

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
BEFORE THE ADMINISTRATOR**

IN THE MATTER OF )  
 ) PETITION FOR OBJECTION  
 )  
Part 70 Operating Permit Renewal )  
Operation Permit No. T089-46463-00316 )  
 ) Permit Numbers T089-46463-00316 and  
Issued to Cleveland-Cliffs Steel LLC ) T089-46464-00318  
3210 Watling Street, East Chicago, Indiana )  
 )  
AND )  
 )  
Administrative Part 70 Operating Permit )  
Renewal )  
Operation Permit No. T089-46464-00318 )  
 )  
Issued to Cleveland-Cliffs Steel LLC )  
3001 Dickey Road, East Chicago, Indiana )  
 )  
Issued by the Indiana Department of )  
Environmental Management )  
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**PETITION REQUESTING THAT THE ADMINISTRATOR OBJECT TO THE  
ISSUANCE OF TITLE V PERMIT NOS. T089-46463-00316 AND T089-46463-00318 FOR  
THE CLEVELAND-CLIFFS INDIANA HARBOR STEEL FACILITIES**

Pursuant to section 505(b)(2) of the Clean Air Act, 42 U.S.C. § 7661d(b)(2), and 40 C.F.R. § 70.8(d), the Environmental Law & Policy Center (“ELPC”), the Conservation Law Center, the Environmental Integrity Project, BP & Whiting Watch, Gary Advocates for Responsible Development, Indiana Conservation Voters, Just Transition Northwest Indiana, Mighty Earth, and Northern Lake County Environmental Partnership (collectively, “Petitioners”) respectfully petition the Administrator of the U.S. Environmental Protection Agency (“EPA” or “Agency”) to object to the Part 70 Operating Permit Renewal No. T089-46463-00316 and the Administrative Part 70 Operating Permit Renewal No. T089-46464-00318 (“Renewal Permits” or

“Permits”) issued by the Indiana Department of Environmental Management (“IDEM” or “Department”) on April 29, 2025, to Cleveland-Cliffs Steel LLC (“Cleveland-Cliffs”) for the Indiana Harbor East facility located at 3210 Watling Street (IDEM Source ID 089-00316) and the Indiana Harbor West facility located at 3001 Dickey Road (IDEM Source ID 089-00318), respectively, in East Chicago, Indiana (collectively, “Facilities”). The Renewal Permits are attached as Exhibits 1 and 2 to this Petition.

As discussed further below, EPA must object to the Renewal Permits because they fail to include monitoring, testing, recordkeeping, and reporting requirements sufficient to assure compliance with all applicable requirements of the Clean Air Act.

## **I. PETITIONERS**

ELPC is the Midwest’s leading environmental legal advocacy organization . Its mission is to ensure that all people in the region have healthy clean air to breathe, safe clean water to drink, and can live in communities without toxic threats.

The Conservation Law Center is a nonprofit that advances conservation in Indiana and across the country through law, advocacy, and education.

The Environmental Integrity Project is a non-profit, non-partisan watchdog organization founded to advocate for the effective enforcement of environmental laws, with a specific focus on the Clean Air Act and large stationary sources of air pollution such as the Facility.

BP & Whiting Watch is an independent grassroots environmental social media group.

Gary Advocates for Responsible Development promotes economic development in the City of Gary that prioritizes environmental justice, community health, and protection of our neighborhoods and natural resources.

Indiana Conservation Voters champions policies that improve our state’s environment, economy, and competitive edge. Our clean air initiatives aim to reduce harmful emissions, create jobs by future-proofing key industries like steelmaking, and improve air quality for all Hoosiers.

Just Transition Northwest Indiana (“JTNWI”) is a grassroots environmental justice organization that serves the Northwest Indiana region. JTNWI’s mission is to educate and organize Northwest Indiana communities and workers, give voice to our shared stories, and support a just transition to a regenerative economy that protects the environment, climate, and future generations.

Mighty Earth is a global environmental advocacy organization dedicated to addressing the most pressing challenges facing our planet. Their mission is to protect nature, restore wildlife, and drive the decarbonization of hard-to-abate industries to ensure a livable climate and a thriving Earth for all life.

