission would only estimate emissions by combining manufacturer estimates for each type of equipment with the schedule in which each piece of equipment may be operated. The results from the manufacturers' data for each type of equipment will then be contextualized alongside "qualitative evaluation" of "effects on nearby communities" and "proposed mitigation measures."[35]

29. This approach injects unnecessary ambiguity and uncertainty into the Commission's analysis. Compared to the robust information provided by air dispersion modeling, a limited quantitative assessment based on the manufacturers' emissions inventory method would not provide the necessary information to assess emissions. Specifically, air dispersion modeling can reveal substantial differences in air quality impacts from two facilities that have identical amounts of total emissions of a specific pollutant per year. Those differences cannot be revealed by manufacturers' emissions

[33] Policy Statement at P 16.

[34] National Park Service, Air Resources Division. 2010. Technical guidance on assessing impacts to air quality in NEPA and planning documents. Natural Resource Report NPS/NRPC/ARD/NRR—2010/271. National Park Service, Denver, Colorado, at 8) (explaining that if "the project is likely to result in a small amount of emissions… then no air quality modeling may be necessary" and that for projects likely to result in high levels of emissions, "more complex air quality modeling will be needed in most cases." Also explaining that "if a project is occurring in or near an area where the ambient concentrations are close (>80%) to exceeding the NAAQS, modeling should be considered to determine if the project is likely to contribute to a NAAQS exceedance.")

[35] Policy Statement at P 33 (describing this approach, which is currently used to assess temporary construction-related emissions, as effective yet efficient).

inventories alone. Modeling typically shows dramatically different concentrations of the same pollutant depending on the design of the facility and its location. Thus, merely reporting estimated emissions in tons per year cannot capture these differences and will lead to an inaccurate and unreliable assessment of impacts. Further, as for ozone and PM2.5, it is not possible to estimate a proposed project's full impact on the concentration of these regulated pollutants without applying modeling techniques that incorporate assumptions about chemical conversions. The policy statement announces the Commission's intent to no longer require that modeling.

30. The policy statement's qualitative discussion does not compensate for these quantitative deficiencies. While qualitative information can help characterize the general nature and magnitude of an expected impact by looking at the estimated total daily or annual emissions from a proposed action, it will not be able to measure the impact to the concentrations of pollutants in the ambient air in the vicinity of the project. Thus, the revised approach will not be able to provide the Commission with sufficient information to determine whether a proposed project would cause or contribute to NAAQS exceedances in communities surrounding the project. Furthermore, community members and other interested parties will not be able to determine whether emissions from a proposed project would adversely contribute to local air quality and cause it to fail to meet the health benchmarks set by the EPA. Overall, the new method would not adequately quantify known and measurable direct impacts from a proposed project or facility and would not provide an accurate estimate of how emissions from the project may affect the local human environment.

31. A project's incremental emissions do not exist in a vacuum, and recognizing the full impact of those emissions requires consideration of the overall state of the surrounding environment.[36] In the absence of continuous, on-site air quality monitoring, dispersion modeling is the only tool the Commission has that allows us to factor in existing ambient air quality and to disclose and assess the local, direct incremental impacts of certain projects, including many expansion projects.

b. NEPA Requires an Accurate Assessment of Emissions Impacts on Local Air Quality

32. The policy statement's proposal to use a project's anticipated state air permitting compliance as a proxy for determining the "significance" of local air quality impacts is impermissible under NEPA. With respect to the assessment of impacts on *local* air quality specifically, courts have recognized that "[i]f a project may have potentially

[36] *See Grand Canyon Tr. v. FAA*, 290 F.3d 339, 342 (D.C. Cir. 2002) (finding agencies "must give a realistic evaluation of the total impacts and cannot isolate a proposed project, viewing it in a vacuum").

significant impacts on a local area," as distinct from a broader context, "the agency must analyze such impacts."[37] While federal agencies are granted deference in determining the proper scope of their environmental review, such discretion is not unlimited. Agencies must "balance need for a comprehensive analysis versus considerations of practicality, while also keeping in mind that use of a larger analysis area can dilute the apparent magnitude of environmental impacts."[38] When administering state air quality permitting programs, state regulators are focused on ensuring compliance with SIPs across Air Regions that include a mix of industrial, residential, and undeveloped land. Thus, just because a state finds that a project meets CAA permitting requirements when the project's emissions are diluted over an entire (sometimes interstate) Air Region, does not mean that the impacts of a project's emissions on local air quality have been adequately reviewed under NEPA.

