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VIA ELECTRONIC MAIL

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Re: Comments on U.S. Steel Corporation – Gary Works Operation Permit Nos.: T089-46943-00121

Mr. Paul,

Environmental Integrity Project (“EIP”), Environmental Law & Policy Center (“ELPC”), along with the Abrams Environmental Law Clinic, BP Whiting Watch, Conservation Law Center, Environmental Advocacy Center at Northwestern Pritzker School of Law, Faith in Place, Gary Advocates for Responsible Development (“GARD”), Indiana Conservation Voters, Just Transition Northwest Indiana, Mighty Earth, National Parks Conservation Association, and the Northern Lake County Environmental Partnership, (collectively, “Commenters”) respectfully submit the following comments on the above-referenced Draft Title V Operating Permit renewal (“Draft Permit” or “Permit”) issued by the Indiana Department of Environmental Management (“IDEM” or “the Department”) for the Gary Works plant (“Gary Works” or “the plant”), owned and operated by U.S. Steel (“USS”). We appreciate the opportunity to make these public comments.

The Environmental Integrity Project (“EIP”) is a national nonprofit organization headquartered at 1000 Vermont Avenue NW, Suite 1100, Washington, D.C. 20005. EIP is dedicated to advocating for more effective environmental laws and better enforcement. EIP has three goals: (1) to provide objective analyses of how the failure to enforce or implement environmental laws increases pollution and affects public health; (2) to hold federal and state agencies, as well as individual corporations, accountable for failing to enforce or comply with environmental laws; and (3) to help local communities obtain the protection of environmental laws.

ELPC is the Midwest’s leading environmental legal advocacy organization that drives transformational policy changes with national impacts. Its mission is to ensure that all people have healthy clean air to breathe, safe clean water to drink, and can live in communities without toxic threats, especially in the Great Lakes region. As part of this work, ELPC focuses on industrial pollution along the Indiana lakeshore, seeking to make industry comply with the

environmental regulations to reduce pollution and improve the landscape where people live, work, and play.

I. Introduction and Summary of Comments

Commenters appreciate the opportunity to submit these comments on the Draft Permit. Our Comments identify numerous deficiencies that IDEM must address:

- Commenters oppose several changes to the Draft Permit specifically requested by USS:
 - Request to rename the Sinter Plant the Recycling Plant; and
 - Request to reduce frequency of performance testing of the Sinter Strands Windbox Gas Cleaning Systems Stacks from every 2.5 years to every 5 years.
- The Final Permit must include a general condition requiring USS to comply with future requirements. This is particularly important because the Draft Permit was noticed before the Integrated Iron and Steel (“II&S”) National Emission Standards for Hazardous Air Pollutants (“NESHAP”) was published in the Federal Register on April 3, 2024.¹
- IDEM must include the revised NESHAP standards in Subpart FFFFF in the Permit.²
- The Final Permit must include the origins of and authority for all pollution limits.
- IDEM must include monitoring requirements for the flares.
- The Final Permit should require more frequent monitoring and testing to assure compliance with multiple emission limits for the following emission units:
 - Site-level opacity;
 - The Sinter Plant;
 - The Blast Furnaces (“BF”);
 - No. 1 Basic Oxygen Process (“BOP”) Shop;
 - No. 2 Q-BOP Shop;
 - Hot Rolling Mill;
 - Continuous Pickling Line;
 - Sheet Products Division;
 - Tin Division;
 - No. 4 Boiler House;
 - Turboblower Boiler House;
 - Coal Pulverization, storage and handling; and
 - Pig Iron Caster.
- The Final Permit must include the following plans, which must be implemented by the source for the steel mill: Compliance Assurance Monitoring Plan, Continuous Compliance Plan, Corrective Action Plan, Operation and Maintenance Plan, Preventive Maintenance Plan, Sulfur Fuel Sampling and Analysis Plan, and Ozone Action Day Plan.

¹ National Emission Standards for Hazardous Air Pollutants: Integrated Iron and Steel Manufacturing Facilities Technology Review, 89 Fed. Reg. 23294 (April 3, 2024).

² “This rule is effective June 3, 2024.” *Id.* at 23294.

In addition, the Department should revise its approach to public participation for Title V permits by making available all materials relevant to identifying applicable requirements and monitoring methods in the Draft Permit. This is especially relevant to the public's ability to access the underlying Title I permits and plans that must be implemented by the source in order to determine if the permits have been properly incorporated and include adequate monitoring to assure compliance with emission limits. The Department should also conduct environmental justice and cumulative impact analyses in accordance with EPA guidance.

II. Background

The USS Gary Works integrated steel mill is located along the Northwest Indiana shoreline at the southernmost point of Lake Michigan, adjacent to Indiana Dunes National Park. It began operations in 1909 and was previously the largest integrated steel mill in the world; at 4,000 acres it remains the largest in the United States.³ Once Gary's largest single employer (employing over 30,000 workers in the 1970s), it now employs only around 3,700 workers.⁴ Gary Works has an annual raw steelmaking capability of 7.5 million net tons and manufactures finished steel and tin products. USS claims to be striving for net-zero carbon emissions by 2050, citing its goal of reducing greenhouse gas emissions by 20% by 2030 and as the first North American steel producer to join Responsible Steel.⁵

In reality, USS is Indiana's largest single source of both carbon emissions and heavy metal pollution.⁶ With four coal-fired blast furnaces, it is the "largest greenhouse gas polluter among more than 200 industrial plants nationwide."⁷ Additionally, it's among the top five stationary source emitters of nitrogen oxide ("NO_x") and sulfur dioxide ("SO₂"). These

³ Commenters are aware of Nippon's bid for U.S. Steel and note there are many concerns about the secondary environmental impacts such a merger could portend. See Jim Tankersley, *Biden Faces More Pressure From Environmentalists to Block Steel Merger*, Feb. 16, 2024, available at <https://www.nytimes.com/2024/02/15/us/politics/nippon-us-steel-biden.html>.

⁴ Santul Nerkar, *A City Built on Steel Tries to Reverse Its Decline*, NY Times, Feb. 3, 2024, available at <https://www.nytimes.com/2024/02/03/business/economy/gary-indiana-economy.html>.

⁵ United States Steel, *Our History: An Industry Leader from the Start*, available at <https://www.ussteel.com/about-us/history> (last accessed February 28, 2024).

⁶ U.S. EPA, Greenhouse Gas Data (last accessed February 28, 2024), available at <https://ghgdata.epa.gov/ghgp/service/facilityDetail/2022?id=1000418&ds=P&et=&popup=true>. See also Nick Yavorsky et al., *Great Lakes Near-Zero-Emissions Steel Memo Focus: Indiana*, p. 2, RMI, November 2023, available at https://rmi.org/wp-content/uploads/dlm_uploads/2024/02/IN_steel_memo.pdf; Joseph S. Pete, *Region steel mills rank as three worst carbon emitters nationally*, NWI Times, Sep. 14, 2023, available at https://www.nwitimes.com/news/local/region-steel-mills-rank-as-three-worst-carbon-emitters-nationally/article_1bb44ff8-532c-11ee-88c5-e7fa1201b961.html.

⁷ Ben Jealous, *U.S. Steel smothered Gary, Indiana, with heavy pollution. Community activists deserve a say in cleanup*. Chicago Sun-Times, Oct. 24, 2023, available at <https://chicago.suntimes.com/columnists/2023/10/24/23929058/steel-mill-pollution-environment-toll-gary-indiana-biden-infracture-clean-energy-ben-jealous>; see also Joseph S. Pete, *Region steel mills rank as three worst carbon emitters nationally*, NWI Times, Sep. 14, 2023, available at https://www.nwitimes.com/news/local/region-steel-mills-rank-as-three-worst-carbon-emitters-nationally/article_1bb44ff8-532c-11ee-88c5-e7fa1201b961.html.

emissions may contribute to the Indiana Dunes National Park’s ranking as among the top 10 National Parks with unhealthy air and hazy skies.⁸

In 2022 alone, USS reported the following facility-wide emissions:⁹

| Facility Emissions Overview | | |
|------------------------------------|--|-------------------------|
| Pollutant | Pollutant Description | Emissions (Tons) |
| NH3 | Ammonia | 42.6079 |
| CO | Carbon Monoxide | 57497.1546 |
| 7439921 | Lead | 0.0745 |
| NOX | Nitrogen Oxides | 3414.2473 |
| PM-CON | Primary PM Condensable Only (All Less Than 1 Micron) | 1092.1803 |
| PM10-FIL | Primary PM10, Filterable Portion Only | 944.2674 |
| PM25-FIL | Primary PM2.5, Filterable Portion Only | 799.7289 |
| S02 | Sulfur Dioxide | 2523.0033 |
| VOC | Volatile Organic Compounds | 188.5335 |

In addition to relying on coal-fired blast furnaces, USS Gary Works still operates a sinter plant – a facility that fuses together iron ore powder or dust with waste from steel mill furnaces to create fuel for a blast furnace. Sinter plants “are the major contributor to dust emissions from integrated ironworks and steelworks.”¹⁰ Sinter plants are well-known to release hazardous emissions such as particulate matter, NO_x, SO_x, and dioxins.¹¹ In fact, the three sinter plants in Northwest Indiana, including USS Gary Works, produce 92% of all point source hazardous air pollutants from iron and steel mills in the U.S.¹² According to U.S. EPA Toxics Release Inventory data, USS Gary Works emitted 182 tons of hazardous air pollutants into the air in

⁸ Daniel Orozco, et al., *Polluted Parks: How Air Pollution and Climate Change Continue to Harm America’s National Parks*, National Parks Conservation Association (NPCA), <https://www.npca.org/reports/air-climate-report>.

⁹ Table from 2022 Air Emission Inventory Statement for US Steel Corporation Gary Works, dated June 1, 2023, p. 1, available at IDEM Virtual File Cabinet.

¹⁰ L. Lu et al., *Sintering emissions and their mitigation technologies*, pp. 551-579 at § 18.6.1, in: Liming Lu (ed) *Iron Ore* (2015). Woodhead Pub. <https://doi.org/10.1016/B978-1-78242-156-6.00018-6>.

¹¹ Mou, J.L., Morrison, R.J., *Sinter Plant Operations: Hazardous Emissions*. pp. 75-98, In: Cavaliere, P. (eds) *Ironmaking and Steelmaking Processes* (2016). Springer, Cham. https://doi.org/10.1007/978-3-319-39529-6_5.

¹² Aydali Campa et al., *Industrial Plants in Gary and Other Environmental Justice Communities Are Highlighted as Top Emitters*, Inside Climate News (September 14, 2023), available at <https://insideclimatenews.org/news/14092023/gary-steel-works-top-emitter-environmental-justice/>. Note that the two other sinter plants are operated by Cleveland-Cliffs at Indiana Harbor East and at Burns Harbor, but neither is used to make steel, rather they are “only used to recycle hazardous waste from steel mill furnaces.” *Id.*

2022, including 1670 lbs. of toxic lead.¹³ Finally, according to USS Gary Works' own annual emissions report data, the sinter plant alone was responsible for 5% of PM-CON, 21% of PM10, 12% of PM2.5, 40% of VOC, 17% of SO₂, 36% of CO, and 21% of lead emissions.¹⁴

Significantly, these numbers from USS may well be understated because the facility does not report *any* emissions data from continuous emissions monitoring systems; it relies exclusively on *estimates* using either an EPA, state/local or site-specific emission factor.

III. Commenters Oppose Specific Requested Changes to the Draft Permit.

USS requested several changes in their application which are unreasonable and IDEM should deny them accordingly.

First, IDEM should decline USS's request to rename the Sinter Plant the "Recycling Plant." There is no support for this change. Commenters are concerned this name change would obfuscate the Sinter Plant's purpose and create regulatory and public confusion. Retaining the Sinter Plant name keeps it consistent with multiple rules and regulations which refer to sinter plants or sinter operations (including emissions limitations) such as 40 CFR 63 Subpart FFFFF, 326 Indiana Admin. Code 6.8-2-38(a), 326 Indiana Admin. Code 6.8-8-5(3)(D), 326 Indiana Admin. Code 7-4.1-20, and 326 Indiana Admin. Code 8-13-3. IDEM should decline this request to ensure accuracy and clarity in the Permit.

Second, IDEM should deny USS's request to reduce the frequency of stack testing of the Sinter Strands Windbox Gas Cleaning Systems Stacks from every 2.5 years to every 5 years, doubling the interval between performance tests. This request conflicts with 40 CFR 63 Subpart FFFFF which states that for "each emissions unit equipped with a control device other than a baghouse, you must conduct subsequent performance tests no less frequently than twice (at mid-term and renewal) during each term of your title V permit."¹⁵ The Windbox Gas Cleaning System is a control device comprised of a Quench Reactor, Dry Venturi Scrubber, and a baghouse. Because the control device includes components other than a baghouse, and there is nothing in the revised rule to indicate this standard does not apply to the sinter strands windbox, the frequency of stack testing should remain every 2.5 years.

¹³ U.S. EPA Toxic Release Inventory, Facility Report: USS Gary Works (last accessed February 28, 2024), data available for download at https://enviro.epa.gov/triexplorer/release_fac_profile?TRI=46402SSGRYONENO&TRILIB=TRIQ1&V_NA_INDI CATOR=&FLD=&FLD=RELLBY&FLD=TSFDSP&OFFDISPD=&OTHDISP=Y&ONDISPD=&OTHOFFD=&YEAR=2022.