Northern Lake County Environmental Partnership works to learn more about how the environment affects health in Northern Lake County in order to promote clean environments and good health.

## **II. FACILITY DESCRIPTION AND PERMITTING HISTORY**

The Facilities occupy over 2,400 acres of Lake Michigan shoreline surrounding Indiana Harbor in East Chicago, Indiana. These two Facilities, along with a dozen onsite contractors, operate as a single integrated steel mill and finishing facility.<sup>1</sup> Both Facilities have been in operation for over 100 years and were originally owned and operated by different competing

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<sup>1</sup> Ex. 1, Part 70 Operating Permit Renewal No. T089-46463-00316, Cleveland-Cliffs Steel LLC, 3210 Watling Street, East Chicago, Indiana 46312 (April 29, 2025) (“Indiana Harbor East Permit”), *also available at* <https://permits.air.idem.in.gov/46463f.pdf>, at 10. Note: The final Renewal Permit provided by IDEM is part of one 788-page PDF file that contains multiple individually-paginated documents (including the final Renewal Permit, Addendum to the Technical Support Document, the Technical Support Document, and various letters to Cleveland-Cliffs). The Indiana Harbor East Permit begins on PDF page 4 of 788 of that file.

companies.<sup>2</sup> However, in the early 2000s, both Facilities were acquired by ArcelorMittal, and ArcelorMittal was subsequently bought by Cleveland-Cliffs in 2020.<sup>3</sup>

As one of the largest integrated steel mills in the world, the Facilities are composed of multiple emission units and associated equipment. Indiana Harbor East consists of the following major emission units: (a) No. 7 Blast Furnace, (b) Sinter Plant, (c) pulverized coal injection (“PCI”) system, (d) No. 4 Basic Oxygen Furnace (“BOF”), (e) No. 1 Lime Plant, (f) 80 inch Hot Strip Mill, (g) No. 3 Cold Strip Mill, (h) Coated Products, (i) No. 5 Boilerhouse, and (j) nine assorted shops and facilities, and each major emission unit is comprised of the key unit plus associated facilities, process equipment, and operational practices.<sup>4</sup> Indiana Harbor West consists of the following major emission units: (a) No. 3 and No. 4 Blast Furnaces, (b) BOF shop, (c) Sheet Mill Finishing operation, (d) Sheet Mill Shipping Facility, Sinter Plant, (c) PCI system, (d) No. 4 BOF, (e) No. 6, No. 7, and No. 8 Boilers, and (f) twelve assorted shops, and each major emission unit is comprised of the key unit plus associated facilities, process equipment, and operational practices.<sup>5</sup> Both Facilities also contain dozens of insignificant activities and fugitive dust sources.<sup>6</sup>

As explained by IDEM, the major source for Title V permitting purposes is the integrated steel mill, which is composed of the collocated Indiana Harbor East, Indiana Harbor West, and associated subcontractors.<sup>7</sup> With regard to Title V permitting, IDEM explains that:

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<sup>2</sup> See generally Global Energy Monitor Wiki, *Cleveland-Cliffs Indiana Harbor steel plant* (undated), [https://www.gem.wiki/Cleveland-Cliffs\\_Indiana\\_Harbor\\_steel\\_plant](https://www.gem.wiki/Cleveland-Cliffs_Indiana_Harbor_steel_plant), at Background Section.

<sup>3</sup> *Id.*

<sup>4</sup> Indiana Harbor East Permit at 11-15.

<sup>5</sup> Ex. 2, Administrative Part 70 Operating Permit Renewal No. T089-46464-00318, Cleveland-Cliffs Steel LLC, 3001 Dickey Road, East Chicago, Indiana 46312 (April 29, 2025) (“Indiana Harbor West Permit”), also available at <https://permits.air.idem.in.gov/46464f.pdf>, at 8-11. Note: The final Renewal Permit provided by IDEM is part of one 622-page PDF file that contains multiple individually-paginated documents (including the final Renewal Permit, Addendum to the Technical Support Document, the Technical Support Document, and various letters to Cleveland-Cliffs). The Indiana Harbor West Permit begins on PDF page 4 of 622 of that file.

<sup>6</sup> See generally Indiana Harbor East Permit at 15-19.