33. Since *Calvert Cliffs*, courts have long recognized that permit requirements overseen by another federal agency or state permitting authority cannot substitute for a proper NEPA analysis.[39] While the policy statement indicates the Commission will continue to disclose some information on operational emissions, it indicates that the emissions estimates and other information characterizing air quality will not factor into the Commission's "significance" determination under NEPA, which will instead be based solely on a project's anticipated compliance with a state air permit.[40]

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[37] *WildEarth Guardians v. United States Dep't of Agric. Animal & Plant Health Inspection Serv. Wildlife Servs.*, 135 F.4th 717, 730 (9th Cir. 2025) (*WildEarth Guardians*); *see also Anderson v. Evans*, 371 F.3d 475, 489-90 (9th Cir. 2004).

[38] *WildEarth Guardians* 135 F.4th at 730 (citing *Friends of the Wild Swan*, 767 F.3d 936, 943 (9th Cir. 2014); *Idaho Sporting Congress, Inc. v. Rittenhouse*, 305 F.3d 957, 973–74 (9th Cir. 2002).

[39] *See Calvert Cliffs' Coordinating Comm., Inc. v. United States Atomic Energy Comm'n*, 449 F.2d 1109, 1122-23 (D.C. Cir. 1971) (warning that "NEPA procedures, viewed by the Commission as superfluous, will wither away in disuse, applied only to those environmental issues wholly unregulated by any other federal, state or regional body."); *see also Env't Def. Ctr. v. Bureau of Ocean Energy Mgmt.*, 36 F.4th 850 (9th Cir. 2022) (finding that BOEM violated NEPA by relying on another agency's permit that was not designed to address the relevant impacts. Specifically, the court explained that the state permitting agency and BOEM had different statutory mandates, and that by treating the permit as a blanket proxy for environmental safety, BOEM had failed to take a "hard look" as required by NEPA).

[40] Policy Statement at 37 (stating that "a project with a valid CAA permit should not have significant impacts from its air emissions.").

34. In addition to the concern that relying on a state air permit can dilute the apparent magnitude of emissions impacts, given the state's focus on compliance over a larger region, there are other technical concerns with treating compliance with a state air permit as a proxy for assessing local air quality impacts. SIPs include emissions requirements set by states and the EPA, but may also include provisions for emissions offsets, emissions trading, and emissions banking. The fact that a project has agreed to purchase certain emissions offsets may be very relevant to a state agency's determination that permitting a project is consistent with the state's SIP. However, those emissions offset purchases are not at all relevant to determining the severity of impacts the project emissions will have on local air quality because such emissions offsets do not change the real-world actual emissions in that local vicinity.

35. A simple example highlights another gap that the policy statement will create in the Commission's assessment of local air quality impacts. States may not require any air quality modeling when an existing compressor station expands its capacity because the additional emissions are below the state's set emissions threshold for requiring a permit. Under the Commission's existing approach, the Commission would use air dispersion modeling results to analyze the incremental emissions from the expansion, in the context of the overall emissions from the existing compressor station and expansion, to accurately assess how the combined emissions affect local ambient air quality. Under the policy statement, the Commission would no longer model these combined emissions and would instead simply defer to state CAA permitting, *even though* the state does not require permitting for the expansion project and did not conduct modeling to assess air impacts relevant to the Commission's NEPA obligations. The net effect would be that the Commission will not adequately or accurately assess entirely foreseeable impacts, and thus would not provide the "hard look" required by NEPA.

36. Accordingly, state CAA air permitting programs are not a substitute for NEPA review of reasonably foreseeable air quality impacts. State and local air quality regulatory activities do not relieve the Commission from its NEPA obligation to adequately consider all reasonably foreseeable impacts from projects we authorize. A presumption of CAA compliance does not and cannot relieve the Commission of its NEPA responsibilities. As discussed further below, while *Seven County Infrastructure Coalition v. Eagle County* (*Seven County*)[41] provides greater certainty that lower courts will provide deference to *how* the Commission conducts our analyses, *Seven County* does not provide deference on *whether* we need to conduct an analysis of impacts on local quality at all.

[41] *Seven County*, 605 U.S. 168 (2025).