¹⁴ 2022 Air Emission Inventory Statement for US Steel Corporation Gary Works, dated June 1, 2023, p. 1, available at IDEM Virtual File Cabinet.

¹⁵ 40 CFR § 63.7821(b).

IV. The Draft Permit Impermissibly Excludes the Revised NESHAP Subpart FFFFF Requirements.

On April 3, 2024, the Environmental Protection Agency (“EPA”) finalized revisions to the NESHAP for II&S facilities.¹⁶ The effective date of these revisions is June 3, 2024.¹⁷ USS Gary Works is covered by these NESHAP revisions, cited as 40 C.F.R. Part 63, Subpart FFFFF.¹⁸

The public comment period for the Draft Permit closes on April 29, 2024. Even assuming IDEM responds to public comments and proposes the permit to EPA for its 45 day review within one week of the end of the public comment period (which is incredibly unlikely)¹⁹, the standards will be effective and thus must be included in the Final Permit issued by IDEM.²⁰

A. The Draft Permit Includes Subpart FFFF Requirements, but Not the Revised Standards.

The Draft Permit includes NESHAP requirements for the following emission units:

1. The Sinter Plant, Conditions D.6 and F.9;²¹
2. Blast Furnace, Conditions D.7 and F.9;²²
3. Number One Basic Oxygen Process Shop, Conditions D.8, F.9²³
4. Number Two Q-BOP Shop, Conditions D.9, F.9²⁴
5. Blast Furnace Slag Granulation Plant, Condition F.9²⁵

Put simply, IDEM has included Subpart FFFFF standards but has failed to reference the revised standards that have superseded the standards cited. Condition F.9 of the Draft Permit

¹⁶ 89 Fed. Reg. 23294.

¹⁷ *Id.*

¹⁸ IDEM-Office of Air Quality, Part 70 Operating Permit Renewal: U.S. Steel Corporation-Gary Works, Permit No. T089-46943-00121 (February 22, 2024) at [hereinafter “Gary Works Draft Permit”], Table of Contents, Section E.3 (pdf pg. 10). The Draft Permit names the following emission units as being affected facilities under Subpart FFFFF: the No. Sinter Plant, Nos. 4, 6 and 14 Blast Furnaces, Blast furnace slag granulation pit, flux handling system, basic oxygen process vessels, gas cleaning systems, CASbell/OB lancing stations, slingot moulding station, 9 natural gas-fired ladle preheaters and dryers, one continuous caster, one fugitive emissions mitigation system, one emergency skimming station, q-basic oxygen process vessels, three flux bins, 3 ladle metallurgical facilities, one vacuum degasser, one slag conditioning station, continuous casting lines, 14 natural-gas fired ladled preheaters, two hot metal ladle skimmers, and two steel slag skimming stations. *Id.* at pdf pgs. 15, 16, 17, 18, 19 and 20.

¹⁹ The end of EPA’s 45 day review would be June 30, 2024, twenty-seven (27) days *after* the NESHAP revisions become effective.

²⁰ A Part 70 permit must assure compliance with all applicable requirements, including those that have been promulgated by EPA through rulemaking at the time of issuance but have future-effective compliance dates. 40 C.F.R. §§ 70.1(b), 70.2,

²¹ Gary Works Draft Permit at pdf pgs. 64, 182.

²² *Id.* at pdf pgs. 73, 182

²³ *Id.* at pdf pgs. 83, 184

²⁴ *Id.* at pdf pgs. 89, 184

²⁵ *Id.* at pdf pgs. 185

provides that certain emissions units²⁶ shall comply with Subpart FFFFF and incorporates by reference in (a)(1)-(30) the applicable provisions.

However, the cited provisions in the Draft Permit exclude both revised sections and new sections added to Subpart FFFFF on April 3, 2024, which will become applicable requirements on June 3, 2024. For example,²⁷ the Draft Permit does not include the revisions to 40 C.F.R. § 63.7782(c), which include the previously unregulated sources (unplanned bleeder valve openings, planned bleeder valve openings, slag pits, beaching and bell leaks);²⁸ added work practice requirements to 40 C.F.R. § 63.7800(b), namely (8) and (9).²⁹ Additionally, examples of sections that were added in the NESHAP revisions that are not included in the Draft Permit are 40 C.F.R. § 7782(g), the requirement for compliance with the new limits for fugitive and intermittent sources;³⁰ the feneceline monitoring requirement, which is effective no later than April 6, 2024, in 40 C.F.R. § 63.7792;³¹ and the work practice standards in 40 C.F.R. § 63.7793.³²

B. Part 70 Requires that IDEM Include Applicable Requirements that Have Been Promulgated in the Title V Permit.

USS is subject to the Part 70 requirements, and as such, shall have a permit to operate that assures compliance will *all* applicable requirements.³³ Applicable requirements include “requirements that have been promulgated or approved by EPA through rulemaking at the time of issuance but have future-effective compliance dates.”³⁴

Because the Subpart FFFFF revisions have already been promulgated by EPA through rulemaking, and IDEM has not yet issued the Title V permit for USS Gary Works, the Draft Permit unquestionably must include the revised NESHAP standards in Subpart FFFFF. Although the Subpart FFFFF revisions include various compliance deadlines that may be two or three years from the effective date of June 3, 2024, this is immaterial to IDEM’s obligation to include the revisions in the Draft Permit. As highlighted in Section IV.A, IDEM has failed to recognize or incorporate the revised Subpart FFFFF standards in the Draft Permit.

Additionally, Commenters request that IDEM explain whether they believe that the Subpart FFFFF standards promulgated on April 3, 2024 are not applicable requirements. If this is IDEM’s position in excluding these requirements from the Draft Permit, Commenters request

²⁶ ISS10379, ISS30381, ISR00389, ISY00388, ISC10385, ISC30387, ISS10379, ISS0381, IABF0308, IABFO341, ICBFO354, IDBF0369, No. 14 Blast Furnace Slag Granulation Plant, No. 1 and No. 2 Hot Metal Transfer and Desulfurization Stations, SSVM0234, SSVE0235, SSVD0236, NSDS0246, NSL10293, NSL20294, NSL30295, and NSVD0271. *Id.* at Condition F.9.2(a).

²⁷ Other revisions or additions were also made to the following Part 63 subsections that are also not referenced or further described as examples in this Comment: §§ 7800, 7820, 7821, 7823, 7825, 7830, 7833, 7840, 7841, 7842, and 7852. 89 Fed. Reg. 23294.

²⁸ *Id.* at 23295

²⁹ *Id.* at 23323.

³⁰ *Id.* at 23320.

³¹ *Id.*

³² *Id.* at 23323

³³ 40 C.F.R. § 70.1(b).

³⁴ 40 C.F.R. § 70.2.

that IDEM explain why they do not consider the revisions applicable requirements. Relatedly, Commenters also request that IDEM clarify whether they believe that the revised Subpart FFFFF provisions are already incorporated into the Draft Permit, and, if so, direct Commenters to the references in the Conditions in the Draft Permit.

C. IDEM Could Address Future Compliance Dates for the Subpart FFFFF Revisions in Several Different Ways.

First, IDEM could include in the Final Permit a generic statement that USS Gary Works is required to comply with all Subpart FFFFF requirements, including compliance with the new or revised emission limits, standards conditions, monitoring, recordkeeping and reporting requirements in the revised sections of Subpart FFFFF promulgated by EPA on April 3, 2024 (in accordance with the timetable or deadlines established in the revisions). Because the revisions and compliance dates are explicit, this is an acceptable option for IDEM.

Second, to the extent that IDEM chooses to more specifically cite to the April 3, 2024 Subpart FFFFF revisions in the Final Permit, IDEM must also include the corresponding dates by which USS Gary Works must meet those revised requirements. If IDEM elects to approach including the applicable requirements promulgated by EPA, IDEM must also include as a residual requirement a statement, that, for example, states that “notwithstanding any other applicable requirement in this Title V permit, USS Gary Works is required to comply with all Subpart FFFFF requirements as revised and meet the compliance dates included therein.”

Finally, IDEM must also include a general condition for a schedule of compliance, including USS Gary Works’ statement that it will meet applicable requirements that become effective during the permit term on a timely basis.³⁵ Despite 40 C.F.R. § 70.5(c) requiring USS to include in its permit application a compliance plan that describes Gary Works’ compliance status with respect to all applicable requirements, USS failed to include such a plan.³⁶ Accordingly, commenters request that IDEM address whether USS Gary was required to include the compliance plan in its application. If IDEM cannot show why USS was not required to include a compliance plan, Commenters ask IDEM to explain why they deemed USS’ application complete and why IDEM did not include in the Draft Permit a general condition that includes a schedule of compliance (including USS’ statement that they will meet applicable requirements that become effective during the permit term on a timely basis).

³⁵ 40 C.F.R. § 70.6(c)(3) requires that all Part 70 permits must include a schedule of compliance consistent with 40 C.F.R. § 70.5(c)(8). The Indiana Administrative Code for the Part 70 permit program also requires that each Part 70 permit issued contain a compliance schedule. Indiana Admin. Code 326-2-7-6(6). This section also references Indiana Admin. Code 326-2-7-4(10).

³⁶ USS’ permit application package does not include the required form (Form CD-04) for the compliance schedule and certification. In fact, in its permit application, USS checks “not applicable” for the compliance schedule and certification on IDEM’s air permit renewal checklist. U.S. Steel, Part 70 Operating Permit Renewal Application for U.S. Steel Gary Works Permit No. 089-00121 (August 22, 2023) [hereinafter “Gary 2024 Title V Application”] (pdf. pg. 10). Further, a complete application “must provide all information required pursuant to paragraph (c)” of 40 C.F.R. § 70.5, which includes a compliance plan and compliance schedule. 40 C.F.R. § 70.5(c)(8), 40 C.F.R. § 70.5(c)(8)(iii).

V. IDEM Must Include a Statement of Basis with the Permit

Part 70 requires IDEM to “provide a statement that sets forth the legal and factual basis for the draft permit conditions (including references to the applicable statutory or regulatory provisions).”³⁷ In addition, this “statement” is a separate document from the permit that must “include a discussion of decision-making that went into the development of the Title V permit and to provide the permitting authority, the public, and the USEPA a record of the applicability and technical issues surrounding issuance of the permit.”³⁸ In addition to discussing monitoring and operational requirements, the statement of basis must identify all applicability and exemption determinations, and “include the rationale for such a determination and reference any supporting materials relied upon in the determination.”³⁹ Finally, it should include attainment status, permitting history, and “[c]ompliance history including inspections, any violations noted, a listing of consent decrees into which the permittee has entered and corrective action(s) taken to address noncompliance.”⁴⁰

First, Commenters request that IDEM clarify whether they consider the Technical Support Document (“TSD”) to be the Statement of Basis and, if so, whether the TSD includes all applicability and exemption determinations.

To the extent the TSD is intended to fill the role of the statement of basis, it is insufficient. For example, the Statement of Basis must detail the permitting and compliance history. IDEM failed to even address compliance history at all in the TSD, when at least one Agreed Order was reached for alleged violations during the current Title V permit term.⁴¹ The TSD does include a section on enforcement which states that “[t]here are no pending enforcement actions specifically related to this Part 70 operating permit renewal.”⁴² However, this is insufficient because it addresses only pending enforcement actions, not the compliance history of the facility. Therefore, the TSD does not meet the requirements for a Statement of Basis.

No Statement of Basis was included with the Draft Permit and the preliminary findings documents. IDEM must provide a Statement of Basis for public review and comment before issuing the Final Permit.

³⁷ 40 CFR § 70.7(a)(5).

³⁸ Letter, from U.S. EPA Region V to Ohio EPA, (December 20, 2001) at 1 [hereinafter the “USEPA Region V Letter”] available at <https://www.epa.gov/sites/default/files/2015-08/documents/sbguide.pdf> (providing guidelines on the content of an adequate statement of basis). See also *In the Matter of Midwest Generation, LCC Waukegan Generating Station*, Order on Petition Number V-2004-5 (September 22, 2005).

³⁹ USEPA Region V Letter, at 2.

⁴⁰ *Id.* at 3.

⁴¹ *State of Indiana, Commissioner of the Department of Env’t Mgmt. v. U.S. Steel Corporation, Agreed Order* (April 21, 2021).

⁴² 2024 Gary TSD at 19.

VI. IDEM Must Include All “Applicable Requirements” in the Permit With Specificity Including the Origin of and Authority for Each Term or Condition.

Part 70 requires that permits “specify and reference the origin of and authority for each term or condition and identify any difference in form as compared to the applicable requirement upon which the term or condition is based.”⁴³ This ensures the permit has included all applicable requirements and is practically enforceable and can assure compliance with applicable requirements.⁴⁴ However, IDEM has failed to specify the underlying origin of and authority for several terms and conditions throughout the Draft Permit.

For example, in numerous places IDEM provides no authority for its method of calculating compliance with PM and PM₁₀ emission limits. Conditions D.10.3, D.14.4, D.15.5 do not contain the origin of or authority for their calculation method. These conditions also merely provide a general list of three different choices for emission factors for these calculations.⁴⁵

Additionally, IDEM also needs to explain why it includes the No. 4 Boiler House and Turboblower Boiler House in two different emission unit sections (in Conditions D.34 and D.35 as well as Conditions D.14 and D.15). Likewise, IDEM should provide the origin of and authority for splitting “Insignificant Activities” across three different emissions units, Conditions D.17, D.31, and D.33. IDEM provides no justification or reasoning for splitting up the sources in this way, and it only serves to create unnecessary confusion.

