BEFORE THE ADMINISTRATOR
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

IN THE MATTER OF	)	PETITION NO. III-2022-14
	)	
COVE POINT LNG, L.P.	)	ORDER RESPONDING TO
COVE POINT LNG TERMINAL	)	PETITION REQUESTING
CALVERT COUNTY, MARYLAND	)	OBJECTION TO THE ISSUANCE OF
PERMIT NO. 24-009-0021	)	TITLE V OPERATING PERMIT
	)	
ISSUED BY THE MARYLAND	)	
DEPARTMENT OF THE ENVIRONMENT	)	
	)	

ORDER GRANTING A PETITION FOR OBJECTION TO PERMIT

I. INTRODUCTION

The U.S. Environmental Protection Agency (EPA) received a petition dated October 28, 2022 (the Petition) from the Environmental Integrity Project and Chesapeake Climate Action Network (the Petitioners), pursuant to section 505(b)(2) of the Clean Air Act (CAA or Act), 42 United States Code (U.S.C.) § 7661d(b)(2). The Petition requests that the EPA Administrator object to operating permit No. 24-009-0021 (the Permit) issued by the Maryland Department of the Environment (MDE) to the Cove Point LNG Terminal (Cove Point or the facility) in Calvert County, Maryland. The operating permit was issued pursuant to title V of the CAA, 42 U.S.C. §§ 7661–7661f, and Chapter 26.11.03 of the Code of Maryland Regulations. *See also* 40 Code of Federal Regulations (C.F.R.) part 70 (title V implementing regulations). This type of operating permit is also referred to as a title V permit or part 70 permit.

Based on a review of the Petition and other relevant materials, including the Permit, the permit record, and relevant statutory and regulatory authorities, and as explained in Section IV of this Order, EPA grants the Petition requesting that the EPA Administrator object to the Permit.

II. STATUTORY AND REGULATORY FRAMEWORK

A. Title V Permits

Section 502(d)(1) of the CAA, 42 U.S.C. § 766la(d)(1), requires each state to develop and submit to EPA an operating permit program to meet the requirements of title V of the CAA and EPA's implementing regulations at 40 C.F.R. part 70. The state of Maryland submitted a title V program governing the issuance of operating permits in May 1995. EPA granted interim approval of MDE's title V operating permit program in 1996, 61 Fed. Reg. 34733-34739 (July 3, 1996) and EPA granted full final approval of MDE's title V program in 2003, 68 Fed. Reg. 1974-1985 (January 15, 2003). This program, which became effective on February 14, 2003, is codified in Chapter 26.11.03 of the Code of Maryland Regulations.

All major stationary sources of air pollution and certain other sources are required to apply for and operate in accordance with title V operating permits that include emission limitations and other conditions as necessary to assure compliance with applicable requirements of the CAA, including the requirements of the applicable implementation plan. 42 U.S.C. §§ 7661a(a), 7661b, 7661c(a). The title V operating permit program generally does not impose new substantive air quality control requirements, but does require permits to contain adequate monitoring, recordkeeping, reporting, and other requirements to assure compliance with applicable requirements. 57 Fed. Reg. 32250, 32251 (July 21, 1992); *see* 42 U.S.C. § 7661c(c). One purpose of the title V program is to "enable the source, States, EPA, and the public to understand better the requirements to which the source is subject, and whether the source is meeting those requirements." 57 Fed. Reg. at 32251. Thus, the title V operating permit program is a vehicle for compiling the air quality control requirements as they apply to the source's emission units and for providing adequate monitoring, recordkeeping, and reporting to assure compliance with such requirements.

B. Review of Issues in a Petition

State and local permitting authorities issue title V permits pursuant to their EPA-approved title V programs. Under CAA § 505(a) and the relevant implementing regulations found at 40 C.F.R. § 70.8(a), states are required to submit each proposed title V operating permit to EPA for review. 42 U.S.C. § 7661d(a). Upon receipt of a proposed permit, EPA has 45 days to object to final issuance of the proposed permit if EPA determines that the proposed permit is not in compliance with applicable requirements under the Act. 42 U.S.C. § 7661d(b)(1); *see also* 40 C.F.R. § 70.8(c). If EPA does not object to a permit on its own initiative, any person may, within 60 days of the expiration of EPA's 45-day review period, petition the Administrator to object to the permit. 42 U.S.C. § 7661d(b)(2); 40 C.F.R. § 70.8(d).

Each petition must identify the proposed permit on which the petition is based and identify the petition claims. 40 C.F.R. § 70.12(a). Any issue raised in the petition as grounds for an objection must be based on a claim that the permit, permit record, or permit process is not in compliance with applicable requirements or requirements under part 70. 40 C.F.R. § 70.12(a)(2). Any arguments or claims the petitioner wishes EPA to consider in support of each issue raised must generally be contained within the body of the petition.[1] *Id.*

The petition shall be based only on objections to the permit that were raised with reasonable specificity during the public comment period provided by the permitting authority (unless the petitioner demonstrates in the petition to the Administrator that it was impracticable to raise such objections within such period or unless the grounds for such objection arose after such period). 42 U.S.C. § 7661d(b)(2); 40 C.F.R. § 70.8(d); *see also* 40 C.F.R. § 70.12(a)(2)(v).

[1] If reference is made to an attached document, the body of the petition must provide a specific citation to the referenced information, along with a description of how that information supports the claim. In determining whether to object, the Administrator will not consider arguments, assertions, claims, or other information incorporated into the petition by reference. *Id*.