2. Under the New Policy, the Commission will be Unable to Comply with NEPA's Requirement to Publicly Disclose all Relevant Information to Those Interested in and Impacted by Our Decisions

37. As part of ensuring an accurate assessment of all reasonably foreseeable environmental impacts, the NEPA review process serves a broad and important public information purpose. It "guarantees that the relevant information will be made available to the larger audience" interested in and impacted by the proposed federal action.[42] A NEPA document is an important "springboard for public comment" and engagement.[43] Such disclosure is not simply a side effect of NEPA; it is central to its statutory design and part of the Commission's obligations under the law.

38. As today's policy statement acknowledges, the purpose of preparing a NEPA document is to ensure that "important effects will not be overlooked."[44] NEPA "requires the Commission to at least attempt to obtain the information necessary to fulfill its statutory responsibilities."[45] Without an air quality assessment that considers whether project emissions may contribute to localized exceedances of federal air quality thresholds established to protect public health of the local communities, these communities will lack an adequate understanding of how local ambient air quality will be impacted by projects we authorize.

B. The Commissions Has an Obligation Under the NGA to Balance Public Interest Considerations, Including Local Air Emission Impacts

39. The Commission's evaluation of the public convenience and necessity under the NGA requires that "the Commission balances the need for and benefits derived from the project against the potential adverse consequences. Those consequences include impacts on landowners and environmental impacts identified in the NEPA document developed for the project."[46] Without conducting an assessment of a project's emissions impact on

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[42] *Robertson*, 490 U.S. at 349; 42 U.S.C. § 4332(C) ("Copies of [the EIS] … and the comments and views of the appropriate Federal, State, and local agencies ... shall be made available ... to the public ....").

[43] *Robertson*, 490 U.S. at 349.

[44] Air Policy Statement at 7 (citing *Robertson*, 490 U.S. at 349).

[45] *Birckhead v. FERC*, 925 F.3d 510, 520 (D.C. Cir. 2019).

[46] *Transcon. Gas Pipe Line Co., LLC*, 190 FERC ¶ 61,048, at P 98 (2025). *See also City of Oberlin, Ohio v. FERC*, 937 F.3d 599, 602 (D.C. Cir. 2019) (holding that

local air quality, the Commission will be left without key information needed to conduct public interest balancing under the NGA.

40. Importantly, under the NGA, the Commission may include in a pipeline/compressor station certificate "such reasonable terms and conditions as the public convenience and necessity may require"[47] and the Commission can condition its LNG project authorizations based "upon such terms and conditions as [it] find[s] necessary or appropriate."[48] The Commission routinely exercises this authority to issue decisions that include dozens of environmental conditions intended to address concerns that were identified during the NEPA environmental review process. As noted below, we have even issued conditions aimed at avoiding potential exceedances of NAAQS.[49]

41. The policy change is largely justified through a misreading of *Seven County* to suggest that procedural NEPA requirements to assess the direct environmental impacts of an agency's actions can be sidestepped entirely if an agency preemptively concludes that the results of such an assessment would not change its decision to authorize. In *Seven County*, the Supreme Court found that NEPA did not require the Surface Transportation Board to address the environmental effects of oil drilling, oil wells, or oil refinery projects separate in time or place from the construction and operation of the railroad line reviewed by the agency. The Supreme Court emphasized that the agency possessed "no regulatory authority over those separate projects" and found "agencies are not required to analyze the effects of projects over which they do not exercise regulatory authority."[50]

42. Citing *Seven County*, the policy statement concludes that "the depth and breadth of the Commission's analysis under NEPA should be guided by the 'usefulness' of additional information to its substantive decision making" and finds that "air dispersion modeling does not add substantive utility to the Commission's decision-making beyond

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"[a]s part of the Section 7 certificating process ... the Commission must complete an environmental review of the proposed project under the National Environmental Policy Act"); *Delaware Riverkeeper Network v. FERC*, 45 F.4th 104, 109, 115 (D.C. Cir. 2022) (finding "the Commission's NGA section 7 balancing of public benefits and adverse consequences reasonably accounted for potential environmental impacts."); *Food & Water Watch v. FERC*, 28 F.4th 277, 282 (D.C. Cir. 2022) (recognizing the NGA section 7 certificate process incorporates environmental review under NEPA).

[47] 15 U.S.C. § 717f(e).

[48] 15 U.S.C. § 717b(e)(3)(A).

[49] *See infra* note 74.