IDEM also fails to identify the origin or authority for its assertion in Condition D.17(d) that processes and equipment related to brazing, cutting, soldering, and welding do not produce HAP emissions. In fact, the EPA has stated that PM and HAPs are “the major concerns in the welding processes.”⁴⁶ IDEM needs to clarify whether these processes and associated equipment are affected sources under 40 CFR § 63, Subpart XXXXXX, National Emission Standards for Hazardous Air Pollutants Area Source Standards for Nine Metal Fabrication and Finishing Source Categories.

VII. IDEM Failed to Include Monitoring Requirements for the Flares.

The Draft Permit contains provisions for flares as control devices for the bleeder stacks and R-H vacuum degasser associated with the BF and BOP. The Draft Permit does not include

⁴³ 40 CFR § 70.6(a)(1)(i). *See also* 326 Indiana Admin. Code 2-7-5(1)(A).

⁴⁴ 42 U.S.C. § 7661c(a). *See also* 326 Indiana Admin. Code 2-7-5(1); 326 Indiana Admin. Code 2-7-5(15)(B).

⁴⁵ *See In the Matter of Kinder Morgan Crude & Condensate, LLC*, Order on Petition No. VI-2017-15 (December 6, 2021) at 12 (discussing that a general, large list of monitoring, recordkeeping and reporting options may not be adequate).

⁴⁶ “Hazardous metals designated in the 1990 Clean Air Act Amendments that have been recorded in welding fume include manganese (Mn), nickel (Ni), chromium (Cr), cobalt (Co), and lead (Pb)... Known gaseous pollutants (including “greenhouse” gases) include carbon dioxide (CO₂), carbon monoxide (CO), nitrogen oxides (NO_x), and ozone (O₃).” Env’t Prot. Agency, *AP 42, Compilation of Air Pollutant Emission Factors*, Chap. 12.19-3, Fifth Ed., 1995, <https://www3.epa.gov/ttnchie1/ap42/ch12/final/c12s19.pdf>.

any specific monitoring requirements for the flares, let alone monitoring sufficient to assure compliance with the terms and conditions of the permit.⁴⁷

At Gary Works, flares are operated as control devices in the BF and BOP. First, bleeder stack Flare No. 1 BG6073, Flare No. 2 BG6074 and Flare No. 4 BG6075 are required to be in operation and a pilot flame present at all times when the No. 14, No. 6 and No. 8 BFs are in operation to control carbon monoxide (“CO”) emissions.⁴⁸ Excess BF gas is to be vented from the bleeder stacks to the flares.⁴⁹

IDEM has failed to include monitoring requirements in Conditions D.7.11(b) and D.9.8 to assure compliance with the requirement that a pilot flame be present at all times on Flares No. 1 BG6073, No. 2 BG6074 and No. 4 BG6075 when the No. 6 and No. 8 BFs are in operation to control CO emissions. Accordingly, IDEM must include in the Final Permit monitoring requirements that ensure that the pilot flame is continuously lit. Additionally, IDEM did not explain in the TSD why no monitoring of vent gas flow and/or heat rate is required for the flares. Accordingly, IDEM should either add these monitoring requirements for the flares the Draft Permit or explain why they chose not to include these monitoring requirements.

VIII. The Department Must Revise the Draft Permit to Require Adequate Monitoring to Assure Compliance with the Sitewide Opacity Limits.

The Draft Permit contains conditions establishing an entire source opacity limit.⁵⁰ Specifically, at the site level, opacity shall not exceed an average of 20% in any one six minute average period or 60% for more than a cumulative total of fifteen minutes in a six hour period.⁵¹ No specific compliance determinations are provided for the 20% in any six minute averaging period. However, for the 60% for more than a cumulative total of fifteen minutes in a six hour period limit, the Draft Permit provides this can be established through Method 9 or continuous opacity monitoring (“COMs”).

This omission of a compliance determination or other monitoring requirements to assure compliance with the 20% in any six-minute period opacity limit is a serious failure. Opacity provides immediate and obvious visible evidence that pollutants, including fine particulates, are being released from emission units. Opacity has long been recognized as a useful surrogate for emissions of specific pollutants that are difficult to monitor on a continuous basis. Accordingly, it is imperative that the monitoring requirements assure compliance with the 20% in any six-minute period opacity limit that is both accurate and continuous enough to determine when the limit has been exceeded.

⁴⁷ Gary Works Draft Permit, Conditions D.7.11(b) and D.9.8 (pdf pgs. 79, 93).

⁴⁸ *Id.* at Condition D.7.11(b) (pdf pg. 79).

⁴⁹ *Id.* at pdf pg. 18.

⁵⁰ *Id.* at Condition C.1, 43.

⁵¹ “(sixty (60) readings as measured according to 40 CFR 60, Appendix A, Method 9 or fifteen (15) one (1) minute nonoverlapping integrated averages for a continuous opacity monitor) in a six (6) hour period.” *Id.*

Additionally, IDEM has not specified in Condition C.1.(b) if USS is using COMs or Method 9 to comply with the 60% opacity limit. It is unclear if USS is using both methods at all times, some combination thereof, or even just one of the two. Regardless, IDEM has not provided an explanation that “as measured according to 40 CFR 60, Appendix A, Method 9 *or* fifteen (15) one (1) minute nonoverlapping integrated averages for a continuous opacity monitor”⁵² is accurate and continuous enough to determine when the 60% opacity limits has been exceeded. The inclusion of both methods without an explanation by IDEM makes it unclear if the monitoring is sufficient to assure compliance with the 60% opacity limit.

First, IDEM should include in the Permit monitoring requirements for the 20% in any one six-minute averaging period opacity limit. Condition C.1(a) cites to 326 Indiana Admin. Code 5-1-4, which provides that opacity may be monitored by Method 9 or COMS.⁵³ However, instead of citing only to the Indiana Admin. Code section, IDEM should include a monitoring method that is accurate and continuous enough to determine when the 20% opacity limit has been violated.

Next, Method 9 observations, as IDEM provides for in Condition C.1, are insufficient to assure compliance with the limits.⁵⁴ Method 9 cannot ensure continuous compliance with visible emission limits that apply at all times. Method 9 relies on visual observations that can only be made under certain conditions, e.g., it is difficult or impossible to take measurements at night, during dark or cloudy days, when it is raining, etc. Further, Method 9 readings are too infrequent to determine compliance with a standard at all times. Conducting visible observations for no more than once a week at the site-level would miss potential opacity exceedances at all other times.

Accordingly, Commenters request that IDEM provide responses to the following questions:

1. Do the two opacity limits apply at all times, including at night, or on dark, cloudy or rainy days?
2. Can Method 9 opacity measurements be conducted at night (about half of the hours in a year) or on dark, cloudy or rainy days?

⁵² *Id.* at Condition C.1.(b) (emphasis added).

⁵³ 326 Indiana Admin. Code 5-1-4(a)(2) allows for COMs when “a source or facility in compliance with the requirements of 326 Indiana Admin. Code 3-5, determination of compliance with visible emission limitations established in this rule may also be made in accordance with a source's or facility's continuous monitoring equipment if determined appropriate by the department or the U.S. EPA.” USS Gary Works does not fall into any of the categories in 326 Indiana Admin. Code 3-5-1. Therefore, one could reasonably assume the monitoring method is Method 9.

⁵⁴ Condition C.1(a) likely requires Method 9 to assure compliance with the 20% in any six minute averaging period opacity limit and Condition C.1(b) provides Method 9 as an option for assuring compliance with the 60% for more than a cumulative total of fifteen minutes in a six hour period limit. Gary Draft Permit at Condition C.1.

3. If the answer is to Question 2 above is no, how will IDEM assure compliance with the opacity limit if Method 9 cannot be used more than half of the time the opacity limit is in effect? Can periodic Method 9 readings assure compliance with the opacity limit during the hours in between these tests?
4. Can IDEM define “digital opacity device⁵⁵,” and whether it can measure opacity at night or under adverse weather conditions? How often would a digital opacity device be deployed, and in what way can it be used to assure compliance at all times the opacity limit is in effect?
5. Why has IDEM not specifically required COMs to be installed on units with stacks?
6. Has IDEM considered 24/7 video surveillance of opacity in areas where high opacity levels from fugitive sources are anticipated?

IX. The Department Must Revise the Draft Permit for Several Emission Units to Require Adequate Testing and Monitoring Sufficient to Assure Compliance with the Emission Limits.

The Draft Permit establishes emission limitations and standards for the entire facility as well as for numerous emissions units, as are summarized in IDEM’s TSD.⁵⁶ The rationale for selected monitoring requirements must be clear and documented in the permit record⁵⁷, which IDEM has failed to do in the TSD and through their failure to include a Statement of Basis. Because Title V permits must contain adequate monitoring to assure compliance with applicable requirements, IDEM must address the deficiencies as discussed in the subsections below.

⁵⁵ EPA has also approved Method Alt-082 as an alternative to Method 9, which allows the use of a digital camera to determine the opacity of visible emissions. Recent Postings of Broadly Applicable Alternative Test Methods, 77 Fed. Reg. 8865, 8866 (February 15, 2012), Tbl. 1 (Approved use the American Society for Testing and Materials (ASTM) D 7520– with specified limitations in lieu of Method 9).

⁵⁶ 2024 Gary TSD at 73-77; See Gary Works Draft Permit.

⁵⁷ 40 C.F.R. § 70.7(a)(5); *In the Matter of United States Steel, Granite City Works* (“Granite City I Order”), Order on Petition No. V-2009-03 at 7-8 (Jan. 31, 2011). EPA has reinforced and supported this decision in multiple orders it has issued in response to Title V petitions. See *In the Matter of: Wheelabrator Baltimore, L.P., Baltimore Maryland*, Order Responding to Petitioners’ Request that Administrator Object to the Issuance of a Title V Operating Permit, Permit No. 24-510-01886 (Apr. 14, 2010); *In the Matter of: Tennessee Valley Authority, Bull Run, Clinton, Tennessee*, Order Responding to Petitioners’ Request that the Administrator Object to the Issuance of a Title V Operating Permit, Petition No. IV-2015-14 (Nov. 11, 2016); *In the Matter of: Kinder Morgan Crude & Condensate LLC, Galena Park, Harrison County, Texas*, Order Responding to Petition Requesting Objection to the Issuance of Title V Operating Permit, Petition No. VI-2017-15 (Dec. 16, 2021) (where EPA granted petitioners’ objection that monitoring associated with emissions limits on two heaters failed to assure compliance with emissions limits for VOCs because there was no indication in the permit that there were monitoring requirements associated with VOCs).

A. IDEM Must Revise Specific Monitoring and Testing Methods to Assure Compliance with the Emission Limits for Units Throughout the Permit.

IDEM must require that the following emission units conduct monitoring and/or testing to assure compliance with the limits in the Draft Permit. For some units, the monitoring frequency is insufficient to assure compliance with the limits. For other units, IDEM failed to include any monitoring requirements, or the requirements are unclear, which must be addressed and remedied.

1. Certain Stack Testing and Monitoring Requirements are Insufficient to Assure Compliance with Hourly and 12-Month Emission Limits.

The Final Permit must include monitoring and testing requirements sufficient to assure compliance with all limits in **Table 1** below. Stack testing should be conducted under conditions that reflect the full range of normal operating conditions, including those that are more likely to result in higher emission levels.⁵⁸ EPA’s own guidance provides that stack tests must demonstrate that a facility is capable of complying with the applicable emission standards at all times.⁵⁹ These conditions must be revised because the monitoring is not reasonably related to the averaging time to determine compliance with the limits.⁶⁰ Furthermore, IDEM has failed to provide clear any rationale for why they have chosen the infrequent testing included in **Table 1** below, and Commenters provide a list of questions for which they request responses from IDEM.

Table 1: List of Emission Units with Insufficient Monitoring Requirements

| Emission Unit | Emission Limit | Monitoring/Testing Requirement |
|----------------------|--|---|
| No. 3 Sinter Plant | Lake County Particulate Matter (“PM”) ⁶¹ Limits expressed grains per dry standard cubic foot and pounds per hour for different components of the No. 3 Sinter Plant. | Once every five year stack test ⁶² ; once every two and a half year stack test. ⁶³ |
| Blast Furnaces | Limits in (c) are for BF No. 14 stockhouse baghouse stack with PM10 emissions not to exceed .022 g/dscf and ten percent opacity. ⁶⁴ | Once every five year stack test for PM10 from the No. 14 BF baghouse stack; once every five year stack test for |

⁵⁸ 40 C.F.R. § 63.7822(a); See Env’t. Prot. Agency, *Issuance of the Clean Air Act National Stack Testing Guidance, Memorandum* (April 27, 2009) at 14, 15, https://www.epa.gov/sites/default/files/2013-09/documents/stacktesting_1.pdf

⁵⁹ Env’t. Prot. Agency, *Issuance of the Clean Air Act National Stack Testing Guidance, Memorandum* (April 27, 2009) at 14, https://www.epa.gov/sites/default/files/2013-09/documents/stacktesting_1.pdf

⁶⁰ 40 C.F.R. § 70.6(a)(3)(i)(B); *Sierra Club v. EPA*, 536 F.3d 673, 676-77 (D.C. Cir. 2008). Annual stack testing alone may be insufficient to assure compliance with an hourly emission limit. *In the Matter of Northeast Maryland Waste Disposal Authority*, Order on Petition No. III-2019-2 at 9 (December 11, 2020) [hereinafter “*MCRRF Order*”].