In response to such a petition, the Act requires the Administrator to issue an objection if a petitioner demonstrates that a permit is not in compliance with the requirements of the Act. 42 U.S.C. § 7661d(b)(2); 40 C.F.R. § 70.8(c)(1).[2] Under section 505(b)(2) of the Act, the burden is on the petitioner to make the required demonstration to EPA.[3] The petitioner's demonstration burden is a critical component of CAA § 505(b)(2). As courts have recognized, CAA § 505(b)(2) contains both a "discretionary component," under which the Administrator determines whether a petition demonstrates that a permit is not in compliance with the requirements of the Act, and a nondiscretionary duty on the Administrator's part to object where such a demonstration is made. *Sierra Club v. Johnson*, 541 F.3d at 1265–66 ("[I]t is undeniable [that CAA § 505(b)(2)] also contains a discretionary component: it requires the Administrator to make a judgment of whether a petition demonstrates a permit does not comply with clean air requirements."); *NYPIRG*, 321 F.3d at 333. Courts have also made clear that the Administrator is only obligated to grant a petition to object under CAA § 505(b)(2) if the Administrator determines that the petitioner has demonstrated that the permit is not in compliance with requirements of the Act. *Citizens Against Ruining the Environment*, 535 F.3d at 677 (stating that § 505(b)(2) "clearly obligates the Administrator to (1) determine whether the petition demonstrates noncompliance and (2) object *if* such a demonstration is made" (emphasis added)).[4] When courts have reviewed EPA's interpretation of the ambiguous term "demonstrates" and its determination as to whether the demonstration has been made, they have applied a deferential standard of review. *See, e.g.*, *MacClarence*, 596 F.3d at 1130–31.[5] Certain aspects of the petitioner's demonstration burden are discussed in the following paragraph. A more detailed discussion can be found in the preamble to EPA's proposed petitions rule. *See* 81 Fed. Reg. 57822, 57829–31 (August 24, 2016); *see also In the Matter of Consolidated Environmental Management, Inc., Nucor Steel Louisiana*, Order on Petition Nos. VI-2011-06 and VI-2012-07 at 4–7 (June 19, 2013) (*Nucor II Order*).

EPA considers a number of criteria in determining whether a petitioner has demonstrated noncompliance with the Act. *See generally Nucor II Order* at 7. For example, one such criterion is whether a petitioner has provided the relevant analyses and citations to support its claims. For each claim, the petitioner must identify (1) the specific grounds for an objection, citing to a specific permit term or condition where applicable; (2) the applicable requirement as defined in 40 C.F.R. § 70.2, or requirement under part 70, that is not met; and (3) an explanation of how the term or condition in the permit, or relevant portion of the permit record or permit process, is not adequate to comply with the corresponding applicable requirement or requirement under part 70. 40 C.F.R. § 70.12(a)(2)(i)–(iii). If a petitioner does not identify these elements, EPA is left to work out the basis for the petitioner's objection, contrary to Congress's express allocation of the burden of demonstration to the petitioner in CAA § 505(b)(2). *See MacClarence*, 596 F.3d at 1131 ("[T]he Administrator's requirement that [a title V petitioner] support his allegations with

[2] *See also New York Public Interest Research Group, Inc. v. Whitman*, 321 F.3d 316, 333 n.11 (2d Cir. 2003) (*NYPIRG*).
[3] *WildEarth Guardians v. EPA*, 728 F.3d 1075, 1081–82 (10th Cir. 2013); *MacClarence v. EPA*, 596 F.3d 1123, 1130–33 (9th Cir. 2010); *Sierra Club v. EPA*, 557 F.3d 401, 405–07 (6th Cir. 2009); *Sierra Club v. Johnson*, 541 F.3d 1257, 1266–67 (11th Cir. 2008); *Citizens Against Ruining the Environment v. EPA*, 535 F.3d 670, 677–78 (7th Cir. 2008); *cf. NYPIRG*, 321 F.3d at 333 n.11.
[4] *See also Sierra Club v. Johnson*, 541 F.3d at 1265 ("Congress's use of the word 'shall' . . . plainly mandates an objection *whenever* a petitioner demonstrates noncompliance." (emphasis added)).
[5] *See also Sierra Club v. Johnson*, 541 F.3d at 1265–66; *Citizens Against Ruining the Environment*, 535 F.3d at 678.

legal reasoning, evidence, and references is reasonable and persuasive.").[6] Relatedly, EPA has pointed out in numerous previous orders that general assertions or allegations did not meet the demonstration standard. *See, e.g.*, *In the Matter of Luminant Generation Co., Sandow 5 Generating Plant*, Order on Petition Number VI-2011-05 at 9 (January 15, 2013).[7] Also, the failure to address a key element of a particular issue presents further grounds for EPA to determine that a petitioner has not demonstrated a flaw in the permit. *See, e.g.*, *In the Matter of EME Homer City Generation LP and First Energy Generation Corp.*, Order on Petition Nos. III-2012-06, III-2012-07, and III-2013-02 at 48 (July 30, 2014).[8]

Another factor EPA examines is whether the petitioner has addressed the state or local permitting authority's decision and reasoning contained in the permit record. 81 Fed. Reg. at 57832; *see Voigt v. EPA*, 46 F.4th 895, 901–02 (8th Cir. 2022); *MacClarence*, 596 F.3d at 1132–33.[9] This includes a requirement that petitioners address the permitting authority's final decision and final reasoning (including the state's response to comments) where these documents were available during the timeframe for filing the petition. 40 C.F.R. § 70.12(a)(2)(vi). Specifically, the petition must identify where the permitting authority responded to the public comment and explain how the permitting authority's response is inadequate to address (or does not address) the issue raised in the public comment. *Id*.

The information that EPA considers in determining whether to grant or deny a petition submitted under 40 C.F.R. § 70.8(d) generally includes, but is not limited to, the administrative record for the proposed permit and the petition, including attachments to the petition. 40 C.F.R. § 70.13. The administrative record for a particular proposed permit includes the draft and proposed permits; any permit applications that relate to the draft or proposed permits; the statement required by § 70.7(a)(5) (sometimes referred to as the 'statement of basis'); any comments the permitting authority received during the public participation process on the draft permit; the permitting authority's written responses to comments, including responses to all significant comments raised during the public participation process on the draft permit; and all materials available to the permitting authority that are relevant to the permitting decision and that the permitting authority made available to the public according to § 70.7(h)(2). *Id.* If a final permit

---

[6] *See also In the Matter of Murphy Oil USA, Inc.*, Order on Petition No. VI-2011-02 at 12 (September 21, 2011) (denying a title V petition claim where petitioners did not cite any specific applicable requirement that lacked required monitoring); *In the Matter of Portland Generating Station*, Order on Petition at 7 (June 20, 2007) (*Portland Generating Station Order*).

[7] *See also Portland Generating Station Order* at 7 ("[C]onclusory statements alone are insufficient to establish the applicability of [an applicable requirement]."); *In the Matter of BP Exploration (Alaska) Inc., Gathering Center #1*, Order on Petition Number VII-2004-02 at 8 (April 20, 2007); *In the Matter of Georgia Power Company*, Order on Petitions at 9–13 (January 8, 2007) (*Georgia Power Plants Order*); *In the Matter of Chevron Products Co., Richmond, Calif. Facility*, Order on Petition No. IX-2004–10 at 12, 24 (March 15, 2005).