<sup>7</sup> Indiana Harbor West Permit at 7; see also Indiana Harbor East Permit at 10.

Part 70 permit will be issued to [Indiana Harbor East]. Separate Administrative Part 70 permits will be issued to [Indiana Harbor West], the secondary operation, and each of the onsite contractors, solely for administrative purposes. The companies may maintain separate reporting and compliance certification.<sup>8</sup>

IDEM posted the draft Renewal Permits for the 30-day public comment on November 3, 2023.<sup>9</sup> On November 13, 2023, ELPC requested an extension of the public comment period and a public hearing.<sup>10</sup> IDEM did not respond to ELPC's request prior to close of the 30-day comment period, and instead issued a notice on December 20, 2023, announcing a January 10, 2024 public hearing and noting that the public notice period would end on Tuesday, January 16, 2024. Accordingly, the public, including many of the Petitioners, were able to submit comments on the Renewal Permits in both December and January.<sup>11</sup> EPA Region 5 also submitted two comment letters addressing the Renewal Permits on December 4, 2023.<sup>12</sup>

IDEM submitted the proposed Renewal Permits to EPA for its review on February 17, 2025.<sup>13</sup> EPA's 45-day review period ended on April 2, 2025 without an EPA objection, and IDEM issued the two final Renewal Permits to Cleveland-Cliffs on April 29, 2025.<sup>14</sup> Accordingly, the 60-day public petition period on the Renewal Permits ends on June 2, 2025, and this petition is

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<sup>8</sup> Indiana Harbor West Permit at 7; *see also* Indiana Harbor East Permit at 10-11.

<sup>9</sup> Addendum to the Technical Support Document for Permit Renewal Nos. T089-46463-00316 / T089-46464-00318 ("ATSD"), at 1. *Available at* Ex. 1, PDF page 562 of 788, and Ex. 2, PDF page 406 of 662, as explained in nn. 1 and 5, *supra*. Note: IDEM has issued one ATSD addressing both Renewal Permits, which includes the summary of public comments for both Permits and their responses to them.

<sup>10</sup> Ex. 3, ELPC Letter to IDEM (November 13, 2023).

<sup>11</sup> *See, e.g.*, ATSD at 56 (addressing ELPC's December 4, 2023 comments on the Indiana Harbor East Renewal Permit), 63 (addressing ELPC's December 4, 2023 comments on the Indiana Harbor West Renewal Permit), and 133 (addressing ELPC's January 16, 2024 comments on the Indiana Harbor East and Indiana Harbor West renewal permits). Note that while ELPC submitted two separate comment letters on January 16, 2024 to address each Facility, the content of those letters was essentially the same and IDEM addressed them together.

<sup>12</sup> *See* ATSD at 32 (EPA Region 5 comments on the Indiana Harbor East Permit, T089-46463-00316) and 49 (EPA Region 5 comments on the Indiana Harbor West Permit, T089-46464-00318).

<sup>13</sup> Ex. 4, IDEM, Air Quality Permit Status Search, Permit Details for Indiana Harbor East (Source ID 089-00316) and Permit Details for Indiana Harbor West (Source ID 089-00318), at Milestone Details.

<sup>14</sup> *Id.*

timely.<sup>15</sup> As required, Petitioners are filing this Petition and Exhibits with the Administrator via the Central Data Exchange and providing copies via certified U.S. mail to IDEM and Cleveland-Cliffs.

### III. STANDARD OF REVIEW FOR TITLE V PETITIONS

Title V permits must list and assure compliance with all federally enforceable requirements that apply to each major source of air pollution and thus are the primary method for enforcing and assuring compliance with the pollution control requirements of the Clean Air Act (“CAA” or “Act”).<sup>16</sup> One primary purpose of Title V is to “enable the source, States, EPA, and the public to understand better the requirements to which the source is subject, and whether the source is meeting those requirements,” thereby increasing source accountability and improving enforcement of CAA requirements.<sup>17</sup>

The Title V permitting authority must ensure that a proposed permit “set[s] forth” conditions sufficient “to assure compliance with all applicable requirements” of the Act.<sup>18</sup> Among other things, a Title V permit must include compliance certification, testing, monitoring, reporting, and recordkeeping requirements sufficient to assure compliance with the terms and conditions of the permit.<sup>19</sup> Title V regulations require that the permitting authority’s rationale for any proposed permit conditions be clear and documented in the permit record.<sup>20</sup> EPA has explained that within

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<sup>15</sup> See 40 C.F.R. 70.8(d). Since the 60-day public petition period ends on Sunday, June 1, 2025, the deadline falls to the next business day, Monday, June 2, 2025.