[50] *Seven County*, 605 U.S. 168 at 188.

what is already inherent in compliance with the CAA and state air permitting programs thereunder."[51] In effect, the policy statement is making a predetermination that the Commission would never find that the environmental costs associated with a project's air emissions outweigh the project's benefits. The policy statement looks to the NEPA guidance provided in *Seven County* and attempts to find a legal rationale to avoid disclosing and assessing the *direct* environmental air quality impacts of projects squarely under the Commission's authority to regulate, mitigate, and condition.

43. The results from air dispersion modeling provide the Commission with useful information that informs the Commission's decision-making. In fact, due to information provided by air dispersion modeling, the Commission has imposed conditions to our previous decisions, including mitigation and monitoring.[52] Furthermore, even if the Commission could reasonably conclude that those impacts would not alter the Commission's decision under the NGA to approve certain proposed projects, the Commission cannot abdicate its separate and distinct responsibility under NEPA to identify, disclose, and accurately assess environmental impacts to local air quality.

C. Legal and Technical Flaws in the Commission's New Policy Will Lead to Appellate Risks for the Commission and Project Developers

44. As discussed above, the policy statement falls short of our legal obligations under the NGA and NEPA. Specifically, it fails to adequately explain why no assessment of local air quality impacts is required under the NGA or NEPA for any project that we review or why regional compliance with state CAA permitting requirements is an adequate proxy for a lack of "significant" impacts on local air quality. Given these defects, Commission decisions that implement this policy will face substantial appellate risk.

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[51] Air Policy Statement at P 26 (further emphasizing: "We are aware of no case in which the Commission has denied a Section 3 or 7 application based either wholly or in part on its air quality impacts.")

[52] *See, e.g.*, *Transcon. Gas Pipe Line Co.,* 158 FERC ¶ 61,125, at PP 117-18 (2017), *on reh'g*, 161 FERC ¶ 61,250 (2017) (requiring air monitoring with requirement to "contact the state air quality agency to report [any] violation and establish a plan of action . . . in accordance with the terms of the facility air permit and applicable state law"); *Rio Grande LNG, LLC*, 183 FERC ¶ 61,046, at PP 141-42, 147 (2023), *on reh'g*, 185 FERC ¶ 61,080, at PP 40-41 (2023) (requiring a mitigation and monitoring plan to address short-term periods of heightened air quality impacts during overlapping construction, commissioning, and operation activities).

45. Courts review an agency's NEPA compliance under the APA's arbitrary and capricious standard.[53] The court asks whether "the Commission's judgment is supported by substantial evidence" and whether "the methodology used in arriving at that judgment is either consistent with past practice or adequately justified."[54] Review of an agency action is more demanding where the challenged decision stems from an administrative about-face. Courts have found that "for [an] agency to reverse its position in the face of a precedent it has not persuasively distinguished is quintessentially arbitrary and capricious."[55] Thus, when reversing itself, "[an] agency is 'obligated to supply a reasoned analysis for the change beyond that which may be required'" if the agency had not already established a position.[56] The Commission has long considered the severity of a project's impact on local air quality, and consequently, the policy change to forgo that consideration will be subject to heightened review under the APA.

46. In *Seven County*, the Supreme Court emphasized that the arbitrary and capricious standard of review in the NEPA context affords agencies substantial deference, and judicial review only involves the court "confirm[ing] that the agency has addressed environmental consequences and feasible alternatives as to the relevant project."[57] The Supreme Court held that the reviewing court should ask "not whether it agrees with the agency decision, but rather only whether the agency action was reasonable and reasonably explained."[58] While *Seven County* emphasizes that courts should afford substantial deference to agencies and should not micromanage agency choices so long as they fall within a "broad zone of reasonableness," *Seven County* is not a blanket authorization to avoid meaningful review of reasonably foreseeable environmental impacts. As one court has stated, "*Seven County* did not grant an agency discretion to forgo reasoned analysis, nor did it exclude NEPA-related agency decisions from APA

[53] *Seven County*, 605 U.S. at 180.

[54] *Sierra Club v. FERC*, 38 F.4th 220, 229 (D.C. Cir. 2022).

[55] *Louisiana. Pub. Serv. Comm'n v. FERC,* 184 F.3d 892, 897 (D.C. Cir. 1999).