[8] *See also In the Matter of Hu Honua Bioenergy*, Order on Petition No. IX-2011-1 at 19–20 (February 7, 2014); *Georgia Power Plants Order* at 10.

[9] *See also, e.g.*, *Finger Lakes Zero Waste Coalition v. EPA*, 734 Fed. App'x *11, *15 (2d Cir. 2018) (summary order); *In the Matter of Noranda Alumina, LLC*, Order on Petition No. VI-2011-04 at 20–21 (December 14, 2012) (denying a title V petition issue where petitioners did not respond to the state's explanation in response to comments or explain why the state erred or why the permit was deficient); *In the Matter of Kentucky Syngas, LLC*, Order on Petition No. IV-2010-9 at 41 (June 22, 2012) (denying a title V petition issue where petitioners did not acknowledge or reply to the state's response to comments or provide a particularized rationale for why the state erred or the permit was deficient); *Georgia Power Plants Order* at 9–13 (denying a title V petition issue where petitioners did not address a potential defense that the state had pointed out in the response to comments).

and a statement of basis for the final permit are available during the agency's review of a petition on a proposed permit, those documents may also be considered when determining whether to grant or deny the petition. *Id*.

If EPA grants a title V petition, a permitting authority may address EPA's objection by, among other things, providing EPA with a revised permit. 42 U.S.C. § 7661d(b)(3), (c); 40 C.F.R. § 70.8(d); *see id*. § 70.7(g)(4); 70.8(c)(4); *see generally* 81 Fed. Reg. 57822, 57842 (August 24, 2016) (describing post-petition procedures); *Nucor II Order* at 14–15 (same). In some cases, the permitting authority's response to an EPA objection may not involve a revision to the permit terms and conditions themselves, but may instead involve revisions to the permit record. For example, when EPA has issued a title V objection on the ground that the permit record does not adequately support the permitting decision, it may be acceptable for the permitting authority to respond only by providing an additional rationale to support its permitting decision.

When the permitting authority revises a permit or permit record in order to resolve an EPA objection, it must go through the appropriate procedures for that revision. The permitting authority should determine whether its response is a minor modification or a significant modification to the title V permit, as described in 40 C.F.R. § 70.7(e)(2) and (4) or the corresponding regulations in the state's EPA-approved title V program. If the permitting authority determines that the modification is a significant modification, then the permitting authority must provide for notice and opportunity for public comment for the significant modification consistent with 40 C.F.R. § 70.7(h) or the state's corresponding regulations.

In any case, whether the permitting authority submits revised permit terms, a revised permit record, or other revisions to the permit, and regardless of the procedures used to make such revision, the permitting authority's response is generally treated as a new proposed permit for purposes of CAA § 505(b) and 40 C.F.R. § 70.8(c) and (d). *See Nucor II Order* at 14. As such, it would be subject to EPA's 45-day review per CAA § 505(b)(1) and 40 C.F.R. § 70.8(c), and an opportunity for the public to petition under CAA § 505(b)(2) and 40 C.F.R. § 70.8(d) if EPA does not object during its 45-day review period.

When a permitting authority responds to an EPA objection, it may choose to do so by modifying the permit terms or conditions or the permit record with respect to the specific deficiencies that EPA identified; permitting authorities need not address elements of the permit or the permit record that are unrelated to EPA's objection. As described in various title V petition orders, the scope of EPA's review (and accordingly, the appropriate scope of a petition) on such a response would be limited to the specific permit terms or conditions or elements of the permit record modified in that permit action. *See In The Matter of Hu Honua Bioenergy, LLC*, Order on Petition No. VI-2014-10 at 38–40 (September 14, 2016); *In the Matter of WPSC, Weston*, Order on Petition No. V-2006-4 at 5–6, 10 (December 19, 2007).

III. BACKGROUND

A. The Cove Point Facility

The Cove Point facility is owned and operated by Cove Point LNG, L.P., formerly known as Dominion Energy Cove Point LNG, L.P. The facility is a liquefied natural gas (LNG) storage and terminal facility on the western shore of the Chesapeake Bay in Lusby (Calvert County), Maryland. The facility receives, stores, and vaporizes imported LNG and transports vaporized LNG as pipeline-quality natural gas to interconnection points with transmission and distribution points in the mid-Atlantic region. The facility expanded operations to add LNG export capabilities through the Liquefaction Project, which commenced operation in February 2018. The facility is an existing major stationary source of air pollution and is subject to requirements under multiple CAA programs, including various New Source Performance Standards, National Emission Standards for Hazardous Air Pollutants, other requirements of the Maryland SIP, and the title V permitting program. The facility operates several types of emission units, including natural gas-fired combustion turbines, submerged vaporizers, water-ethylene glycol heaters, boilers, emergency generators, fire pumps, and vent heaters. Relevant to this Petition are three GE Frame 3 combustion turbines, two GE Frame 5 combustion turbines, and one Solar Titan combustion turbine.

EPA conducted an analysis using EPA's EJScreen[10] to assess key demographic and environmental indicators within a five-kilometer radius of Cove Point. This analysis showed a total population of approximately 11,340 residents within a five-kilometer radius of the facility, of which approximately 20 percent are people of color and 16 percent are low income. All of the 12 Environmental Justice Indices in this five-kilometer area are below the 50th percentile when compared to the rest of the State of Maryland.

B. Permitting History

Prior to the current permit action, Cove Point operated as an import and storage facility under a title V permit issued in 2013. On May 30, 2014, Cove Point was issued Certificate of Public Convenience and Necessity 9318 (CPCN 9318 Order 86372), which authorized the construction of facilities allowing the source to export LNG (Liquefaction Project). CPCN 9318 Order 86372 served as the Liquefaction Project's Prevention of Significant Deterioration (PSD) and nonattainment New Source Review permits, defined the units comprising the Project (including two existing Frame 5 combustion turbines authorized to provide a maximum of 25 MW of power to the Project), and set forth Project-wide emission limits and reporting requirements. The CPCN was amended on February 23, 2018 (CPCN 9318 Order 88565) to, in relevant part, allow for the use of three existing Frame 3 turbines and one existing Solar Titan combustion turbine to supply power for the Project as alternatives to the Frame 5 turbines. Condition A-I-6 of CPCN 9318 Order 86372 required Cove Point to submit an application to modify its title V permit to

[10] EJScreen is an environmental justice mapping and screening tool that provides EPA with a nationally consistent dataset and approach for combining environmental and demographic indicators. *See https://www.epa.gov/ejscreen/what-ejscreen*.

incorporate the terms of the CPCN within 12 months after the Project commenced operation. The Liquefaction Project commenced operation in February 2018.