<sup>16</sup> 57 Fed. Reg. 32250, 32258 (July 21, 1992).

<sup>17</sup> *Id.* at 32251.

<sup>18</sup> *In the Matter of Sandy Creek Services, LLC, Sandy Creek Energy Station, McLennan County, TX* (June 30, 2021), [https://www.epa.gov/system/files/documents/2021-07/sandy-creek-order\\_06-30-21.pdf](https://www.epa.gov/system/files/documents/2021-07/sandy-creek-order_06-30-21.pdf), (“*Sandy Creek Order*”), at 12 (quoting 42 U.S.C. § 7661c(c)).

<sup>19</sup> 42 U.S.C. § 7661c(c); 40 C.F.R. § 70.6(c)(1).

<sup>20</sup> 40 C.F.R. § 70.7(a)(5).

the permit record, “permitting authorities have a responsibility to respond to significant comments” received on a proposed permit.<sup>21</sup>

EPA must object to any Title V permit that fails to include all applicable requirements of the Clean Air Act or assure compliance with those requirements.<sup>22</sup> “Applicable requirements” include any requirements of a federally enforceable state implementation plan (“SIP”) and any preconstruction requirements that are incorporated into the Title V permit.<sup>23</sup> If EPA does not object to a Title V permit, “any person may petition the Administrator within 60 days after the expiration of the Administrator’s 45-day review period to make such objection.”<sup>24</sup> The Administrator “shall issue an objection” if the petitioner demonstrates “that the permit is not in compliance with the requirements of [the CAA], including the requirements of the applicable implementation plan.”<sup>25</sup> The Administrator “shall grant or deny such petition within 60 days after the petition is filed.”<sup>26</sup>

#### **IV. GROUNDS FOR OBJECTION**

EPA must object to the Renewal Permits because the permits fail to include monitoring, testing, recordkeeping, and reporting requirements sufficient to assure compliance with all applicable requirements of the Clean Air Act. Specifically, the Renewal Permit fails to require adequate monitoring, testing, recordkeeping, and reporting requirements to assure compliance with the following requirements applicable to emission units at the Facilities:

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<sup>21</sup> *In the Matter of CITGO Refining and Chemicals Co., L.P., West Plant, Corpus Christi, TX* (May 28, 2009), [https://www.epa.gov/sites/default/files/2015-08/documents/citgo\\_corpuschristi\\_west\\_response2007.pdf](https://www.epa.gov/sites/default/files/2015-08/documents/citgo_corpuschristi_west_response2007.pdf) (“*CITGO Order*”), at 7.

<sup>22</sup> 40 C.F.R. § 70.8(c).

<sup>23</sup> 40 C.F.R. § 70.2 (definition at “applicable requirement” at (1) and (2)); *In the Matter of Pacific Coast Building Products, Inc., Permit No. A00011, Clark County, NV* (Dec. 10, 1999), [https://www.epa.gov/sites/default/files/2015-08/documents/pacific\\_coast\\_decision1999.pdf](https://www.epa.gov/sites/default/files/2015-08/documents/pacific_coast_decision1999.pdf) (“*Pacific Coast Order*”) at 7 (“applicable requirements include the requirement to obtain preconstruction permits that comply with preconstruction review requirements under the Act, EPA regulations, and State Implementation Plans”).

<sup>24</sup> 42 U.S.C. § 7661d(b)(2) (emphasis added); 40 C.F.R. § 70.8(d).

<sup>25</sup> 42 U.S.C. § 7661d(b)(2); 40 C.F.R. § 70.8(c)(1).

<sup>26</sup> 42 U.S.C. § 7661d(b)(2).