⁶¹ Gary Works Draft Permit at Conditions D.6.2(a)-(g)

⁶² *Id.* at Conditions D.6.5(a),(b).

⁶³ *Id.* at Condition D.6.5(c),(d).

⁶⁴ *Id.* at Condition D.7.6.

| | | |
|------------------|--|---|
| | | PM, PM10, PM2.5 on the No. 14 BF stockhouse baghouse stack. ⁶⁵ |
| | No. 14 Casthouse Baghouse Stack PM and PM ₁₀ minor Limits ⁶⁶ | Once every five year stack test ⁶⁷ |
| No. 1 BOP Shop | Lake County PM ₁₀ emissions ⁶⁸ (a) The PM ₁₀ emissions from the No. 1 BOP Shop Hot Metal Transfer and Desulfurization Stations Baghouse discharge shall not exceed 0.007 g/dscf of exhaust air and 15.0 lb/hr. (b) The PM ₁₀ emissions from the No. 1 BOP Shop Gas Cleaning System Stacks shall not exceed 0.011 g/dscf of exhaust air and a total of 46.0 lb/hr. (c) The PM ₁₀ emissions from the No. 1 BOP CASBell/OB Lancing Baghouse Stack shall not exceed 0.0070 g/dscf of exhaust air and 5.10 lb/hr. | Once every five year stack test ⁶⁹ |
| No. 2 Q-BOP Shop | Lake County PM ₁₀ emissions ⁷⁰ (a)-(k) include g/dscf and lb/hr emission limits for components of the No. 2 Q-BOP | Once every five year stack test ⁷¹ |
| Pig Iron Caster | PSD Avoidance PM Limit ⁷² (a) PM: shall not exceed 12.00 tons/12 consecutive month period, with compliance demonstrated at end of the month (b) PM ₁₀ : shall not exceed 10.00 tons/12 consecutive month period, with compliance demonstrated at end of the month (c) PM _{2.5} : shall not exceed 6.00 tons/12 consecutive month period, with compliance demonstrated at end of the month | Once every five year stack test ⁷³ |

Because the testing requirements for only at least once every five year stack tests in **Table 1** above correspond with mostly hourly and annual emission limits, Commenters request that IDEM respond to the following questions for each emission unit addressed in **Table 1**:

1. What testing conditions apply during each stack test?

⁶⁵ *Id.* at Condition D.7.9(a) and (b).

⁶⁶ *Id.* at Condition D.7.2.

⁶⁷ *Id.* at Condition D.7.9(b).

⁶⁸ *Id.* at Condition D.8.1.

⁶⁹ *Id.* at Condition D.8.5(a),(b).

⁷⁰ *Id.* at Condition D.9.1.

⁷¹ *Id.* at Conditions D.9.6(a),(b) and (c).

⁷² *Id.* at Condition D.30.1.

⁷³ *Id.* at Condition D.30.6.

2. Are the tests designed to identify the operating parameters that best predict corresponding emission rates?
3. Following a stack test, is USS Gary required to monitor and comply with such parameters at levels that will assure its compliance with the applicable PM₁₀ limit?
4. Does the guidance⁷⁴ permit USS Gary Works to conduct “practice” testing to make necessary repairs?
5. Could IDEM identify which conditions are most likely to ensure USS Gary Works will pass the official stack test (and to test under those optimal conditions)?
6. Is USS Gary Works required to operate the unit under the same conditions that were present during the stack test for five years until the next performance test?

Additionally, General Condition C.10 provides that “[a]ny monitoring or testing shall be performed in accordance with [326 Indiana Admin. Code] 3 or other methods approved by the commissioner or the U.S. EPA.”⁷⁵ Within Section 3, the Indiana Code requires that testing shall be operated either, at a minimum 95 percent of the permitted maximum emissions unit operating capacity or under conditions of worst case emissions (if not known, assumed to be the maximum process or operating rate of the emissions as listed in the permit’s emissions unit description).⁷⁶ This also raises the question to which Commenters request IDEM’s response: **how can stack testing for a limited number of hours once every five years accurately predict emission rates (e.g. lb/hr) from the tested unit for the next five years under the units full range of operating conditions?**

Title V permits *must* contain monitoring and related recordkeeping and reporting requirements.⁷⁷ A foundational element of Title V is that the permits must contain adequate monitoring to assure compliance with applicable requirements.⁷⁸ If a Title V permit establishes an emission limit, but fails to include monitoring requirements sufficient to assure compliance with the emission limit, then the permit is deficient and due to be revised.⁷⁹ When applicable requirements do not require periodic testing, “periodic monitoring sufficient to yield reliable data from the relevant time period that are representative of the source’s compliance with the permit” is also required in Title V permits.⁸⁰

⁷⁴ Env’t. Prot. Agency, *Issuance of the Clean Air Act National Stack Testing Guidance*, Memorandum (April 27, 2009), https://www.epa.gov/sites/default/files/2013-09/documents/stacktesting_1.pdf.

⁷⁵ Gary Works Draft Permit.

⁷⁶ 326 Indiana Admin. Code 3-6-3(b)(1)-(A)-(B).

⁷⁷ 40 C.F.R. § 70.6(a)(3).

⁷⁸ 42 U.S.C. §7661(c); *In the Matter of Wheelabrator Baltimore, L.P.*, Permit No. 24-510-01886, at 10 (April 14, 2010) [hereinafter “*Wheelabrator Order*”].

⁷⁹ *In the Matter of Kentucky Syngas*, Order on Petition No. IV-2010-9, at 29-30 (June 22,2012); *In the Matter of Luke Paper*, Permit No. 24-001-00011, at 5-6 (Oct. 18, 2010).

⁸⁰ 40 C.F.R. § 70.6(a)(3)(i)(B).

Therefore, Commenters request IDEM's response to the seven questions posed above to better clarify whether stack testing is conducted under conditions that reflect the full range of normal operating conditions for the units in **Table 1**. IDEM is also required to include in the Title V permit for USS Gary Works adequate monitoring to assure compliance with applicable requirements, including any required periodic monitoring.

2. IDEM Should Explain its Rationale for How the Sulfur Sampling Requirements Meet Title V Standards to Assure Compliance with the SO₂ Limits.

The "Sulfur Fuel Sampling and Analysis" in "Section C"⁸¹ does not assure compliance with the hourly SO₂ limits for the:

- 1) BF stove and baghouse stacks in Condition D.7.7;⁸²
- 2) Hot Rolling Mill units in Condition D.10.2;⁸³
- 3) No. 4 Boiler House Condition D.14.2;⁸⁴ and
- 4) No. 15 Turboblower House Condition D.15.2.⁸⁵

Commenters assume General Condition C.9 to be the "Section C Sulfur Fuel Sampling and Analysis," which outlines USS' obligations. However, Commenters request that IDEM confirm if Commenters' assumption is correct, and if so, make the Permit clearer that this is referencing General Condition C.9.

Additionally, Condition D.7.10 refers to 326 Indiana Admin. Code 6-4-1 for the Sulfur Fuel Sampling and Analysis. But this section has been repealed and offers no further requirements. Conditions D.10.4, D.14.3 and D.15.6 appropriately reference 326 Indiana Admin. Code 7-4.1-2, which outlines sampling and analysis protocol for several sources for Lake County Sulfur Dioxide Emission Limitations, including USS Gary Works. The Sampling and analysis protocol requires that IDEM "incorporate the protocol into the source's Title V."⁸⁶ It is likely that the now-repealed section of the Indiana Code referenced in Condition D.7.10 for the BF stove is a typographical error by IDEM and it should instead reference 326 Indiana Admin. Code 7-4.1-2. However, if this was an error, IDEM must still correct it.

Finally, IDEM's burden does not end with correcting the likely clerical error in Condition D.7.10. Because USS' submitted⁸⁷ Sulfur Sampling and Analysis Protocol is not included in the available public records on IDEM's Virtual File Cabinet, Commenters cannot be certain its requirements have been properly included in the Title V. Without USS' submitted protocol for

⁸¹ Gary Works Draft Permit at Condition C.9, presumably.

⁸² *Id.* (compliance determination in Condition D.7.10).

⁸³ *Id.* (compliance determination in Condition D.10.4).

⁸⁴ *Id.* (compliance determination in Condition D.14.3).

⁸⁵ *Id.* (compliance determination in Condition D.15.6).

⁸⁶ 326 Indiana Admin. Code 7-4.1-2(c).

⁸⁷ As required by 326 Indiana Admin. Code 7-4.1-2(a).

sampling and analyzing sulfur, it is unclear if these monitoring methods are consistent with the averaging periods for determining compliance with the limits (here, lbs/MMBtu and lb/hour emission limits). To the extent Conditions D.7.10, D.10.4, D.14.3 and D.15.2 do not include the requirements of the Sulfur Sampling and analysis protocol,⁸⁸ IDEM should explain its rationale and show how the protocol chosen by USS meets Title V standards.

3. Equations Cited to Determine Compliance Offer Several Options as Emission Factors, Thus Is Unclear as to How These Equations Assure Compliance with the Emission Limits.

For the Lake County PM limit for the 84” Hot Strip Rolling Mill Boilers No. 1 and 2, and for the No. 4 Boiler House, the Draft Permit requires that compliance with the limits shall be determined with equations provided in Conditions D.10.3 and D.14.4, respectively. However, IDEM offers that the emission factors in the equations (presumably establishing the emission rates to determine compliance with the limits in Conditions D.10.1 and D.14.1) can be three different values: AP-42, U.S. EPA FIRE and U.S. Steel Gary Works Annual Emission Statement Report.⁸⁹ It is unclear which emission factor USS is using for these units. Therefore, Commenters request that IDEM specify which emission factor USS is using in the equations in Conditions D.10.3 and D.14.4 as a compliance determination with the PM₁₀ limits in Condition D.10.1(a) and D.14.1.

B. Underlying Permits, Some of Which are Not Publicly Available, Establish Applicable Requirements Which Are Not Properly Incorporated into the Draft Permit.

Underlying permits, as referenced throughout the Draft Permit, establish federally enforceable limitations on Gary Works’ potential to emit.⁹⁰ These limits must be included in the Draft Title V permit as applicable requirements. Moreover, an applicable requirement includes “(1) [a]ny standard or other requirement provided for [...] under title I of the Act that implements the relevant requirements of the Act[;] (2) [a]ny term or condition of any

⁸⁸ (b) The protocol shall:

(1) contain a description of planned procedures for:

(A) sampling of sulfur-bearing fuels and materials;

(B) analysis of the sulfur content; and

(C) any planned direct measurement of sulfur dioxide emissions vented to the atmosphere; and

(2) specify the frequency of sampling, analysis, and measurement for each fuel and material and for each emissions unit. 326 Indiana Admin. Code 7-4.1-2(b)(1)(A)-(C),(2).

⁸⁹ Gary Works Draft Permit at Conditions D.10.3, 12.4.4.

⁹⁰ Applicable requirements include “[a]ny term or condition of any preconstruction permits issued pursuant to regulations approved or promulgated through rulemaking under title I, including parts C or D, of the Act.” 40 C.F.R. § 70.2. In enacting title V, Congress did not amend title I of the Act and did not intend the title V permitting program to replace the title I permitting programs. John S. Seitz, Env’t. Prot. Agency, Enclosure A, Title V Interface Issues, EPA.gov at 7 (May 20, 1999), <https://www.epa.gov/sites/production/files/2015-08/documents/hodan7.pdf>. SIP-approved permits must remain in effect because they are the legal mechanism through which underlying NSR requirements (from the Act, federal regulations and federally-approved SIP regulations) become applicable, and remain applicable, to individual sources. *Id*

preconstruction permits issued pursuant to regulations approved or promulgated through rulemaking under title I, including parts C or D, of the Act[.]”⁹¹

To the extent the Title V permit incorporates limits from those underlying permits, those permits’ requirements must also be included in the Title V permit. As such, the underlying permits must at least be readily available to the public, given that a primary purpose of Title V was to “make it easier for the public to learn what requirements are being imposed on sources to facilitate public participation in determining what future requirements to impose,”⁹² Commenters are seriously disadvantaged where the underlying permits listed in **Table 2** below are not included with the Draft Permit nor publicly available through IDEM’s public records sites. Additionally, in some instances, as highlighted in **Table 3**, where the underlying permits are available and were scrutinized by Commenters, the underlying requirements have not been properly included in the Draft Permit.

1. IDEM Cites to Underlying Permits That are not Available for the Public to Review

For the limits for emissions units in **Table 2**, IDEM has failed to provide the public with the underlying permits that establish the origins of the limits that apply to each emission unit.⁹³ Although IDEM cites to underlying permits for several emission units, a thorough search of IDEM’s available public records⁹⁴ does not include those permits. Therefore, Commenters were unable to confirm whether these limits are correctly compiled, and equally significant, to identify whether the monitoring methods associated with those limits are good enough to meet the compliance assurance requirements of Title V.