On September 27, 2018, Cove Point LNG, L.P. submitted an application for a renewal title V permit, which, among other things, incorporated the terms of the CPCN for the Liquefaction Project. MDE published notice of a draft permit on February 25, 2022, subject to a public comment period that ran until March 27, 2022, during which time the Petitioners commented on the draft permit. On July 14, 2022, MDE submitted the Proposed Permit, along with its responses to public comments (RTC), to EPA for its 45-day review. EPA's 45-day review period ended on August 29, 2022, during which time EPA did not object to the Proposed Permit. MDE issued the final title V renewal permit for the Cove Point LNG Terminal on September 15, 2022, Permit No. 24-009-0021 (the Permit).

C. Timeliness of Petition

Pursuant to the CAA, if EPA does not object to a proposed permit during its 45-day review period, any person may petition the Administrator within 60 days after the expiration of the 45-day review period to object. 42 U.S.C § 7661d(b)(2). EPA's 45-day review period expired on August 29, 2022. Thus, any petition seeking EPA's objection to the Proposed Permit was due on or before October 28, 2022. The Petition was received October 28, 2022, and, therefore, EPA finds that the Petitioners timely filed the Petition.

IV. DETERMINATIONS ON CLAIMS RAISED BY THE PETITIONERS

The Petition includes two claims (Claims A and B), both of which implicate several permit limits and testing, monitoring, recordkeeping, and reporting requirements involving Particulate Matter (PM) emissions from the Frame 3, Frame 5, and Solar Titan turbines. Because these two claims involve areas of significant overlap, EPA's Order reorganizes some individual arguments within these claims. Specifically, Claim A (as presented in the Petition) focuses on the Petitioners' allegation that the Permit does not contain sufficient monitoring of both filterable and condensable PM_{10} emissions to assure compliance with a PM_{10} emission limit associated with the Liquefaction Project. Resolving this claim requires addressing several broader issues regarding whether, when, how, and what types of PM emissions from the three types of turbines are included towards this Project-wide PM_{10} limit as well as a project-wide PM limit.[11] Although those issues are spread across Claims A and B of the Petition, EPA's Order addresses these related issues in its discussion of Claim A. EPA's discussion of Claim B is restricted to a more specific issue concerning the frequency of PM stack testing from the three types of turbines; this issue is relevant to the Liquefaction Project PM and PM_{10} limits as well as other unit-specific PM and PM_{10} limits.

Claim A: The Petitioners Claim That "The Renewal Permit Does Not Include Any Testing, Monitoring, or Reporting Requirements for PM_{10} Emissions from the

[11] As discussed within EPA's response to Claim A, one of these broader issues also impacts other unit-specific PM limits beyond the Liquefaction Project that is the primary focus of Claim A of the Petition.

Frame 3 or Frame 5 Turbines—Even Though Those Units Are Subject to the Liquefaction Project's Annual PM_{10} Limit."

Petitioners' Claim: The Petitioners claim that the Permit fails to assure compliance with a Liquefaction Project-wide PM_{10} (filterable and condensable) emission limit because the Frame 3 and Frame 5 turbines are not subject to any permit terms requiring testing, monitoring, or reporting for PM_{10} or condensable PM, and the Permit does not describe how metered power information will be used to determine the turbines' contribution to Project-wide emissions. Petition at 11, 15.[12]

The Petitioners identify Condition 25.0 of the Permit, which incorporates Condition A-I-3 of CPCN 9318 Order 88565, as including the Frame 3 and 5 turbines within the definition of the Liquefaction Project. *Id*. at 10. The Petitioners further note that Condition 25.1 of the Permit incorporates the Project-wide PM_{10} (filterable and condensable) emission limit set forth in CPCN 9318 Condition A-III-4, which states that the limit applies to "[e]missions for all sources identified as part of the [Liquefaction Project]." *Id.* at 10. To the extent MDE suggests the emissions from the Frame 3, Frame 5, and Solar Titan turbines are not considered when determining compliance with the Project-wide PM_{10} emission limits, the Petitioners contest such suggestion. *Id*. at 12, 17 (citing RTC at 2). The Petitioners assert that this position conflicts with the express terms of the relevant permits, which include emissions from these units towards the Project-wide limits. *Id*. at 12–13, 17.

The Petitioners also address MDE's statement that "'[e]missions from the metered power' from the Frame 3, 5, and Solar Titan turbines 'is attributed to both the Import Facility emissions, as well as applied to the Liquefaction Project's annual limits.'" *Id*. at 17 (quoting RTC at 2). The Petitioners suggest that this statement supports the Petitioners' argument that emissions from the turbines count towards the Project-wide PM_{10} emission limits. *See id*. Additionally, the Petitioners argue that the Permit is flawed because it does not detail how emissions are calculated from metered power or how condensable PM_{10} emissions will be included in the project-wide total. *Id*. Relatedly, the Petitioners assert that the Permit does not specify how emissions of PM and PM_{10} from each unit are to be measured or calculated for purposes of demonstrating compliance with the Project-wide PM_{10} limit, Project-wide PM limit, and additional unit-specific limits. *See id*. at 15–16.[13] The facility is required to submit quarterly reports summarizing "the monthly and consecutive rolling 12-month total emissions (in tons per month and tons per year) of PM, PM_{10}...separately for each emission unit and total emissions of those pollutants for all [Liquefaction] Project sources," but the Permit does not describe how the facility must calculate emissions from the Frame 3, Frame 5, or Solar Titan turbines. *Id.*, citing Permit Condition 25.5.

[12] A portion of the discussion that follows—specifically, the Petitioner's arguments regarding *how* emissions from these turbines are accounted for when demonstrating compliance with project-wide limit—is presented within Claim B of the Petition.

[13] By contrast, the Petitioners observe that other permit terms *are* accompanied by more detailed information regarding how emissions are calculated. For example, the Petitioners indicate that some permit terms require Cove Point to calculate emissions by multiplying an emission factor derived from the unit's latest stack test by monthly throughput. Petition at 15.