[56] *The Fund for Animals v. Norton,* 294 F.Supp.2d 92, 104 (D.D.C. 2003) (quoting *Motor Vehicle Manufacturers Ass'n of the United States, Inc. v. State Farm Mut. Auto. Ins. Co.,* 463 U.S. 29, 41–42 (1983) (emphasis in original).

[57] *Seven County*, 605 U.S. at 183.

[58] *Seven County*, 605 U.S. at 179-80.

review. *Seven County* reaffirms that agency decision-making must be 'reasonable and reasonably explained.'"[59]

47. Today's policy statement is far more than an attempt to clarify the technical contours of our existing air quality assessment practices or alleviate a purported overlap or duplication of review that should be undertaken by the EPA and states. Instead, the statement announces a sudden shift away from our current assessment process and associated guidance.[60] Compounding matters, the Commission's air assessment practices will also deviate from how other federal agencies assess operational air impacts under NEPA post-*Seven County*.[61]

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[59] *Center for Biological Diversity v. United States Forest Service*, No. 6:24-CV-00930-AA, at 20 (D. Or. Aug 9. 2026); *see also Arizona Mining Reform Coal. v. United States Forest Service*, 172 F.4th 641, 659 (9th Cir. 2026).

[60] The policy statement's attempt to shift our well-established regulatory interpretation of how a project applicant can demonstrate air quality impacts runs counter to the APA requirement to use standard rulemaking procedures to promulgate substantive rules. *See Pac. Gas & Elec. Co. v. FPC*, 506 F.2d 33, 38 (D.C. Cir. 1974) ("An agency may establish binding policy through rulemaking procedures by which it promulgates substantive rules…. A general statement of policy, on the other hand, does not establish a binding norm..."). While agencies are afforded more discretion when issuing non-binding statements of policy, here there is no indication that the Commission has discretion to *not* apply the policy statement in individual cases, absent a specific request coming only from the project applicant. *Cf. Ass'n of Flight Attendants-CWA, AFL-CIO v. Huerta*, 785 F.3d 710, 716 (D.C. Cir. 2015) (allowing policy statement that is not binding on the agency where the agency "retains the discretion and the authority to change its position."). Further, while the policy statement is ostensibly noticed as a draft, the 30-day notice period provides for comment only on how the new policy should be implemented, and not on the merits of the policy change itself. This indicates that the Commission will not follow a standard rulemaking process.

[61] *See* United States Department of Transportation, The Maritime Administration, *Final Environmental Impact Statement for ST LNG Deepwater Port Development Project*, July 24, 2026, at 3-161 to 3-164 (summarizing air dispersion model results that considered emissions the proposed project in addition to the ambient background concentrations and concentrations from nearby off-site sources and concluding that "[b]ased on the NAAQS modeling analysis results" as well as compliance with relevant air quality regulations that the "air quality impacts associated with Project operations would be direct and indirect, adverse, long-term, and minor"); United States Department of the Interior, Bureau of Land Management, *North Bullfrog Mine Project Draft Environmental Impact Statement*, May 2026, at 4-10 to 4-12 (explaining that

48. Here, the Commission is forgoing adequate review of direct, reasonably foreseeable emissions impacts on local air quality and is opting to instead rely on an applicant's expressed intent to comply with CAA permitting requirements. *Seven County* provides greater certainty that lower courts will provide deference to the Commission's choice in the details of how we conduct our analytical efforts—not deference on whether we need to conduct the analysis at all. This policy choice is not a scientific judgment entitled to judicial deference simply because it references or relies on technical considerations. Instead, the policy statement sets out an approach through which the Commission stops evaluating any impacts on local air quality from proposed natural gas projects, thereby creating greater legal uncertainties for project applicants and potentially delaying projects when affected entities appeal the Commission's decisions based on lack of adequate information.

III. Implementing the Policy Statement May Leave the Commission Unable to Support a CAA General Conformity Determination

49. The CAA provides that federal agencies may not permit, license, or approve any applicable activity that fails to conform to an approved SIP. These conformity requirements only apply to activities that (1) are proposed in an Air Region designated by the EPA as in "nonattainment"; (2) have emissions that exceed a regional significance threshold set by the EPA; and (3) are not already subject to CAA permitting requirements.

50. Accordingly, for projects in Air Regions designated as in nonattainment, the CAA requires federal agencies, including the Commission, to demonstrate compliance with the general conformity provisions of the CAA before the project can be permitted, licensed, or approved. This requirement is carried out by issuing a General Conformity Determination, which serves as a signal from the agency that the activities under their review conform to an approved SIP (or multiple SIPs if a project's activities impact multiple states). The process for determining conformity involves two steps: (1) applicability and (2) determination.