Table 2: Emission Units Whose Permits Establishing Emission Limits are Not Publicly Available

| Emission Unit | Emission Limit | Monitoring or Testing Requirement | Underlying Permit Establishing Limit |
|----------------|---|-----------------------------------|--|
| Blast Furnaces | Emission Offset Minor Limitation ⁹⁵ Limit expressed as total granulation throughput not to | None | CP 089-2936-00133 (issued July 2, 1993). |

⁹¹ 40 C.F.R. §§ 70.2, 70.3(c) c)(“For major sources, the permitting authority shall include in the permit all applicable requirements for all relevant emissions units in the major source.”)

⁹² Operating Permit Program, 56 Fed. Reg. 21712, 21713 (May 10, 1991).

⁹³ “the permit shall specify the origin of and authority for each term or condition, and identify any difference in form as compared to the applicable requirement upon which the term or condition is based.” 40 C.F.R. § 70.6(a)(1)(i).

⁹⁴ A thorough search of IDEM’s Virtual File Cabinet (<https://www.in.gov/idem/legal/public-records/virtual-file-cabinet/>) by at least three individuals did not result in finding the permits referenced in **Table 2**.

⁹⁵ Gary Works Draft Permit Condition D.7.1.

| | | | |
|---|---|---|---|
| | exceed 1,704,000 tons/12 month period | | |
| | Nonattainment New Source Review (“NSR”) Minor Limit ⁹⁶ The No. 14 Blast Furnace Stockhouse Baghouse shall achieve 90% capture efficiency and the exhaust from stack I shall not exceed 2.19 lbs/hour of PM _{2.5} | None | SPM 089-27690-00121 (issued on October 5, 2009) |
| | PM limit (for Lake County) for slag granulation process quenching hooded exhaust stack. Shall not exceed .07 g/dscm (.03 g/dscf). ⁹⁷ | None | CP 089-1953-00133 (issued on March 18, 1991) |
| Coal Pulverization, Handling, and Haul Operations | PSD Minor NO _x Limit ⁹⁸ Natural gas usage limits in (a) and (b). | None-only Recordkeeping ⁹⁹ and Reporting ¹⁰⁰ requirements | CP (45) 1895 (issued on October 26, 1990). |

The unavailability of these underlying permits seriously impeded Commenters’ ability to participate fully with the Draft Permit. This is especially true, where, as discussed further in the next Section of this Comment, major discrepancies between the underlying permit establishing the emission limit and what’s included in the Draft Permit were found. This deficiency is so severe that IDEM should make available these underlying permits and re-notice the Draft Permit for public comment. Regardless of whether IDEM corrects this public participation impediment, IDEM must correct the monitoring and testing requirements for the units and related limits in **Table 2** to be sufficient to assure compliance with the emission limits.

Namely, for the following units and limits, these specific issues must be corrected by IDEM:

⁹⁶ *Id.* at Condition D.7.3.

⁹⁷ *Id.* at Condition D.7.4.

⁹⁸ *Id.* at Condition D.22.1.

⁹⁹ *Id.* at Condition D.22.9(a),(b).

¹⁰⁰ *Id.* at Condition D.22.10.

- 1) BF
 - a. Condition D.7.1-Emission Offset Minor Limitation: this Condition in the Draft Permit provides no information whatsoever as to what pollutant the emission offset applies. Worsening this ambiguity, the Condition references 326 INDIANA ADMIN. CODE 2-3, without providing any specific sub section that would provide more information. Presumably the underlying permit referenced, CP 089-2936-00133, would provide additional information.
 - b. Condition D.7.3- Nonattainment NSR Minor Limit: IDEM fails to include any monitoring, testing, recordkeeping or reporting to assure compliance with the hourly limit for PM_{2.5}. IDEM further fails to provide any rationale for this omission and the underlying permit establishing the limit and applicable requirements is unavailable for the public to inspect. Accordingly, IDEM must include in the Final Permit adequate monitoring to assure compliance with the hourly limit and incorporate the applicable requirements from the underlying permit.

- 2) Coal Pulverization, Handling, and Haul Operations
 - a. Condition D.22.1-NO_x PSD Minor Limit: IDEM fails to provide rationale or a reasoned explanation for how requiring only recordkeeping and reporting requirements, and no monitoring requirements, assure compliance with the NO_x PSD Minor limit. Presumably, the underlying permit establishing the limit and applicable requirements sets out this requirement. However, CP (45) 1985 is unavailable for the public to inspect to determine if the applicable requirements have been properly included in the Draft Permit.
 - b. Condition D.22.2-PM and PM₁₀ Minor Limits: This Condition references two underlying permits, one of which, CP (45) 1895, is not available for the public to review. To the extent that it provides further information and applicable requirements relevant to the testing requirements in Condition D.22.5(d), Commenters' ability to analyze the sufficiency of these testing requirements was limited.

2. Underlying Permits that are Publicly Available Include Applicable Requirements that Must be Added to the Title V Permit

Several underlying permits, as indicated in **Table 3** below, are available to review on IDEM's public records websites. Commenters were able to compare the conditions in these permits to determine if they were accurately included as applicable requirements in the Draft Permit. For several units, the underlying requirements were not properly incorporated and are due to be corrected by IDEM. The discussion below notes where the monitoring provisions of Title I permits incorporated by reference are insufficient to meet the compliance assurance monitoring requirements of Title V. Therefore, IDEM must also include in the Final Permit adequate testing and monitoring requirements for those units.

Table 3: Underlying Permits Cited Whose Applicable Requirements Are Not Sufficiently Incorporated into the Draft Permit

| Emission Unit | Emission Limit | Monitoring or Testing Requirement | Underlying Permit Establishing Limit |
|---|---|---|--|
| No. 3 Sinter Plant | PM Offset Limits natural gas usage to less than 95.5 MMSCF/12 month period strand windbox burner ¹⁰¹ | Maintain records of natural gas usage and provide a quarterly summary of natural gas usage in a twelve month period. ¹⁰² | SSM 089-12880-00121 (issued July 26, 2001) |
| Blast Furnaces | PM and PM ₁₀ minor limits ¹⁰³ Shall not exceed 2.57 lb/hour of PM and 2.57 lb/hour of PM ₁₀ . | Once every five year stack test ¹⁰⁴ ; with parametric monitoring with regard to pressure drops in No. 14 baghouse ¹⁰⁵ | SPM-089-27690-00121 (issued on October 5, 2009). |
| Sheet Products Division | NO _x Emission Offset Limitations ¹⁰⁶ The natural gas usage in the two hydrogen atmosphere batch annealing furnaces shall not exceed 37.2 MMCF/12 consecutive month period with compliance demonstrated at the end of each month. | Maintain monthly records of natural gas usage ¹⁰⁷ | MSM 089-8606-00121 (issued on October 20, 1997). |
| Coal Pulverization, Handling, and Haul Operations | PM and PM ₁₀ Minor Limits ¹⁰⁸ | Once every three year stack test ¹⁰⁹ | CP (45) 1895 (issued on October 26, 1990) (not available); T089-29907-00121 (issued December 20, 2013) |

¹⁰¹ Gary Draft Permit Condition D.6.1.

¹⁰² *Id.* at Condition D.6.13(a), D.6.14(a).

¹⁰³ *Id.* at Condition D.7.2. Established as PSD avoidance limits.

¹⁰⁴ *Id.* at Condition D.7.9(b).

¹⁰⁵ *Id.* at Condition D.7.14.

¹⁰⁶ *Id.* at Condition D.12.2.

¹⁰⁷ *Id.* at Condition D.12.4.

¹⁰⁸ *Id.* at Condition D.22.2.

¹⁰⁹ *Id.* at Condition D.22.5.

| | | | |
|--|---|---|--|
| | PM and PM ₁₀ Minor Limits ¹¹⁰ | Once every three year stack test ¹¹¹ | CP (45) 1895 (issued on October 26, 1990); Agreed Order 2017-24764-A (issued April 20, 2021) |
|--|---|---|--|

First, for the PM offset for the Sinter Plant, Condition D.6.13(a) does not specify the frequency with which records of the natural gas usage must be maintained. Without specifying this, this condition cannot ensure adequate compliance with the natural gas usage limit in D.6.1.

Furthermore, the limit seems to come from the PSD offset limits in Condition D.1.1(A)(1) in the underlying permit, SSM-089-12880-00121.¹¹² Condition D.17 includes recordkeeping requirements to document compliance with the PSD offset limit in D.1.1(A)(1), which includes maintaining daily records. Condition D.1.8. of the underlying permit also requires annual reporting of the total fuel usage of each type used. However, none of the testing requirements in the underlying permit apply to the PSD offset limit in Condition D.1.1(A)(1) of the Draft Permit, nor are any monitoring requirements required to assure compliance with that limit. It is also worth noting that these underlying requirements restrict the amount of coke oven gas as well as natural gas.

IDEM has not accurately included the underlying requirements from the publicly available underlying permit cited, SSM-089-12880-00121.¹¹³ Namely, IDEM must include in the Final Permit a revision to Condition D.6.13(a) to specify that the Permittee shall maintain *daily* records. IDEM must also include in the Final Permit its rationale for D.6.13(a) and D.6.14(a) and how it constitutes adequate monitoring to assure compliance with the limit. Finally, IDEM must also include *all* of the applicable requirements, including recordkeeping and reporting requirements, from the underlying permit in the Final Permit.

Second, for the Sheet Products Division, the NO_x Offset Limit in Condition D.12.2 cites to an underlying permit, MSM 089-8606-00121, as the basis for the limit. The Draft Permit contains only recordkeeping (Condition D.12.4(a)) and reporting (Condition D.12.5(a)) requirements to assure compliance with an *annual* natural gas usage NO_x offset limit.

However, the underlying permit includes an emission offset limit for the annealing furnaces of 3.1 million cubic feet *per month*, equivalent to NO_x emissions of .22 tons per month.¹¹⁴ Compliance with this limit is addressed in reporting requirements in Condition 10 of the underlying permit.¹¹⁵ IDEM has not adequately included in the Draft Permit in Conditions D.12.4 and D.12.5 the applicable requirements for reporting from the Construction Permit

¹¹⁰ *Id.* at Condition D.22.2..

¹¹¹ *Id.* at Condition D.22.5.

¹¹² U.S. Steel Gary Works, Significant Source Modification No. 089-12880-00121 (July 26, 2001).

¹¹³ U.S. Steel Gary Works, Construction Permit No. 089-8606-00121 (October 20, 1997).

¹¹⁴ *Id.*, Condition 7, at 5.

¹¹⁵ *Id.* at 7.

referenced. Additionally, IDEM has failed to provide any rationale or a reasoned explanation why these recordkeeping and reporting requirements are adequate to assure continuous compliance with the NO_x offset limits in Condition D.12.2. Therefore, the Final Permit must include requirements that align with the underlying permit and include monitoring and/or testing requirements to assure compliance.

Finally, for the Coal Pulverization, Handling, and Haul Operations and Blast Furnace, IDEM cannot reference an expired Title V permit as authority for emission limitations.¹¹⁶ Although it is likely the limits for the Coal Pulverization, Handling, and Haul Operations in Condition D.22.2 were established in the CP (45) 1895 permit, Commenters are unsure because it is not publicly available. Regardless, IDEM should remove the reference to the expired Title V permit, T08-29907-00121 (12/20/2013) as establishing the PM and PM₁₀ minor limits in D.22.2., because while Title V permits must incorporate all federally enforceable standards, such permits cannot establish new emission limits that are not otherwise authorized, i.e., through a Title I permit or modification. Additionally, IDEM must also remove the reference to the expired Title V permit, SPM-089-27690-00121 (10/5/2009) as establishing the PM and PM₁₀ minor limits in D.7.2.

C. For Several Emission Units, IDEM Has Failed to Include Any Monitoring, Recordkeeping or Reporting Requirements to Assure Compliance With Emission Limits.

For several emission units, IDEM has failed to include any monitoring or testing requirements to assure compliance with emission limits. Even where IDEM references the authority for these limits, without the inclusion of adequate monitoring, testing, recordkeeping or reporting to assure compliance with these limits, the Draft Permit is deficient. **Table 4** below lists each emission unit with a limit that has no monitoring or testing requirements. IDEM must include adequate monitoring to assure compliance with each emission limit listed below.

Table 4: Emission Units With Limits that Have No Monitoring or Testing Requirements

| Emission Unit | Emission Limit | Monitoring or Testing Requirement |
|----------------|---|-----------------------------------|
| Blast Furnaces | PM limit (for Lake County) for slag granulation process quenching hooded exhaust stack. Shall not exceed .07 g/dscm (.03 g/dscf) ¹¹⁷ . (Established in CP 089-1953-00133 (issued on March 18, 1991)) | None |
| | PM ₁₀ (for Lake County) ¹¹⁸ | None |

¹¹⁶ Gary Works Draft Permit Condition D.22.5 and Condition D.7.2.

¹¹⁷ *Id.* at Condition D.7.4.