Additionally, the Petitioners address MDE's statement that the Frame 3 and 5 turbines are not subject to unit-specific PM_{10} limits, arguing that this is irrelevant to whether PM_{10} emissions (including condensable PM) from the Frame 3 and 5 turbines must be included when determining compliance with the Project-wide PM_{10} limit. *Id*. at 12. In sum, the Petitioners conclude that the Permit is insufficient to assure compliance with the Project-wide PM_{10} limit because Project-wide emissions cannot be determined without terms requiring testing, monitoring, and reporting filterable and condensable PM_{10} from the Frame 3 and 5 turbines.

EPA's Response: For the following reasons, EPA grants the Petitioners' request for an objection on this claim.

Relevant Permit Terms

Condition A-I-3(g) of CPCN 9318 Order 86372 and Revised Condition A-I-3(g) of CPCN 9318 Order 88565 state:

> For air permitting purposes, the [Liquefaction] Project shall be defined as the following:
>
> > (g) Two existing GE MS5001 Frame 5 combustion turbines (S009 214 JA, S010 214 JB), three existing GE MS3142 Frame 3 combustion turbines (S001 111JA, S002 111JB, S003 111JC), and the existing Solar Titan combustion turbine (S021 311J) providing a total maximum of 25 MW on an as needed basis. For purposes of this definition, the term "as needed" as applied to the Frame 3 and Solar Titan combustion turbines means there is not a Frame 5 combustion turbine available due to an abnormal or emergency event to provide power to the Project.

Condition 25.0 of the Permit is titled "Emissions Unit Number(s): Project-wide — Liquefaction Project" and lists the emission units comprising the Liquefaction Project as defined in CPCN Condition A-I-3, including the Frame 3, Frame 5, and Solar Titan turbines. Condition 25.1.A sets forth the Project-wide emission limits for PM (filterable only) of 55.7 tons per year and PM_{10} (filterable and condensable) of 124.2 tons per year.

Condition 25.1.G sets forth operational limits for the Frame 3, Frame 5, and Solar Titan turbines, which "must only provide a total maximum of 25 MW on an as needed basis to the Liquefaction process." Condition 25.3.G states that "The Permittee shall monitor usage of the [Frame 3, Frame 5, and Solar Titan] turbines for liquefaction and ensure compliance on a 12-month rolling average basis." Condition 25.4.G requires the facility to "maintain records of power produced by [the Frame 3, Frame 5, and Solar Titan turbines] and used by the liquefaction process on site for at least five years and submit to the Department upon request."

Condition 25.5 requires the submission of quarterly reports that include "the monthly and consecutive rolling 12-month total emissions (in tons per month and tons per year) of PM, PM_{10}…separately for each emission unit and total emissions of those pollutants for all [Liquefaction] Project sources."

Conditions 1, 5, and 10 set forth the unit-specific requirements for the Frame 3, Frame 5, and Solar Titan turbines, respectively. Conditions 1.1.B, 5.1.B, and 10.1.B set forth unit-specific PM (filterable) emission limits of 0.0066 lbs/MMBtu for the Frame 3 and 5 turbines and a PM_{10} (filterable and condensable) emission limit of 0.0066 lbs/MMBtu on a 3-hour average basis for the Solar Titan turbine. Conditions 1.2.B, 5.2.B, and 10.2.B establish stack testing requirements from these units, as described in more detail in Claim B. As relevant to Claim A, the stack test requirements on the Frame 3 and Frame 5 turbines do not specifically require testing of PM_{10} or condensable PM.

MDE's Response

In response to comments on this issue, MDE stated:

> COMAR 26.11.17.01B(24) states "After January 1, 2011, $PM_{2.5}$ and PM_{10} emissions shall include gaseous emissions from a source or activity which condense to form particulate matter at ambient temperature." The PSD PM BACT analysis conducted for the Frame 3 turbines (issued August 6, 2002) and the Frame 5 turbines (issued June 26, 2006) were well before the applicability date, and thus only include filterable PM emissions. There are no $PM_{2.5}$ and PM_{10} applicable limits. No significant modifications have been performed on the Frame 3 and Frame 5 turbines that would initiate the need for a new PM BACT analysis. As noted in the fact sheet, Cove Point already tests for PM_{10} emissions.

RTC at 2. MDE also stated that:

> As power from the Frame 3, Frame 5, and Solar Titan turbines can potentially be used to feed the Liquefaction Project, any partial power generated by the Import Facility (i.e.; the Frame 3, Frame 5 and Solar Titan turbines), and sent over the inter-tie to the Liquefaction Project, is metered. Emissions from the metered power is attributed to both the Import Facility emissions, as well as applied to the Liquefaction Project's annual limits. The Liquefaction Project's annual limits do not limit the annual emissions allowed by the Frame 3, Frame 5, and Solar Titan turbines.

RTC at 2.

EPA's Analysis

The Petitioners have demonstrated that the Permit does not "set forth... monitoring... requirements to assure compliance with the permit terms and conditions." 42 U.S.C. § 7661c(c); *see* 40 C.F.R. § 70.6(c)(1). Specifically, the Permit does not contain terms sufficient to assure that emissions produced by the Frame 3, Frame 5, and Solar Titan turbines while providing power to the Liquefaction Project are properly accounted for when determining compliance with the Liquefaction Project's annual PM (filterable only) emission limit of 55.7 tons per year and PM_{10} (filterable and condensable) emission limit of 124.2 tons per year. More specifically, neither the Permit nor permit record specifies whether, when, how, and which type of PM

emissions from the turbines are included when determining compliance with the Project-wide PM and PM_{10} emission limits. This overarching problem involves several sub-issues.

First, it is unclear *whether* the Permit's Project-wide emission limits apply to the Frame 3, Frame 5, and Solar Titan turbines, and accordingly whether emissions from those turbines must be included when demonstrating compliance with the Project-wide emission limits. The terms of the Permit itself suggest this is the case. For example, as the Petitioners correctly observe, Condition 25.0 of the Permit includes the Frame 3, Frame 5, and Solar Titan turbines within the definition of the Liquefaction Project, and Condition 25.1 suggests that emissions from all units that comprise the project must be included in determining compliance with the Project-wide emission limits. However, MDE's RTC injects uncertainty into this issue and appears to contradict the permit terms. Specifically, MDE's statement that the "Liquefaction Project's annual limits do not limit the annual emissions allowed by the Frame 3, Frame 5, and Solar Titan turbines," RTC at 2,[14] is unclear and appears to conflict with the aforementioned permit terms.

