BEFORE THE ADMINISTRATOR
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

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Petition No. VI-2024-II

In the Matter of

CF Industries East Point, LLC, Waggaman Complex

Permit No. 1340-00352-V9

Issued by the Louisiana Department of Environmental Quality

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ORDER DENYING A PETITION FOR OBJECTION TO A TITLE V OPERATING PERMIT

I. INTRODUCTION

The U.S. Environmental Protection Agency (EPA) received a petition dated January 16, 2024 (the petition), from Harahan/River Ridge Air Quality Group, JOIN for Clean Air, Sierra Club, and Environmental Integrity Project (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. 1340-00352-V9 (the permit) issued by the Louisiana Department of Environmental Quality (LDEQ) to the Waggaman Complex (the facility) in Jefferson Parish, Louisiana. The operating permit was issued pursuant to title V of the CAA, 42 U.S.C. §§ 7661–7661f, and Louisiana Administrative Code (LAC) 33.III.507. *See also* 40 Code of Federal Regulations (C.F.R.) part 70 (title V implementing regulations). This type of operating permit is also known 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, the EPA denies 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. § 7661a(d)(1), requires each state to develop and submit to the EPA an operating permit program to meet the requirements of title V of the CAA and the EPA's implementing regulations at 40 C.F.R. part 70. The state of Louisiana submitted a title V program governing the issuance of operating permits on November 15, 1993, and revised this program on November 10, 1994. EPA granted full approval of Louisiana's title V operating permit program in 1995. 60 Fed. Reg. 47,296 (September 12,1995). This program, which became effective on October 12, 1995, is codified in Louisiana Administrative Code (L.A.C.), Title 33, Part III, Chapter 5.

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. 40 C.F.R. § 70.1(b); 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. 32250, 32251 (July 21, 1992). 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 the EPA for review. 42 U.S.C. § 7661d(a). Upon receipt of a proposed permit, the EPA has 45 days to object to final issuance of the proposed permit if the 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 the EPA does not object to a permit on its own initiative, any person may, within 60 days of the expiration of the 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 the 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).

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.

[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*.

§ 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 the 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 the 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 the EPA's proposed petitions rule. *See* 81 Fed. Reg. 57822, 57829–31 (Aug. 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*).

The 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, the 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 legal reasoning, evidence, and references is reasonable and persuasive.").[6] Relatedly, the EPA has pointed out in numerous previous orders that general assertions

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[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.

[6] *See also In the Matter of Murphy Oil USA, Inc.*, Order on Petition No. VI-2011-02 at 12 (Sept. 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*).

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 (Jan. 15, 2013).[7] Also, the failure to address a key element of a particular issue presents further grounds for the 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 the 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 the 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 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*.

[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 (Apr. 20, 2007); *In the Matter of Georgia Power Company*, Order on Petitions at 9–13 (Jan. 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 (Mar. 15, 2005).

[8] *See also In the Matter of Hu Honua Bioenergy*, Order on Petition No. IX-2011-1 at 19–20 (Feb. 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 (Dec. 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).

III. BACKGROUND

A. The Waggaman Complex Facility

The Waggaman Complex, owned by CF Industries East Point, LLC (CF East Point), is located in Waggaman, Jefferson Parish, Louisiana. The facility produces ammonia through a single train ammonia process based on a low energy natural gas reforming process. The facility operates a Primary Reformer Furnace, an Ammonia Start-up Heater, several flares, and a Cogeneration Boiler (added in this permit modification), among other emission units. The facility is a major source of nitrogen oxides, carbon monoxide, volatile organic compounds, and several hazardous air pollutants. The Cogeneration Boiler is subject to New Source Performance Standards under 40 C.F.R. part 60 subpart Db and National Emission Standards for Hazardous Air Pollutants under 40 C.F.R. part 63 subpart DDDDD.