¹¹⁸ *Id.* at Condition D.7.5.

| | | |
|---------------------------|--|------|
| | <p>(a) No. 4 BF stove stack shall not exceed 0.033 lb/MMBtu of heat input and a total of 11.70 lb/hr;</p> <p>(b) No. 6 BF stove stack shall not exceed 0.033 lb/MMBtu of heat input and a total of 11.70 lb/hr;</p> <p>(c) No. 8 BF stove stack shall not exceed .033 lb/MMBtu of heat input and a total of 11.70 lb/hr;</p> <p>(d) No. 14 BF stove stack shall not exceed .029 lb/MMBtu of heat input and a total of 20.40 lb/hr;</p> <p>(e) No. 14 BF stove stack shall not exceed .0090 g/dscf and 38.57 lb/hr.</p> | |
| No. 2 Q-BOP Shop | <p>SO₂ limits: Hot Metal Transfer and Desulfurization Stations¹¹⁹</p> <p>The SO₂ emissions as measured during all hot metal processing activities shall not exceed 0.05 lb/ton of hot metal.¹²⁰</p> <p>emissions from the No. 2 Q-BOP Shop Hot Metal Transfer and Desulfurization Stations Baghouse shall not exceed 0.05 lb/ton of hot metal and 28.54 lb/hr.¹²¹</p> | None |
| Continuous Pickling Lines | <p>Lake County PM₁₀ Emission Limits¹²²</p> <p>shall not exceed 0.07 g/dscm ,0.03 g/dscf</p> | None |
| Sheet Products Division | <p>PM Limitations for Lake County¹²³</p> <p>North Sheet Mill: 5-Stand Cold Reduction Mill Stack H56527 and the South Sheet Mill: No. 6 East Galvanize Line Stack H66516 shall not exceed 0.07 g/dscm, 0.03 g/dscf</p> | None |
| Tin Division | <p>Lake County PM Limit¹²⁴</p> | None |

¹¹⁹ *Id.* at Condition D.9.3.

¹²⁰ *Id.* at Condition D.9.4(a)(1). Pursuant to EPA Administrative Consent Order issued on January 2, 2004, which is not available to the public on IDEM's public records pages.

¹²¹ *Id.* at Condition D.9.4(b). References 326 Indiana Code 7-4.1-20(a)(7).

¹²² *Id.* at Condition D.11.1.

¹²³ *Id.* at Condition D.12.1.

¹²⁴ *Id.* at Condition D.13.1.

| | | |
|--|---|--|
| | 6-Stand Cold Reduction Mill Stack, the one (1) Double Reduction Mill Stack, and the No. 1 Tin Free Steel Line Chemical Treatment Rinse Stack shall not exceed 0.07 g/dscm, 0.03 g/dscf. | |
|--|---|--|

First, for the BFs, the following issues must be corrected in the Final Permit:

- Condition D.7.4: Lake County PM for slag granulation process: IDEM has failed to provide rationale or a reasoned explanation for why there are no monitoring requirements to assure compliance with the pound per hour limit. The Condition cites to 326 Indiana Admin. Code 2-2, which includes 16 subsections relevant to PSD. However, IDEM fails to indicate which section applies. Therefore, IDEM must include in the Final Permit a condition with adequate monitoring to assure compliance with the limits in D.7.4, taking care to be more specific in its reference to authority.
- Condition D.7.5: PM₁₀ limits (Lake County) for BF stove stacks: IDEM has failed to provide rationale or a reasoned explanation for why there are no monitoring requirements to assure compliance with the pound per hour limit. IDEM cites to 326 Indiana Admin. Code 6.8-2-38 for this Condition. This section establishes limits, no testing or monitoring requirements. General provisions in 326 Indiana Admin. Code 6.8-1-3 set out testing to determine amount of PM emitted shall be conducted in accordance with procedures set forth in 40 C.F.R. 60, Appendix A, Method 1-5. However, IDEM fails to cite this section, much less include any of its testing or monitoring methods to assure compliance with the emission limits in Condition D.7.5. Therefore, IDEM must include in the Final Permit a condition with adequate monitoring to assure compliance with the limits in D.7.5(a)-(e).

Second, for the No. 2 Q-BOP Shop, only recordkeeping requirements are mentioned to assure compliance with the hourly SO₂ limits in Condition D.9.4. Condition D.9.12(a) requires keeping records of the monthly hot metal throughput for the No. 1 and No. 2 Hot Metal Desulfurization Stations. First, this condition is pursuant to the EPA Administrative Consent Order that is neither attached to the Draft Permit nor publicly available on IDEM's public records pages. The terms and conditions of this consent order constitute applicable requirements and IDEM has failed to properly include those in the Conditions to assure compliance with the SO₂ limits in Condition D.9.4. Further, monthly recordkeeping requirements fail to assure compliance with an hourly SO₂ emission limit, and IDEM has failed to provide any for their decision to not include such monitoring requirements in the Draft Permit. Accordingly, the Final Permit must include adequate monitoring requirements to assure compliance with the SO₂ limit in D.9.4 and the applicable requirements in the referenced Consent Agreement must also be incorporated.

Finally, for several emissions units, IDEM failed to even include required emission limits let alone the monitoring, recordkeeping and reporting requirements that would be necessary to assure compliance with those limits. IDEM must include these limits and adequate monitoring, testing, recordkeeping and reporting provisions in the Final Permit.

For example, the Turboblower Boiler House (“TBBH”) (Conditions D.15, D.34, and D.35) is split across two emission unit sections, making the applicable requirements unclear. The Draft Permit also does not contain the SO₂ limit required for Boiler No. 6 pursuant to 326 Indiana Admin. Code 7-4.1-20(a)(1)(B). Boiler No. 6 is also not included in parametric monitoring such as visible emissions notations. Furthermore, while Condition D.15 contains most emission limits, monitoring, recordkeeping and reporting requirements for the TBBH emission unit, additional NO_x emission limits are unexplainably listed under Conditions D.34 and D.35. IDEM must include the SO₂ limit in the Final Permit. Commenters request IDEM to explain why they did not combine the terms for the TBBH into a single emissions unit and why adequate monitoring, testing, recordkeeping, and reporting for each boiler system is not included.

X. IDEM Should Require Installation of Reasonably Achievable Control Technology to Reach Attainment for Ozone.

Nitrogen oxides break down rapidly in the atmosphere by reacting with other substances commonly found in the air. Nitrogen dioxide reacts with sunlight and volatile organic compounds (“VOCs”) to form ozone. Ozone is a major component of smog and has numerous documented deleterious health impacts.

U.S. EPA has designated northern Lake and Porter counties as being in moderate non-attainment for the 2015 8-hour ozone standard.¹²⁵ Additionally, the EPA found that Indiana failed to submit revisions to an element of its State Implementation Plan regarding reasonably achievable control technologies (“RACT”) for major sources of nitrogen oxides (“NO_x”) in Lake and Porter Counties, subjecting it to potential sanctions.¹²⁶ There are no greater sources of NO_x in Lake County than the integrated steel mills along the lakefront.

Gary Works alone emitted more than 3,414 tons of NO_x in 2022.¹²⁷ Almost one-half of these emissions are from the 84” Hot Strip Mill, and another third of the NO_x emissions are contributed jointly by the Turboblower Boiler House and the Blast Furnaces.¹²⁸ According to the EPA, low-NO_x burners can provide significant reductions in NO_x emissions from various sources

¹²⁵ Determinations of Attainment by the Attainment Date, Extensions of the Attainment Date, and Reclassification of Areas Classified as Marginal for the 2015 Ozone National Ambient Air Quality Standards, 87 Fed. Reg. 60,897, 60,918 (Oct. 7, 2022).

¹²⁶ Findings of Failure To Submit State Implementation Plan Revisions for Reclassified Moderate Nonattainment Areas for the 2015 Ozone National Ambient Air Quality Standards (NAAQS), 88 Fed. Reg. 71757 (Oct. 18, 2023).

¹²⁷ 2022 Air Emission Inventory Statement, US Steel Corporation Gary Works, dated June 1, 2023, p. 1, available at IDEM Virtual File Cabinet.

¹²⁸ *Id.*

within the steel industry at a relatively low-cost per ton of emissions.¹²⁹ The Lake Michigan Air Directors Consortium (“LADCO”), of which IDEM is a member, reached similar conclusions last year.¹³⁰ As such, IDEM should require that USS install low NO_x burners or other RACT as part of its State Implementation Plan to reduce NO_x emissions and achieve attainment for ozone.

XI. The Permit Fails to Assure Compliance with Several Plans that Must be Implemented by the Source.

The Draft Permit and TSD repeatedly refer to various plans that USS is required to implement at Gary Works. EPA has found that plans to which a facility is subject to be operated should be properly incorporated by reference in the Title V permit. Furthermore, Compliance Assurance Monitoring (“CAM”) Plans fulfill monitoring requirements of Title V. Therefore, IDEM must require USS to operate according to its CAM Plan for the affected units and include the Continuous Compliance Plan, Corrective Action Plan, Operation and Maintenance Plan, Preventive Maintenance Plan, Sulfur Fuel Sampling and Analysis Plan, and Ozone Action Day Plan in the final permit package.

A. Title V Permits Must Include Enforceable Limitations, Including Underlying Requirements in Plans that Must be Implemented, and/or By Which the Source Must Operate.

One key purpose of Title V was to increase public involvement in air quality regulation. The Title V program is meant to “make it easier for the public to learn what requirements are being imposed on sources to facilitate public participation in determining what future requirements to impose.”¹³¹ A draft permit must include all applicable emission limits and standards and must also include all monitoring, reporting and recordkeeping requirements to assure compliance with those standards.¹³²

Under the CAA, a Title V Permit must include “enforceable emission limitations and standards [and] such other conditions as are necessary to assure compliance with applicable requirements of [the Clean Air] Act.”¹³³ Applicable requirements under the CAA include, among other things, any standard or requirement under sections 111, 112 and 114 of the Act.¹³⁴ The

¹²⁹ See Env’t Prot. Agency, *Technical Memo* (March 15, 2023), https://www.epa.gov/system/files/documents/2023-03/Memo%20to%20Docket_Non-EGU%20Applicability%20Requirements%20and%20Estimate%20Emissions%20Reductions%20and%20Costs_Final.pdf; Env’t Prot. Agency, *Menu of Control Measures* (Sept. 22, 2022), <https://www.epa.gov/air-quality-implementation-plans/menu-control-measures-naaqs-implementation>.

¹³⁰ LADCO, *White Paper: NO_x Emission Controls for Stationary Sources in the LADCO Region* Section 9.0 (Iron & Steel Sources) (Feb. 2022), https://www.ladco.org/wp-content/uploads/Projects/Emissions-Controls/Ramboll-Stationary-NOx-2021/Final_LADCO_WhitePaper_25Feb2022.pdf.

¹³¹ 56 Fed. Reg. 21712, 21713 (May 10, 1991).

¹³² See CAA §§ 502(a) and 504(a), 42 U.S.C. §§7661a(a) and 7661c(a) and 57 Fed. Reg. 32,250, 32,251 (July 21, 1992) (EPA final action promulgating the part 70 rule).

¹³³ 42 U.S.C § 7661c(a); 40 C.F.R. § 70.6(a)(1).

¹³⁴ 40 C.F.R. § 70.2 (defining “applicable requirements” in (3), (4) and (6), respectively).

CAM rule¹³⁵ was designed to fulfill monitoring requirements contained in Title V.¹³⁶ CAM requirements satisfy periodic monitoring requirements under 40 C.F.R. § 70.6(a)(3). EPA has also found that certain plans to which a facility is subject should be properly incorporated by reference into the Title V permit.¹³⁷ For USS Gary Works, these plans include a: Continuous Compliance Plan, Corrective Action Plan, Operation and Maintenance Plan, and Preventive Maintenance Plan. Additionally, USS is required to have a Sulfur Fuel Sampling and Analysis Plan incorporated into its Title V permit,¹³⁸ and all sinter plant operators require an Ozone Day Action Plan to be submitted to IDEM and "included in the source's operating permit."¹³⁹

B. IDEM Must Revise the Draft Permit to Require USS to Operate According to its CAM Plan as Submitted.

The CAM rule is addressed in 40 C.F.R. § 64, which applies to emission units with active control devices whose potential pre-control device emissions are at or above major source thresholds. CAM requires the Title V permit to contain sufficient monitoring to give "reasonable assurance of compliance" with applicable standards for the units subject to CAM. These units must also have sufficient monitoring to satisfy periodic monitoring requirements under Part 70. Thus, the CAM plan could satisfy the periodic monitoring requirements.

The TSD includes a table identifying emission units subject to CAM and each emission limitation or a standard for a specified pollutant.¹⁴⁰ This table identifies the following emission units as CAM applicable:

1. Coal pulverization equipment train preheater (SS-1), (SS-2), (SS-3): PM, PM_{2.5}¹⁴¹
2. Pig Iron Casting-PM, PM₁₀, PM_{2.5}¹⁴²

The TSD indicates that CAM plans were submitted for both the coal pulverization equipment train preheaters and pig iron casting operations.¹⁴³ The sitewide conditions also include Compliance Monitoring provisions, including satisfying CAM monitoring requirements at all times the pollutant-specific emission unit is operating.¹⁴⁴ CAM recordkeeping requirements are also included in the sitewide conditions in C.16(h).¹⁴⁵ Finally, the applicability of CAM to the coal pulverization equipment train is addressed in Condition D.22.7.¹⁴⁶

¹³⁵ CAM is authorized by CAA § 504(b); 42 U.S.C. § 7661c(b).

¹³⁶ Compliance Assurance Monitoring, 62 Fed. Reg. 54900 (Oct. 22, 1997) (codified at 40 C.F.R. Part 64); *see* CAA §§ 114(a)(1), (a)(3), 503, 504; 42 U.S.C. §§ 7414(a)(1), (a)(3), 7661b, 7661c.

¹³⁷ *In the Matter of Columbia University*, Order on Petition NO. II-2000-08 (December 16, 2002) at 27 [hereinafter "*Columbia Order*"].