Assuming that emissions from the Frame 3, Frame 5, and Solar Titan turbines were in fact intended to be included towards the Project-wide emission limits, EPA also agrees with the Petitioners that the Permit and permit record are also unclear as to *when* and *how* emissions from those turbines are counted towards the Project-wide limits. It is EPA's understanding that these are existing turbines typically used for other purposes at the facility, and these turbines are only used to provide power to the Liquefaction Project in certain circumstances. Therefore, EPA presumes that MDE intended that emissions from these units would only count towards the Liquefaction Project emission limits *when those turbines actually deliver power to the project*. Portions of the Permit and permit record suggest this. For example, MDE stated that any power generated by the Frame 3, Frame 5, and Solar Titan turbines and used by the Liquefaction Project is metered, RTC at 2, and Permit Condition 25.4.G requires Cove Point to maintain records of the power produced by the turbines and used for the Project. This information on power usage could presumably be used to calculate *when* emissions from those units occur as a result of supplying power to the Liquefaction Project. However, the Permit does not expressly require such calculation, nor does it specify how the recorded data on power generation will be used to demonstrate compliance with the overall Project limits. If the Frame 3, Frame 5, and Solar Titan turbines are included in the definition of the Liquefaction Project, then their PM (filterable) and PM_{10} (filterable and condensable) emissions should be monitored and recorded as part of the Project-wide emission limits when contributing power to the Project.

Relatedly, the Permit fails to specifically identify *how* emissions from each of the Frame 3, Frame 5, and Solar Titan turbines will be monitored and quantified for purposes of demonstrating compliance with the Project-wide limits. Condition 25.5 requires quarterly reports of emissions from all units, but does not specify (or cross-reference other permit terms specifying) how emissions data from each unit is to be obtained or calculated. The Permit is therefore unclear as to the testing, monitoring, and recordkeeping requirements for each unit that are necessary for Cove Point to demonstrate compliance with the Project-wide limit. This problem relates not only to the Project-wide limits that are the primary focus of Claim A, but

[14] Petitioners appear to misquote this portion of the RTC, incorrectly characterizing MDE's response as stating: "[The] Liquefaction Project's annual limits do not apply to PM_{10} emissions from the Frame 3, Frame 5, and Solar Titan turbines." Petition at 12.

also to the unit specific limits on PM and PM_{10} identified by the Petitioner in Claim B. *See* Petition at 15–16. In the case of both the Project-wide and unit-specific emission limits, the Permit does not detail how information from periodic stack tests will be used to demonstrate compliance with annual and short-term limits.

Finally, EPA agrees with the Petitioners that the Permit is deficient with respect to *which types* of PM emissions must be monitored with respect to the Project-wide PM_{10} limit. The Permit does not contain monitoring terms sufficient to assure compliance with the Project-wide PM_{10} (filterable and condensable) emission limit, since it contains no requirement for the Frame 3 or Frame 5 turbines to monitor or record PM_{10} or condensable PM emissions. In other words, MDE's statement that the facility "already tests for PM_{10} emissions" is unsupported by the Permit terms and requirements, which fail to set forth PM_{10} testing procedures for all units comprising the Liquefaction Project as defined in Condition 25.0. The Permit requires monitoring of filterable PM through periodic stack testing for the Frame 3 and Frame 5 turbines, Conditions 1.2.B and 5.2.B, but does not specifically require testing of PM_{10} (including both filterable and condensable PM_{10}) to assure compliance with the Project-wide PM_{10} (filterable and condensable) limit.

Overall, because the Permit does not specify methods for calculating the Frame 3, Frame 5, or Solar Titan turbines' contribution to the Project-wide PM (filterable) or PM_{10} (filterable and condensable) emission limits, does not specify the testing, monitoring, or recordkeeping for each unit used to demonstrate compliance with the Project-wide emission limit, and does not impose/identify/specify any requirement to monitor or calculate, and record the Frame 3 or Frame 5 turbines' filterable and condensable PM_{10} emissions as they provide power to the Liquefaction Project, EPA grants the Petition with regard to Claim A.

Direction to MDE: MDE must amend the Permit and permit record to ensure that the Permit assures compliance with the Project-wide PM and PM_{10} limits as to the Frame 3, Frame 5, and Solar Titan turbines. Specifically, MDE must clarify whether and in what situations emissions from these turbines are included in the Project-wide PM (filterable) and PM_{10} (filterable and condensable) emission limits associated with the Liquefaction Project. MDE must amend the Permit to specify the methodology used to calculate the Frame 3, Frame 5, and Solar Titan turbines' contribution to the Project-wide PM (filterable) and PM_{10} (filterable and condensable) emission limits. MDE must also amend the Permit to specify the connection between testing or monitoring of individual units (e.g., periodic stack tests for each turbine) and the Project-wide annual emission limits as well as the unit-specific limits identified by the Petitioners. This may include the addition of permit terms requiring parametric monitoring or development of emission factors based on stack tests, and/or other methods to ensure and determine continuous compliance with emission limits. MDE must also ensure that the Permit requires monitoring and testing protocols for the Frame 3 and Frame 5 turbines that include both filterable and condensable PM_{10} to assure compliance with the Project-wide PM_{10} limit.

Claim B: The Petitioners Claim That "The Requirement to Test 'At Least One Turbine' Once Every Five Years at the Frame 3, Frame 5, and Solar Titan Turbines is Not Sufficient to Assure Continuous Compliance with the Liquefaction Project's

PM Filterable or PM_{10} Limits, or With the More Specific PM Filterable Limits That Apply to the Frame 3, Frame 5, and Solar Titan Turbines."

Petitioners' Claim: The Petitioners claim that the Permit's testing and monitoring requirements are insufficient and not frequent enough to assure compliance with unit-specific and Project-wide emission limits. Petition at 18.

The Petitioners argue that the Permit fails to describe how requirements for periodic stack testing will be used to demonstrate continuous compliance with unit-specific and Project-wide PM and PM_{10} emission limits. According to the Petitioners, the Permit requires the facility to conduct stack testing for PM (filterable) on "at least one" of the three Frame 3 turbines and "at least one" of the two Frame 5 turbines every five years, and to conduct one stack test for PM_{10} on the Solar Titan turbine every five years. *Id.* at 16 (citing Permit Conditions 1.2.B, 5.2.B., and 10.2.B).