51. First, the Commission must assess applicability, meaning that the conformity determination is only needed when a proposed project includes activities subject to the

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"[d]ispersion modeling was conducted…to quantify and evaluate effects from the Project."); and United States Department of the Air Force, *Final Environmental Impact Statement for Authorizing Changes to the Falcon Launch Program at Vandenberg Space Force Base*, California, October 10, 2025, at 3-8 to 3-12 (summarizing emissions calculations for launch, barge, and crane activities and referencing air modeling reports included in Appendix F).

CAA's general conformity requirements. Because the general conformity requirements do not extend to project activities that require a CAA permit (such as direct emissions from stationary sources, like a turbine at a compressor station), the Commission must instead look at all other direct and indirect sources of emissions, such as emissions from construction, marine vessels, and increased employee vehicle traffic.

52. Second, the Commission must make a conformity determination that considers the impact of all applicable direct and indirect emissions caused by the project under review. The Commission may make a positive conformity determination based on reference to state emissions budgets, emissions offsets, air dispersion modeling results demonstrating conformity, or any combination of these.

53. Air dispersion modeling is a key method used by federal agencies to reach an accurate and durable conformity determination. Under our current practice, the Commission can use the results of air dispersion modeling to determine a baseline of existing ambient air quality. The air policy's new assessment method, however—which uses total daily or annual emissions estimates based on equipment—may show substantially different results than what would be produced through air dispersion modeling, leaving the Commission with an inaccurate understanding of how project activities subject to the conformity requirements will impact ambient air quality. This will leave the Commission unable to accurately assess whether emissions from project activities conform to a SIP.

IV. The Commission's Current Practice Encourages Project Applicants To Minimize Harmful Air Emissions

54. Throughout this statement I have identified my objections to the policy statement based on its failure to fulfill the Commission's legal obligations to balance public interest considerations and accurately assess and disclose all reasonably foreseeable impacts of the activities subject to our review. I also want to emphasize, however, that performing an accurate assessment of project emissions has real world impacts that go well beyond establishing a more legally durable record of decision.

55. As I noted above, the Commission has previously imposed conditions on certificate authorizations, including mitigation and monitoring requirements, due to the results from air dispersion modeling. We did so when the record showed the potential for a local NAAQS exceedance. Fortunately, the Commission has not had to impose such conditions frequently because very few projects showed the potential for a NAAQS exceedance when we conducted an air quality analysis using our three-step method. It is possible that relatively consistent compliance with local NAAQS has been due to the fact that project developers tend to design the projects recognizing our current policy in measuring local air emissions impact. However, in the absence of air dispersion modeling, I am concerned that projects may not take the necessary steps to avoid causing

or contributing to local NAAQS exceedances because the Commission will no longer be evaluating these local impacts.

V. How I Intend to Review Applications Going Forward

56. Although I disagree with the policy statement, I also recognize that its potential effects will be limited to proceedings in which the Commission would have otherwise required air dispersion modeling. Some proposed projects will not be substantially affected by this policy change because they do not yield new incremental operational air emissions. When reviewing future applications for natural gas and LNG facilities, I will continue to make case-by-case determinations based on the facts of each proceeding. These decisions will be informed by (1) the type of project (e.g., whether the project will have ongoing air emissions); (2) the scale of the proposal (e.g., the amount of increased incremental air emissions, if any); (3) the existing ambient air quality in the vicinity of the project; and (4) what information is placed in our record of decision (e.g., modeling submitted voluntarily or prepared for state permitting purposes and placed into our record). Many project applicants will provide enough information in the record to allow for a legally sufficient assessment of project impacts on air quality without the need for more refined air dispersion modeling given the anticipated emission levels.

VI. Conclusion

57. Today's policy statement is a significant and meaningful change in the Commission's implementation of its responsibilities under the NGA and NEPA. As explained above, the change falls short of our obligations under the law, and if implemented, creates uncertainties and legal risks that could undermine the very efficiency the policy statement seeks to achieve. Nonetheless, while I disagree with my colleagues' decision today, I share their stated goal of finding efficiencies in our permitting process and look forward to continuing those efforts with them where consistent with our statutory obligations.

Judy W. Chang
Commissioner