B. Permitting History

LDEQ first issued a title V permit for the Waggaman Complex (formerly the Ammonia Production Facility) in 2013, which was most recently renewed in 2019. On June 7, 2022, LDEQ received an application for a title V permit modification to add terms for a new emission unit, the Cogeneration Boiler (EQT 0021). LDEQ published notice of a draft permit on January 10, 2023, subject to a public comment period that ran until March 22, 2023. On September 28, 2023, LDEQ submitted a proposed title V permit modification, along with its responses to public comments (RTC), to the EPA for its 45-day review. The EPA's 45-day review period ended on November 13, 2023, during which time the EPA did not object to the proposed permit. LDEQ issued the final title V modification permit (the Permit) for the Waggaman Complex on November 13, 2023. Effective December 1, 2023, ownership of the facility was transferred from Dyno Nobel Louisiana Ammonia, LLC to CF East Point, and the name of the facility was changed from the Ammonia Production Facility to the Waggaman Complex.[10]

C. Timeliness of Petition

Pursuant to the CAA, if the 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). The EPA's 45-day review period expired on November 13, 2023. The EPA's website indicated that any petition seeking the EPA's objection to the Permit was due on or before January 16, 2024. The petition was received January 16, 2024, and, therefore, the EPA finds that the petitioners timely filed the petition.

D. Environmental Justice

The EPA used EJScreen[11] to review key demographic and environmental indicators within a five-kilometer radius of the Waggaman Complex. This review showed a total population of approximately 37,367 residents within a five-kilometer radius of the facility, of which approximately 55 percent are

[10] The petition refers to the facility as the "Dyno Nobel facility" or the "Ammonia Production Facility."

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

people of color and 42 percent are low income. In addition, the EPA reviewed the EJScreen Environmental Justice Indices, which combine certain demographic indicators with 13 environmental indicators. The following table identifies the Environmental Justice Indices for the five-kilometer radius surrounding the facility and their associated percentiles when compared to the rest of the state of Louisiana.

EJ Index	Percentile in State
Particulate Matter 2.5	71
Ozone	84
Diesel Particulate Matter	81
Air Toxics Cancer Risk	86
Air Toxics Respiratory Hazard	84
Toxic Releases to Air	82
Traffic Proximity	72
Lead Paint	66
Superfund Proximity	75
RMP Facility Proximity	76
Hazardous Waste Proximity	82
Underground Storage Tanks	67
Wastewater Discharge	76

The petition features two primary section headings: "Background" and "Grounds for Objection." Petition at 2, 4. The Grounds for Objection portion of the petition includes two numbered sections (I & II). *Id.* at 4, 9. Section I includes extensive discussion of environmental justice (EJ). *See id.* at 4–9. The petitioners do not present any specific "grounds for objection" within this discussion related to the EPA's authority to object to a permit under title V. Rather, Section I appears to serve as backdrop and support for the petitioners' more specific, permit-focused claim that follows.

In Section I, the petitioners argue that due to existing air pollution burdens and EJ concerns in the communities surrounding the facility, "there is a compelling need for EPA to devote increased, focused attention to ensure that all Title V requirements have been complied with—especially ensuring that monitoring requirements are adequate to assure compliance with the limits for the Ammonia Production Facility." *Id.* at 6. *See id.* at 4–6.

IV. DETERMINATIONS ON CLAIMS RAISED BY THE PETITIONERS

Section II of The Grounds for Objection portion of the petition contains the first and only specific basis for objection (*i.e.*, the first "claim").

A. The Petitioners Claim That "The Proposed Permit's Monitoring, Testing, and Reporting, Requirements Cannot Ensure Compliance with the Hourly and Annual Particulate Matter Limits—or the SIP TSP Limit—for the New Boiler."

Petition Claim: The petitioners claim that: "[T]he proposed Title V permit does not include adequate monitoring, reporting, recordkeeping, or testing requirements to ensure compliance with the federally-

enforceable hourly and annual PM2.5 and PM10 limits for the new Cogeneration Boiler—or the boiler's SIP limit for total suspended particulate ('TSP')." Petition at 9 (citing 40 C.F.R. §§ 70.6(a)(3)(i)(B) and 70.6(c)(1); 42 U.S.C. §§ 7661c(a) and 7661c(c)).