The Petitioners argue that the stack testing required by the Permit is too infrequent to assure compliance, since each individual Frame 3 turbine would only have to be tested once every 15 years and each individual Frame 5 turbine would have to be tested once every 10 years. The Petitioners argue that stack testing provides only an emissions "snapshot" that, alone, is insufficient to "assure continuous compliance with the permit's emission limits (either annual or short-term) without some form of continuous monitoring in-between periods of stack tests." *Id.* at 18. Conditions 1.3.B, 5.3.B, and 10.3.B set forth PM and PM_{10} monitoring requirements for the turbines, and require Cove Point to "perform routine and preventative maintenance in accordance with manufacturer's specifications." The Petitioners argue that these monitoring terms are not sufficient to demonstrate compliance with emission limits in between stack tests. *Id.* at 16.

In response to MDE's statement that more frequent monitoring is not required because of past stack tests demonstrating emissions well below the units' allowed limits, the Petitioners note that the fact sheet accompanying the Permit shows that the most recent stack test for the Frame 5 turbines was conducted in 2008 and reported PM filterable emissions of nearly three to four times the allowable limit, resulting in the issuance of a notice of violation. *Id.* at 19. The Petitioners cite the fact sheet's statement that Cove Point was "asked to submit new test protocol incorporating revised test method 202 & furnish a survey of PM BACT survey" and "use the new protocol on the Solar turbine...to show compliance with the 0.0066 lb/MMBtu PM_{10} (filterable and condensable) limit." *Id*. (quoting Fact Sheet at 37). The Petitioners state that the Fact Sheet and RTC are unclear as to whether the new protocol was intended to be used to determine emissions from the Frame 3 or Frame 5 turbines, whether the Frame 5 turbines were ever tested using the new protocol, whether the Frame 5 turbines have been tested for filterable PM since 2008, and whether the Frame 3 or Frame 5 turbines have ever been tested for condensable PM. *Id*. The Petitioners argue that this demonstrates that the testing and monitoring requirements set forth in the Permit are insufficient to assure compliance with PM emission limits. *Id.* at 19–20.

EPA's Response: For the following reasons, EPA grants the Petitioners' request for an objection on this claim.

Relevant Permit Terms

As described in Claim A, the Frame 3, Frame 5, and Solar Titan turbines are subject to various Project-wide and unit-specific PM and PM_{10} emission limits.

Conditions 1.2B, 5.2B, and 10.2B set forth PM testing requirements for the Frame 3, Frame 5, and Solar Titan turbines, respectively. Conditions 1.2B and 5.2B state:

> The Permittee shall perform an EPA Reference Test Method 5, 40 CFR Part 60 Appendix A of the exhaust gases in the stacks of at least one of the combustion turbines at the import facility once during the term of the permit. The combustion turbine shall be operating at no less than 90% of its rated capacity during stack emissions testing. The Permittee shall alternate the combustion turbines being tested.

Condition 10.2.B states:

> The Permittee shall perform stack testing to demonstrate compliance with PM emission limit in the exhaust gases of the stack of at least one of the combustion turbines at the import facility once during the term of this permit. During the stack emission testing, the combustion turbine shall be operating at 90% or higher of its rated capacity.

Conditions 1.3B, 5.3B, and 10.3B are labeled as "Monitoring Requirements" for the turbines, requiring the facility to "perform routine and preventative maintenance in accordance with manufacturer's specifications."

MDE's Response

In response to comments on this issue, MDE stated that "more frequent testing is not required" because the Frame 3, Frame 5, and Solar Titan turbines:

> burn natural gas and have limited potential to emit...PM emissions when operated properly. The Permittee is required to perform routine and preventative maintenance on each unit and maintain the operating parameters of each unit in the range that demonstrates good combustion practices based on past stack emissions tests. Past stack emissions tests show...PM emissions well below the applicable limits.

RTC at 3.

EPA's Analysis

The Petitioners have demonstrated that the permit record is inadequate to determine whether periodic stack tests are sufficient to assure continuous compliance with the Project-wide and unit-specific PM and PM_{10} (filterable and condensable) emission limits.

As noted with respect to Claim A, all permits "shall set forth...monitoring...requirements to assure compliance with the permit terms and conditions." 42 U.S.C. § 7661c(c); *see* 40 C.F.R. § 70.6(c)(1). Additionally, if the permit's underlying applicable requirement does not contain periodic monitoring, the title V permit must include "periodic monitoring sufficient to yield reliable data from the relevant time period that are representative of the source's compliance with the permit." 40 C.F.R. § 70.6(a)(3)(i)(B). In this case, the requirement underlying Cove Point's Project-wide emission limits is CPCN 9318, Condition A-III-4, which does not contain a monitoring requirement.[15]

Determining whether monitoring is adequate in a particular circumstance is generally a context-specific determination made on a case-by-case basis. *In the Matter of CITGO Refining and Chemicals Company, L.P.,* Order on Petition No. VI-2007-01 at 7 (May 28, 2009) (*CITGO Order*). The rationale for the selected monitoring requirements must be clear and documented in the permit record. 40 C.F.R. § 70.7(a)(5). EPA has described five factors permitting authorities may consider as a starting point in determining appropriate monitoring for a particular facility:

> (1) the variability of emissions from the unit in question; (2) the likelihood of a violation of the requirements; (3) whether add-on controls are being used for the unit to meet the emission limit; (4) the type of monitoring, process, maintenance, or control equipment data already available for the emission unit; and (5) the type and frequency of the monitoring requirements for similar emission units at other facilities.

CITGO Order at 7–8.

EPA has previously determined that requirements for periodic stack tests alone are insufficient to assure compliance, and has directed permitting authorities to consider a multi-pronged monitoring approach of periodic stack testing accompanied by other clearly identified permit terms such as parametric monitoring. *See, e.g.*, *In the Matter of Oak Grove Management Company, Oak Grove Steam Electric Station,* Order on Petition No. VI-2017-12 at 25–26 (October 15, 2021); *In the Matter of Owens-Brockway Glass Container, Inc.,* Order on Petition No. X-2020-2 at 14–15 (May 10, 2021). EPA has also previously determined that periodic stack testing, when combined with other permit terms such as parametric monitoring and inspection and maintenance requirements, may be adequate to assure compliance with emission limits. *See, e.g.*, *In the Matter of Public Service of New Hampshire, Schiller Station,* Order on Petition No. VI-2014-04 at 15 (July 28, 2015); *In the Matter of Xcel Energy, Cherokee Station,* Order on Petition No. VIII-2010-XX at 11-12 (September 29, 2011). Again, assessing the appropriateness of the monitoring regime in an operating permit generally requires a fact-specific inquiry.