¹³⁸ 326 Indiana Admin. Code 7-4.1-2(c).

¹³⁹ 326 Indiana Admin. Code 8-13-4(b)(8)(B).

¹⁴⁰ 2024 Gary TSD at 31-36.

¹⁴¹ *Id.* at 34.

¹⁴² *Id.* at 36.

¹⁴³ *Id.* at 37. However, for the train preheaters, the CAM plan was submitted in a previous (year unidentified) permit application. The CAM plan for the pig iron casting operation was submitted as part of this permit application. However, the CAM plan is not included in the publicly available permit application.

¹⁴⁴ Gary Works Draft Permit Condition C.11(c),(d).

¹⁴⁵ *Id.*

¹⁴⁶ *Id.*

Although the pig iron caster is listed as CAM applicable, no condition in D.30 for this emission unit contains CAM requirements.¹⁴⁷ First, IDEM must explain why it has excluded CAM requirements in Condition D.30 and its subsections. IDEM fails to provide any documented rationale or a reasoned explanation as to why the CAM requirements for the pig iron caster have been excluded. If these requirements were omitted in error, IDEM must include CAM requirements in Condition D.30 of the Final Permit.

Additionally, IDEM must include in the Final Permit specific references to the CAM Plan applicable to the pig iron caster and coal pulverization equipment train preheaters. Where USS is required to operate these units pursuant to the CAM Plan, its underlying requirements are also applicable requirements in the Title V permit. As such, IDEM must include in the Final Permit the requirement that USS operate these units according to the CAM Plan(s) as submitted.

C. IDEM Must Incorporate the CAM as well as the Continuous Compliance Plan, Corrective Action Plan, Operation and Maintenance Plan, Preventive Maintenance Plan, and Sulfur Fuel Sampling and Analysis Plan, and Ozone Action Day Plan into the Draft Permit.

Once IDEM has included in the Title V Permit the requirement that USS operate an emissions unit according to a designated Plan, that Plan itself must be included in the permit pursuant to 40 C.F.R. § 70.6(a)(1).

USS is required to operate the Sinter Plant, Blast Furnaces, No. One BOP Shop, and No. Two Q-BOP Shop according to its Continuous Compliance Plan.¹⁴⁸ Per the Draft Permit, USS “shall comply with the most current Continuous Compliance Plan visible emission evaluation program. Section C - Continuous Compliance Plan contains the Permittee's obligation with regard to the visible emission evaluation program required by this condition.”¹⁴⁹ The TSD also states that “the source shall implement the maintenance and inspection practices outlined in the Continuous Compliance Plan (CCP), submitted in 1993.”¹⁵⁰ Indiana regulations require sources to “update the CCP, as needed.”¹⁵¹ Certainly, an update to the CCP due to new equipment and/or processes is long overdue. In any case, because operation of these units must be consistent with the Continuous Compliance Plan, that Plan must be included in the Final Permit.

Similarly, USS is required to operate the Sinter Plant according to a Corrective Action Plan. Per the Draft Permit, USS “shall implement the corrective action plan requirements in 326 Indiana Admin. Code 8-13-4(b)(5).”¹⁵² That regulation states that a sinter plant operator must

¹⁴⁷ *Id.*

¹⁴⁸ See Conditions D.6.8(f), D.6.9(e), D.7.13(f), D.7.14(c), D.8.8(f), D.8.9(d), D.9.9(f), D.9.10(d).

¹⁴⁹ Condition D.6.8(f). See also Conditions D.6.9(e), D.7.13(f), D.7.14(c), D.8.8(f), D.8.9(d), D.9.9(f), D.9.10(d).

¹⁵⁰ 2024 Gary TSD at 38.

¹⁵¹ 326 Indiana Admin. Code 6.8-8-8(c)(1).

¹⁵² Gary Works Draft Permit Condition D.6.11(d).

implement a corrective action plan “in the event of an exceedance.”¹⁵³ The “corrective action plan shall contain control measures, such as, but not limited to, reducing sinter production, changing sinter burden characteristics, or modifying sintering process equipment operations.”¹⁵⁴ Finally, the Permit states that “corrective action taken according to the corrective action plan” must be recorded and reported “to document the compliance status with Condition D.6.4.” Because operation of the Sinter Plant must comport with the Corrective Action Plan, that Plan must be included in the Final Permit.

USS is also required to operate according to an Operation and Maintenance Plan. Per 40 CFR § 63.6(f)(2)(ii), “compliance with nonopacity emission standards” is determined by “evaluation of an owner or operator’s conformance with operation and maintenance requirements, including the evaluation of monitoring data, as specified in § 63.6e.” In fact, 40 CFR § 63.7790 requires that several Sinter Plant emission sources operate “at or above the lowest value or settings established for the operating limits in [their] operation and maintenance plan.”¹⁵⁵ Additionally, an operation and maintenance plan is required for each pickling line and “shall be incorporated by reference into the source’s title V permit.”¹⁵⁶ However, despite the Draft Permit including provisions relevant to operation and maintenance plans in Attachment J (40 CFR § 63, Subpart FFFFF), Attachment K (40 CFR § 63, Subpart CCC), and Attachment R (40 CFR § 63, Subpart GGGGG), *no* Permit conditions cite to or incorporate the Operation and Maintenance Plan. Because USS must operate in accordance with their Operation and Maintenance Plan, that Plan must be included in the Permit.

USS is required to operate according to a Preventive Maintenance Plan (“PMP”). The TSD states that USS “is subject to 326 Indiana Admin. Code 1-6-3” and submitted a PMP on December 12, 1996. The Draft Permit, however, does not include any PMPs. Moreover, because the Draft Permit further mentions a PMP only in discussing three emission units (Coal Pulverization and Air Preheater System, Iron Ore Screening, and Pig Iron Caster), it is unclear if Gary Works even has a PMP for any other emission units. The TSD states that several PMP conditions in Section D were removed at USS request in 2007, and instead a revised general condition for a PMP applies to the entire source.¹⁵⁷ This section titled “Preventive Maintenance Plan” generally describes PMP regulations under 326 Indiana Admin. Code 1-6-3 and 326 Indiana Admin. Code 2-7-5(12), and states that the “Permittee shall implement the PMPs.”¹⁵⁸ However, per SSM-089-20118-00121, USS must “implement the PMPs as necessary to ensure that failure to implement a PMP does not cause or contribute to a violation of any limitation on emissions or potential to emit.”¹⁵⁹ Because USS must operate according to its PMP, the Plan

¹⁵³ 326 Indiana Admin. Code 8-13-4(b)(5).

¹⁵⁴ *Id.*

¹⁵⁵ *See also* 40 CFR § 63.7833(b)(1).

¹⁵⁶ 40 CFR § 63.1160(b)(1).

¹⁵⁷ 2024 Gary TSD at 37.

¹⁵⁸ Gary Works Draft Permit, Section B.10 Preventive Maintenance Plan.

¹⁵⁹ *See* SSM-089-20118-00121, Condition C.2(b).

must be included in the Final Permit, particularly PMP monitoring provisions.¹⁶⁰ Additionally, IDEM should clarify which emissions units have individual PMPs and whether the facility-wide PMP has been updated in the intervening 28 years.

USS is required to operate the BF, Hot Rolling Mill, No. 4 Boiler House, and the Turboblower Boiler House according to a Sulfur Fuel Sampling and Analysis Plan. The Permit states that to “demonstrate compliance with [permit conditions], the Permittee shall perform Sulfur Fuel Sampling and Analysis.”¹⁶¹ However, as discussed in Section VIII.A.2, the Draft Permit merely contains a section titled “Sulfur Fuel Sampling and Analysis (Entire Source)” which generally describes the 2006 requirement to submit a sampling and analysis protocol to IDEM pursuant to 326 Indiana Admin. Code 7-4.1-2.¹⁶² However, 326 Indiana Admin. Code 7-4.1-2(c) also states that the “department shall incorporate the protocol into the source’s Title V or other appropriate permit.” Therefore, IDEM needs to include the Sulfur Fuel Sampling and Analysis Plan in the Final Permit.

Indiana regulations require that an Ozone Action Day Plan “be included in the source’s operating permit.” 326 Indiana Admin. Code 8-13-4(b)(8)(B). Such plans must contain “[o]perating procedures, such as, but not limited to, limiting sinter production, controlling sinter burden characteristics, or changing sinter machine operations, to limit VOC emissions at or below the level required.” 326 Indiana Admin. Code 8-13-4(b)(8)(A). The Draft Permit states that if IDEM notifies USS of a high Ozone Action Day, USS must operate the Sinter Plant “[p]ursuant to 326 Indiana Admin. Code 8-13-4(b)(8) and an Ozone Action Plan dated ¹⁶³1999.” But the Draft Permit only provides one action USS must take (“control the sinter burden oil and grease content by regulating the amount of mill scale in the burden”) and does not clarify if that is the entirety of USS’ responsibility or if there are additional actions in the Plan. IDEM must include the entirety of the Ozone Action Day Plan in the Final Permit and clarify whether the Plan has ever been updated in 25 years.

In short, the Draft Permit refers to but does not incorporate or attach the Continuous Compliance Plan, Corrective Action Plan, Operation and Maintenance Plan, Preventive Maintenance Plan, Sulfur Sampling and Analysis Plan and the Ozone Action Day Plan. For these plans to be practically enforceable, the Final Permit must attach and incorporate these plans. Accordingly, IDEM must include them in the Final Permit.

¹⁶⁰ See USEPA’s Response to Michigan Environmental Council Comments on Michigan’s Title V Operating Permit Program, at ¶ 1 (Nov. 27, 2001), available at: <https://www.epa.gov/sites/default/files/2015-08/documents/mimec.pdf> (“USEPA will work with MDEQ to ensure that any key monitoring provisions in the preventative maintenance plans which are necessary to meet title V’s compliance monitoring requirements are clearly outlined in the title V permits.”).

¹⁶¹ See Gary Works Draft Permit Conditions D.7.10, D.10.4, D.14.3, and D.15.6; see also 2024 Gary TSD.

¹⁶² Gary Works Draft Permit Section C.9.

¹⁶³ Gary Works Draft Permit Condition D.6.4(g).

D. IDEM Must Revise the Draft Permit to Include Monitoring, Recordkeeping and Reporting Requirements Necessary to Ensure Gary Works is Operated According to its CAM Plan, Continuous Compliance Plan, Corrective Action Plan, Operation and Maintenance Plan, Preventive Maintenance Plan, Sulfur Fuel Sampling and Analysis Plan, and Ozone Action Day Plan.

Because the CAM Plan, as well as the Continuous Compliance Plan, Corrective Action Plan, Operation and Maintenance Plan, Preventive Maintenance Plan, Sulfur Fuel Sampling and Analysis Plan, and Ozone Action Day Plan must be included in the Final Permit, the Final Permit must also contain “compliance certification, testing, monitoring, reporting and recordkeeping requirements sufficient to assure compliance” with the permit terms and conditions related to this Plan.¹⁶⁴

Making matters worse, the CAM Plan, Continuous Compliance Plan, Corrective Action Plan, Operation and Maintenance Plan, Preventive Maintenance Plan, Sulfur Fuel Sampling and Analysis Plan, and Ozone Action Day Plan are not publicly available. Without knowing the contents of the plans, Commenters cannot specifically outline what monitoring, testing, or recordkeeping requirements should be, but such requirements must be included in the Final Permit.

XII. IDEM Should Improve Its Public Participation Process and Is Also Required Under Part 70 to Provide Documents for Review.

Per 40 CFR § 70.4(d)(iv), state programs “must provide for adequate public notice of and an opportunity for public comment and a hearing on draft permits.” Additionally, 40 CFR § 70.7(h) requires that permit proceedings, including renewals, “shall provide adequate procedures for public notice including offering an opportunity for public comment and a hearing on the draft permit.” Specifically, the “permitting authority shall provide at least 30 days for public comment and shall give notice of any public hearing at least 30 days in advance of the hearing.”¹⁶⁵ Finally, the notice should include “the time and place of any hearing that may be held, including a statement of procedures to request a hearing (unless a hearing has already been scheduled).”¹⁶⁶ Indiana Admin. Code likewise requires that “[n]otification including the time and place of any hearing that may be held must be given at least thirty (30) days in advance of the hearing.”¹⁶⁷

IDEM needs to clarify its process for holding public hearings and ensure it is consistent with the above requirements. Instead of including a public hearing with the published public notice of the comment period, IDEM’s Notice of 30-Day Period for Public Comment merely reiterates the public’s right to “request that IDEM hold a public hearing about this draft permit” and that “[i]f adverse comments concerning the **air pollution impact** of this draft permit are

¹⁶⁴ *EVRAZ Order* at 8 (citing 40 C.F.R. § 70.6(c)(1)).

¹⁶⁵ 40 CFR § 70.7(h)(4).

¹⁶⁶ 40 CFR § 70.7(h)(2).