The petitioners note that the draft permit initially contained no testing or monitoring requirements for the Cogeneration Boiler's PM limits and that LDEQ added a requirement for performance testing following the petitioners' comments pointing out this deficiency. *Id.* (citing Permit at 34). Upon reviewing LDEQ's revisions, the petitioners now challenge the frequency of the performance testing requirement, arguing that testing once every five years is insufficient to assure compliance with short-term (hourly) emission limits. *Id.* at 10.

Moreover, the petitioners claim that: "Stack tests are often conducted under ideal conditions when boiler PM emissions would not be at typical levels." *Id.* The petitioners also allege that: "[E]missions any given hour, day, week, month or year could be much higher than those from a test conducted days, weeks, months, or years ago." *Id.* The petitioners state that PM Continuous Emission Monitoring System (CEMS) should be required. *Id.*

The petitioners argue that robust monitoring is especially important in this case because of EJ concerns and "to ensure that the boiler's annual PM2.5 emissions will not exceed the major modification threshold of 10 tons/year." *Id.* at 11.

Additionally, the petitioners claim that: "LDEQ has not adequately explained how testing once every five years can ensure compliance with these limits." *Id.* at 10–11 (citing 40 C.F.R. § 70.7(a)(5); *In the Matter of United States Steel Corporation, Granite City Works* Order on Petition No. V-2009-03 at 7–8 (January 31, 2011)). The petitioners note various statements LDEQ made in relation to this issue in its RTC, critiquing each. *See id.* at 11–12.

The petitioners argue that LDEQ's explanation, in its RTC, that the PM limits derive from a manufacturer's guarantee is insufficient because the guarantee is not in the permit record. *Id.* at 11; *see* RTC at 25. The petitioners claim that it is impossible to "verify the accuracy" of the emissions factor used or "to know . . . if or how Dyno Nobel or the manufacturer attempted to account for variability of PM emissions from the boiler or whether either company incorporated a certain 'safety factor.'" Petition at 11.

The petitioners claim that LDEQ's statement describing PM emissions from natural gas-fired sources as "typically low" is immaterial to the issue of testing frequency. *Id.*; *see* RTC at 25.

The petitioners also dismiss LDEQ's explanation concerning the requirement to conduct periodic tune-ups in accordance with subpart DDDDD, stating: "Periodic tune-ups do not guarantee that the required limits will be met." Petition at 11; *see* RTC at 25–26.

Finally, in response to LDEQ's statement that CEMS is not warranted because PM emissions are not dependent on a control device, the petitioners claim that "the absence of control devices only underscores the importance of periodic testing." Petition at 11; *see* RTC at 26.

EPA Response: For the following reasons, the EPA denies the petitioners' request for an objection on this claim.

All title V permits must "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). 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). The rationale for the selected monitoring requirements must be clear and documented in the permit record. 40 C.F.R. § 70.7(a)(5). Title V does not require the use of CEMS "if alternative methods are available that provide sufficiently reliable and timely information for determining compliance." 42 U.S.C. § 7661c(b). The EPA has previously found that periodic stack testing alone is insufficient to assure compliance with short-term emission limits. *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). The EPA has also found that periodic stack testing in combination with other parametric monitoring or inspection and maintenance requirements may be sufficient to assure compliance with short-term 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).

Here, the Cogeneration Boiler (EQT 0021) is subject to hourly (1.99 lb/hr) and annual (7.28 tpy) limits on both $PM_{2.5}$ and PM_{10}, as well as a 0.6 lb/MMBtu limit on TSP.[12] Specific Requirement 96; Permit at 21, 33. To assure compliance with these limits, CF East Point must use "sweet natural gas" as fuel, conduct a performance test within 180 days of start-up and every five years thereafter, and conduct periodic tune-ups in accordance with subpart DDDDD. Specific Requirements 85, 96, 100, and 101; Permit at 32–34. The Permit also contains recordkeeping requirements on the type and amount of fuel used. Specific Requirements 78 and 83; Permit at 32. The petitioners have failed to demonstrate that the combination of these operating, monitoring, and testing requirements are insufficient to assure compliance with the Permit's limits.