Here, the Permit includes stack testing requirements for the Frame 3, Frame 5, and Solar Titan turbines (as well as requirements related to maintenance) but does not otherwise require any

[15] It is not immediately apparent whether the requirements underlying the unit-specific PM emission limits for the Frame 3 and Frame 5 turbines, located in PSD Approval #PSD-2002-1 (August 6, 2002) and #PSD-2005-01 (June 26, 2006), respectively, contain monitoring requirements. The requirement underlying the unit-specific PM_{10} emission limit for the Solar Titan turbine is CPCN 9055 (August 15, 2006), which does not contain a monitoring requirement.

more frequent periodic monitoring or recordkeeping of other operating parameters (such as fuel usage).

The Petitioners have demonstrated that MDE has not adequately justified this monitoring regime, including the frequency of stack testing set forth in the Permit, particularly with regard to the Frame 5 turbines that the Petitioner identified as having past compliance issues. Even if the Permit included a clear explanation of how Cove Point is to demonstrate compliance with hourly or annual limits based on information from periodic stack tests—which it does not, as discussed in EPA's response to Claim A—it is unclear whether the frequency of stack testing is sufficient to assure compliance with the unit-specific and Project-wide emission limits, for multiple reasons.

As an initial matter, the Permit and permit record are unclear as to the actual testing frequency required by the Permit. Although the Petitioners interpret Conditions 1.2.B, 5.2.B, and 10.2.B to require Cove Point to perform a stack test on one of the three Frame 3 turbines every five years, one of the two Frame 5 turbines every five years, and the Solar Titan turbine every five years, the conditions may instead require Cove Point to test only one of the six turbines every five years. Conditions 1.2.B, 5.2.B, and 10.2.B require a stack test be performed on "at least one of the combustion turbines at the import facility" during the terms of the Permit, rather than testing one of each type of turbine. This permit term could be read to encompass all three models of turbines, allowing for each individual turbine to be tested only once every 30 years. Such a testing frequency would almost certainly not be sufficient to assure compliance with the relevant limits.

Although it is not clear from MDE's RTC, it is possible that the state intended to allow Cove Point to test only one representative turbine out of the six total turbines each permit term due to potential similarities in the emission profiles of each type of turbine. Even assuming this is the case, MDE has not adequately explained its apparent assumption that a test of one type of turbine would yield accurate and reliable data about the performance of other differently-designed turbines at the facility.

Additionally, the Petitioners have demonstrated that MDE has not fully justified the selected monitoring and testing frequency. MDE's explanation appears to rely on two of the factors identified in EPA's *CITGO Order*. First, MDE stated in its response to the Petitioners' comments that "[m]ore frequent testing is not required" because potential emissions are low and past stack tests have shown PM emissions "well below the applicable limits." RTC at 3. However, MDE offers no quantitative support for this this assertion, which, based on the information provided by the Petitioners, appears to be incorrect at least with respect to some of the units in question. Specifically, the most recent stack test conducted on the two Frame 5 turbines was in 2008 and showed PM_{10} emissions of 0.0185 lb/MMBtu and 0.021 lb/MMBtu, which are both well over the allowable unit-specific limit of 0.0066 lb/MMBtu.[16] As a result, MDE issued a notice of violation

[16] MDE's Fact Sheet suggests that both the stack test results and the 0.0066 lb/MMBtu unit-specific limit address filterable and condensable PM_{10}. *See* Fact Sheet at 36-37. This conflicts with other portions of the Permit and permit record, which indicate that the unit-specific limit at issue only applies to filterable PM emissions. *See, e.g.*, RTC at 2. In any case, by MDE's admission in the Fact Sheet, the Frame 5 turbines' PM (or PM_{10}) emissions significantly exceeded the relevant limits.

to the facility. Fact Sheet at 36–37. This apparent exceedance significantly undermines MDE's rationale for the current stack test frequency and suggests that more frequent stack testing and monitoring is necessary to assure compliance.

In its response to the Petitioners' comments, MDE also justified the selected testing frequency by stating that Cove Point will be required to perform routine and preventative maintenance and maintain operating parameters that demonstrate "good combustion practices based on past stack emissions tests." RTC at 3. This response could reflect MDE's consideration of the "monitoring, process, maintenance, or control equipment data" already applicable to the units. *See CITGO Order* at 7. However, the Permit does not fully support MDE's statement. As the Petitioners state, although Permit Conditions 1.3.B, 5.3.B, and 10.3.B require Cove Point to "perform routine and preventative maintenance in accordance with manufacturer's specifications," the Permit contains no requirements to maintain operating parameters relevant to combustion practices or other variables based on past stack tests. MDE's RTC also does not identify any such operating parameters, much less explain why maintaining these parameters will assure compliance with the emission limits.

Because MDE has not adequately justified the frequency of stack testing selected for the facility, EPA grants the petition with respect to Claim B.

Direction to MDE: MDE must amend the Permit and/or permit record to ensure that the testing frequencies and other permit terms are sufficient to assure compliance with the relevant PM and PM_{10} emission limits applicable to the Frame 3, Frame 5, and Solar Titan turbines. At minimum, MDE must reconsider the frequency of stack testing for each of the emissions units and provide an adequate justification for why this frequency is appropriate. In so doing, MDE may consider factors such as the variability of emissions, the similarity of performance of turbines of the same or different models, past compliance issues, practices at similar facilities, additional monitoring requirements added in response to EPA's objection to the issues addressed in Claim A, and other relevant factors. Additionally, if MDE determines that no more frequent stack testing is necessary than the Final Permit currently requires, it must clarify whether a stack test must be performed on one turbine of each type of emission unit each permit term, or on only one of the six turbines each permit term. This clarification may require a revision to the Permit.

If MDE determines that a change to the testing frequency is warranted, it may need to amend the Permit to specify more frequent testing of each individual turbine. MDE should also consider whether to include additional permit terms, including monitoring of operating parameters (such as fuel consumption and other potentially relevant parameters), requirements to maintain proper operating parameters, and/or other methods to ensure and determine continuous compliance with emissions limits. *See*, also, EPA's Direction regarding Claim A as it relates to the same permit terms.

V. CONCLUSION

For the reasons set forth in this Order and pursuant to CAA § 505(b)(2) and 40 C.F.R. § 70.8(d), I hereby grant the Petition as described in this Order.

Dated: MAR - 8 2023

Michael S. Regan
Administrator