¹⁶⁷ 326 Indiana Admin. Code 2-7-17(c)(1)(D)(iii)(BB).

received, with a request for a public hearing, IDEM will decide whether or not to hold a public hearing.” This puts the onus on the public to request a public hearing from IDEM and then wait for several weeks to find out if IDEM will schedule a public hearing and change the end date of the public comment period.¹⁶⁸

In addition to providing notice of the public comment period and a public hearing, notice is supposed to include “from whom interested persons may obtain additional information, including copies of the permit draft, the statement required by § 70.7(a)(5) (sometimes referred to as the ‘statement of basis’) for the draft permit, the application, all relevant supporting materials, including those set forth in § 70.4(b)(3)(viii) of this part, and all other materials available to the permitting authority (except for publicly-available materials and publications) that are relevant to the permit decision.”¹⁶⁹

IDEM’s Notice of 30-Day Period for Public Comment, however, only identifies a person to whom “[c]omments and supporting documentation, or a request for a public hearing should be sent to.” When Commenters have previously requested supporting documentation as identified in 40 CFR § 70.7(h)(2), they were told to submit a public records request or to check IDEM’s Virtual File Cabinet. As discussed in earlier Sections, Commenters have not been able to locate all supporting documentation “relevant to the permit decision.” Furthermore, as IDEM has previously recognized, “public records requests are distinct from the permitting process.”¹⁷⁰ Commenters also note that submitting a public record request – if the requester is ever provided with the document requested¹⁷¹ – does not provide opportunity to review the document prior to the close of the public comment period and is, therefore, not sufficient under the regulation.

IDEM should make the statement of basis, and other relevant supporting materials as described in 40 CFR § 70.7(h)(2) readily available to the public to ensure an adequate opportunity to review and comment. Additionally, these documents should be available in multiple formats, such as online and posted in the library (just as the draft permit and application are), rather than requiring individuals to email or submit a public records request to no avail. Public hearings on permits should include both in-person and virtual participation options to allow those unable to attend in-person to view the hearing and provide comments. This is particularly salient in an overburdened community such as Gary, where nearly 1 in 5 people have disabilities which could impact their ability to participate at in-person hearings.¹⁷²

¹⁶⁸ Commenters note and appreciate that IDEM did provide 30-days’ notice of the public hearing once they had it scheduled. Likewise, IDEM has been more responsive to public needs in hosting meetings and hearings in the evenings rather than in the middle of the workday as had been done previously.

¹⁶⁹ 40 CFR § 70.7(h)(2).

¹⁷⁰ *In the Matter of Riverview Energy Corp.*, Order on Petition No. V-2019-10 at 14 (March 26, 2020).

¹⁷¹ As of the date of Comment submission, Commenters are still waiting for a Leak Detection and Repair (LDAR) Plan requested for the BP Whiting facility that was submitted on January 9, 2024.

¹⁷² According to U.S. EPA EJSscreen 5-mile radius results. Tool available at: <https://www.epa.gov/ejscreen>.

XIII. IDEM Should Follow U.S. EPA Guidance to Advance Environmental Justice

Renewal of the USS Gary Works Permit, as it is currently written, raises numerous environmental justice (“EJ”) concerns that must be addressed before it is approved. According to EPA’s “EJ in Air Permitting Memorandum” and “Principles for Addressing Environmental Justice Concerns in Air Permitting,” permitting authorities should conduct an environmental justice analysis when a permitting action may result in “disproportionately high and adverse human health or environmental effects” on people of color.¹⁷³

That is certainly the case with the Draft Permit. The Gary Works facility is in Gary, which has just over 69,000 residents, 90% of whom are people of color, and nearly 8% of whom are veterans.¹⁷⁴ An analysis of the EPA’s EJScreen tool shows that within a 5-mile radius of the Gary Works facility 59% of people in the community are low income, 18% have disabilities, and 84% of the population are people of color. The area holds some of the highest EJ index levels in Indiana and the United States, with 8 out of 13 index levels exceeding the 90th percentile for the state and nation. Those indexes include particulate matter, ozone pollution, toxic releases to air, superfund proximity, and wastewater discharge. As a result, “[a]sthma prevalence among adults and life expectancy in Gary is among the worst in the U.S., with most of the city above the 90 percentile nationally in both categories.”¹⁷⁵

Furthermore, residents living within five miles of Gary Works are more likely to be exposed to other sources of lead, e.g. in housing constructed before 1960.¹⁷⁶ This is especially concerning, given that the monitoring performed by Gary Works for EPA’s Information Collection Request (“ICR”) for the NESHAP revisions show large differences between the highest measured and modeled fence line concentrations of arsenic, chromium, and lead.¹⁷⁷

¹⁷³ Env’t Prot. Agency, *EJ in Air Permitting, Principles for Addressing Environmental Justice Concerns in Air Permitting*, ¶ 4 (December, 2022), <https://www.epa.gov/system/files/documents/2022-12/Attachment%20-%20EJ%20in%20Air%20Permitting%20Principles%20.pdf>. See also Env’t Prot. Agency, *Principles for Addressing Environmental Justice in Air Permitting, Memorandum*, (Dec. 22, 2022), <https://www.epa.gov/system/files/documents/2022-12/EJ%20in%20Air%20Permitting%20Memo.pdf>.

¹⁷⁴ United States Census Bureau data from April 1, 2020, available at <https://www.census.gov/quickfacts/fact/table/garycityindiana/POP010220#POP010220>. Commenters note that Gary’s percentage of veteran population (7.7%) is higher than that of Indiana (6.2%) and the United States (6.2%) as a whole. See also, Chris Arnade, *White flight followed factory jobs out of Gary, Indiana. Black people didn’t have a choice*, *The Guardian*, Mar. 28, 2017, available at <https://www.theguardian.com/society/2017/mar/28/poverty-racism-gary-indiana-factory-jobs>.

¹⁷⁵ Aydali Campa et al., *Industrial Plants in Gary and Other Environmental Justice Communities Are Highlighted as Top Emitters*, *Inside Climate News* (September 14, 2023), available at <https://insideclimatenews.org/news/14092023/gary-steel-works-top-emitter-environmental-justice/>.

¹⁷⁶ Commenters utilized EJ Screen Version 2.2 to evaluate data relevant to lead exposure for communities near Gary Works. EJScreen’s lead paint proxy (the percentage of housing built before 1960) since this represents an additional major pathway for exposure to lead. The percentage of the population under age five within 5 miles of Gary Works (7%) is relevant, since lead exposure has the greatest negative health impacts on children. Additionally, 66% of the population could be exposed to lead based paint as well.

¹⁷⁷ National Emission Standards for Hazardous Air Pollutants: Integrated Iron and Steel Manufacturing Facilities Technology Review, 88 Fed. Reg. 49402, 49414 (July 31, 2023).

Consequently, IDEM should conduct an EJ analysis consistent with Title VI of the Civil Rights Act of 1964 (Title VI) and U.S. EPA’s “Principles for Addressing Environmental Justice Concerns in Air Permitting.” The analysis should be of the appropriate scope to inform residents of the basis for and impact of IDEM’s permitting decision.¹⁷⁸ The analysis should include input from the affected community to identify their concerns, and evaluate existing environmental data, the facility’s compliance record, and demographic and public health data about the community. The analysis should consider the degree to which the permitting decision would have disproportionately high and adverse effects on people of color and vulnerable populations and explore opportunities to mitigate those effects. Lastly, the analysis should include the cumulative impact of the permitting decision when added to other regulated and non-regulated sources of pollution in the surrounding community.¹⁷⁹

IDEM previously suggested that it would include what it calls an EJ analysis when it issues final permits.¹⁸⁰ As just shown, a key part of the EJ analysis is allowing the affected community to participate in and understand the impacts of the permitting decision; releasing something after the permit is final prevents IDEM from fulfilling those purposes. Now, however, IDEM has backtracked on even this paltry measure. During the public meeting for the BP Whiting Part 70 permit on February 22, 2024, IDEM unequivocally stated that it would not be performing an EJ analysis and would not include any such analysis in facility permits until mandated to do so by EPA. Instead of performing a full EJ analysis, an IDEM representative claimed to have pulled up the EJScreen tool on their computer during the permit review process. As argued in Commenters’ submitted comments on the BP Whiting Part 70 Permit, this is not enough, and the people of Northwest Indiana deserve better from State agencies.

XIV. IDEM Should Clarify or Correct Likely Clerical Errors in the Draft Permit.

IDEM should also correct, or else explain, the following errors, which appear to be clerical:

- Condition C.20 states that it is pursuant to 326 Indiana Admin. Code 7-4.1-20(c)(1); instead, it should likely reference 326 Indiana Admin. Code 7-4.1-2.
- Conditions D.6.5(b) and D.6.8(a) lists Discharge Ends Area Baghouse Stack IS6201 which is not identified in the unit description
- Condition D.6.5(c), D.6.8(a), and D.6.13(d) lists Coolers Stack IS6204 which is not identified in the unit description

¹⁷⁸ Env’t Prot. Agency, *EJ in Air Permitting, Principles for Addressing Environmental Justice Concerns in Air Permitting*, ¶ 4 (December, 2022), available at <https://www.epa.gov/system/files/documents/2022-12/Attachment%20-%20EJ%20in%20Air%20Permitting%20Principles%20.pdf>.

¹⁷⁹ *See id.*

¹⁸⁰ On January 10, 2024, during the public meeting for the Cleveland Cliffs – Indiana Harbor Part 70 Air Permit renewal, IDEM stated that while an EJ analysis was not completed in time for the draft permit, it would be completed and included in the final permit and for permits going forward. Per IDEM’s remarks on February 22, 2024, at the IDEM public meeting for the BP Permit, this is not the case.

- Condition D.6.6(a)(4) lists three baghouses, including IS3206 which are not identified in the unit description
- Condition D.6.13 lists Strand Windbox Gas Reheat Burner ISB002 which is not identified in the unit description
- Condition D.6.14(b)(1)(v) should state that USS must submit “corrective action taken according to the corrective action plan *as required to be submitted by 326 Indiana Admin. Code 8-13-4(b)(5),*” rather than “in 326 Indiana Admin. Code 8-13-4(b)(5).”
- The limit in Condition D.7.5(d) should be 0.024 lb/MMBtu instead of 0.029 lb/MMBtu
- Condition D.8(i) does not identify which baghouse the fugitive emission system routes to
- Condition D.8(j) does not identify where emissions are exhausted
- Condition D.9(g)(1) does not identify which baghouse the slag conditioning station routes to
- Condition D.9.1(d) lists the stack for north flux handling system baghouse as NS6626, which is listed as NS3109 in unit description
- Condition D.9.1(e) lists the stack for south flux handling system baghouse as NS6625, which is listed as two stacks, NS6625 and NS6626 in unit description
- Condition D.9.1(j) states that the RH vacuum degasser slag condition baghouse exhausts through stacks S-1 through S-6 rather than stack NS6636 as in the unit description
- Condition D.10.2(a) needs to clarify that the emission limit in lbs/hr is 436.5 total
- Condition D.10.5(b) should refer to Condition D.10.1 not D.10.4
- Condition D.12(b)(4) does not identify where emissions are exhausted
- Condition D.12.3 should say that it is pursuant to 326 Indiana Admin. Code 7-4.1-20(b)(3) not (c)(3)
- Conditions D.13(h), (i), and (k) do not identify where emissions are exhausted
- Condition D.13.1 is missing reference to several other stacks, including No. 7 Cleaning Line Stack TC6599, No.2 Continuous Anneal Line Stacks T26610 and TA6600, and 4-Stack A Box Annealing Furnaces Stacks TX6580 through TX6584
- Condition D.14.6(b) states that it is to document compliance with Condition D.14.3 (which is a sulfur limit); instead, it should likely reference Condition D.14.1 (PM limit)
- Conditions D.15 and D.15.8 should identify which boilers have NO_x CEMS
- Condition D.15.9 states that it is to document compliance with Condition D.15.4 (which is a NO_x limit); instead, it should likely reference Conditions D.15.1 (PM limit)
- Condition D.16.3(a)(3) should refer to clause (2) not clause (B)
- Condition D.17.1(a)(1)(D) should refer to subdivisions (A), (B) or (C) not (1), (2) or (3)
- Condition D.17.2 fails to list requirements under 326 Indiana Admin. Code 8-3-2(b)
- Condition D.17.3 fails to list requirements under 326 Indiana Admin. Code 8-3-3(b)
- Condition D.17.4 fails to list requirements under 326 Indiana Admin. Code 8-3-4(b)
- The term in Condition D.22.8 for broken or failed baghouse should also be included in the following Conditions with baghouses D.6, D.7, D.8, D.9, and D.30, along with terms requiring parametric monitoring of each of the baghouses
- Condition D.29.6 identification of equipment should be included in the unit description
- Condition D.32.3(a)(1) should refer to Condition D.32.2 not D.32.3

- Condition D.34 and D.34.2 should identify which boilers have NO_x CEMS
- Condition D.34.6 should include all requirements under 326 Indiana Admin. Code 10-2-8 rather than just those under 326 Indiana Admin. Code 10-2-8(d)
- Condition D.34.6(d)(1)(B) should state that it is in accordance with 326 Indiana Admin. Code 10-2-3 rather than “with section 3 of this rule”
- Condition D.34.7(a)(1)(A) should state cylinder gas audit rather than linearity check
- Condition D.34.7(b) should state pursuant to 326 Indiana Admin. Code 3-5-7(c)(4) rather than 326 Indiana Admin. Code 3-5-7(5)
- Condition D.35.2(a) should not include the term “aggregate” as that is not in 326 Indiana Admin. Code 10-3-4(c)
- Condition D.35.4 should include all requirements under 326 Indiana Admin. Code 10-3-5 rather than just those under 326 Indiana Admin. Code 10-3-5(e).

We appreciate the opportunity to submit these comments.

Sincerely,



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