In challenging the frequency of the performance tests, the petitioners allege that stack tests are not representative of emissions under normal operations, since they "are often conducted under ideal conditions." Petition at 10. However, the Permit requires CF East Point to conduct each performance test "within 80 percent of maximum permitted load, or within 10 percent of 100 percent maximum achievable load." Specific Requirement 101; Permit at 34. The petitioners do not address this permit

[12] In contrast to the TSP limit, which derives from Louisiana's SIP, LDEQ's authority for—and purpose behind—establishing the limits on $PM_{2.5}$ and PM_{10} is not entirely clear from the face of the title V permit. The petitioners do not raise issues concerning the origin of these limits as a basis for objection to the permit, but the EPA notes that the permit does not identify the legal authority underlying them. *See* 40 C.F.R. § 70.6(a)(1)(i). The PM limits do not appear to be based directly on any federal standard (*e.g.*, an NSPS or NESHAP), any specific SIP requirement, or any particular preconstruction permitting action. Instead, the Cogeneration Boiler's annual 7.28 tpy PM limits appear to reflect the facility's potential to emit (PTE), as represented in the permit application and supplied by the manufacturer, that LDEQ then converted into enforceable limits. Because these limits are identical to the unit's PTE, by design, PM emissions from the Cogeneration Boiler should never exceed these limits, and their purpose, therefore, is not clear. However, regardless of the origin or purpose of the annual and hourly limits, because these limits are not designated as state-only, they are federally enforceable terms of the title V permit. 40 C.F.R. § 70.6(b)(1)–(2).

term or the specific test method required (Method 5 in Appendix A of 40 C.F.R. part 60) nor do they provide any evidence or support for their argument concerning the representativeness of performance tests. *See* 40 C.F.R. § 70.12(a)(2)(iii).[13]

The petitioners similarly claim without evidence or support that emissions from the Cogeneration Boiler may vary significantly in between performance tests. Petition at 10. LDEQ explained in its RTC that PM emissions from natural gas combustion are "typically low"[14] and the tune-ups required by subpart DDDDD are designed to reestablish "the air-fuel mixture for the operating range of the unit" and "optimize combustion efficiency," thereby reducing excess emissions from incomplete combustion. RTC at 25, 26. These responses are directly relevant to the question of emissions variability between performance tests. The petitioners provide only conclusory dismissals of these responses. *See* Petition at 11. The petitioners fail to analyze the requirements concerning fuel use or tune-ups, and fail to explain why LDEQ's responses were inadequate to justify the permit's approach to compliance assurance. *See* 40 C.F.R. § 70.12(a)(2)(iii), (vi).[15]

The petitioners fail to connect their remaining arguments—concerning PSD thresholds, the use of emission factors to estimate emission rates, and the use (or not, in this case) of control equipment— to their claim about the adequacy or frequency of monitoring in this circumstance, and it is not otherwise clear how they are relevant to this issue. *See* Petition at 11.

Therefore, the petitioners have failed to demonstrate that the monitoring and testing requirements in the Permit are insufficient to assure compliance with the permit's terms, and the EPA denies the petitioners' request for objection on this claim.

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 deny the petition as described in this Order.

Dated: June 25, 2024

Michael S. Regan
Administrator

[13] *See supra* notes 6–8 and accompanying text.
[14] The EPA's "AP-42: Compilation of Air Emissions Factors" estimates PM emissions from natural gas combustion at approximately 0.007 lb/MMBtu, which is significantly lower than the 0.6 lb/MMBtu limit on TSP. *See* EPA, Fifth Edition Compilation of Air Pollutant Emissions Factors, Volume 1: Stationary Point and Area Sources, Section 1.4.
[15] *See supra* notes 6–9 and accompanying text.