- (1) PM10 emission limits applicable to Baghouses #187 and #188 at Indiana Harbor East;
- (2) NOx emission limits applicable to No. 6 Batch Anneal facilities at Indiana Harbor East;  
and
- (3) NESHAP Subpart DDDDD requirements applicable to Boilers No. 6, No. 7, and No. 8 at Indiana Harbor West.

Section A below summarizes the relevant Part 70 requirements that apply to testing, monitoring, recordkeeping, and reporting requirements, while Sections B through D address how the Renewal Permit has failed to meet those Part 70 requirements for the three applicable requirements listed above.

**A. Each Part 70 permit must set forth testing, monitoring, reporting, and recordkeeping requirements sufficient to assure compliance with all terms and conditions in the permit.**

The CAA requires that each Title V permit “shall set forth inspection, entry, monitoring, compliance certification, and reporting requirements to assure compliance with the permit terms and conditions.”<sup>27</sup> As the relevant permitting authority, IDEM has the responsibility “to ensure that the [T]itle v permit ‘set[s] forth’ monitoring to assure compliance with all applicable requirements.”<sup>28</sup> Further, any emission limit in a Title V permit must be enforceable as both a legal and practical matter. For a limit to be enforceable as a practical matter, a permit must clearly specify how emissions will be measured or determined for purposes of demonstrating compliance with the limit.<sup>29</sup> This requires every emission limit to be (a) “accompanied by terms and conditions that require a source to effectively constrain its operations so as to not exceed the relevant emissions threshold... whether by restricting emissions directly or through restricting specific

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<sup>27</sup> 42 U.S.C. § 7661c(c); *see also* 40 C.F.R. § 70.6(c)(1).

<sup>28</sup> *Sandy Creek Order* at 12 (quoting 42 U.S.C. § 7661c(c)).

<sup>29</sup> *See, e.g., In the Matter of Hu Honua Bioenergy Facility, Pepeekeo, HI* (Feb. 7, 2014), [https://www.epa.gov/sites/default/files/2015-08/documents/hu\\_honua\\_decision2011.pdf](https://www.epa.gov/sites/default/files/2015-08/documents/hu_honua_decision2011.pdf), at 10.

operating parameters,” and (b) supported by monitoring, recordkeeping, and reporting requirements “sufficient to enable regulators and citizens to determine whether the limit has been exceeded and, if so, to take appropriate enforcement action.”<sup>30</sup>

As EPA explains, the Part 70 rules address the CAA requirement that all Title V permits include adequate monitoring, and contain three pathways to satisfy those monitoring requirements:

- (1) The Title V permit must properly incorporate monitoring requirements contained in applicable requirements;<sup>31</sup>
- (2) If an applicable requirement does not contain periodic monitoring, the Title V permit must include periodic monitoring sufficient to yield reliable data from the relevant time period that are representative of compliance with the permit;<sup>32</sup> and
- (3) If an applicable requirement contains periodic monitoring that is insufficient to assure compliance with permit terms and conditions, the Title V permit must include supplemental monitoring to assure such compliance.<sup>33</sup>

As a general matter, “the time period associated with monitoring or other compliance assurance provisions must bear a relationship to the limits with which the monitoring assures compliance.”<sup>34</sup>

However, determining whether monitoring contained in a Title V permit is sufficient to assure compliance with any term or condition is a context-specific, case-by-case inquiry.<sup>35</sup> To aid permitting authorities and the public in this fact-specific exercise, EPA identifies several factors that permitting authorities “may consider as a starting point in determining appropriate

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<sup>30</sup> *In the Matter of Orange Recycling and Ethanol Production Facility, Pencor-Masada Oxynol, LLC*, (Apr. 8, 2002), [https://www.epa.gov/sites/default/files/2015-08/documents/masada-2\\_decision2001.pdf](https://www.epa.gov/sites/default/files/2015-08/documents/masada-2_decision2001.pdf) (“*Pencor-Masada Order*”), at 7.

<sup>31</sup> *In the Matter of Shell Deer Park Chemical Plant* (September 24, 2015), [https://www.epa.gov/sites/default/files/2015-09/documents/dpr\\_response2014.pdf](https://www.epa.gov/sites/default/files/2015-09/documents/dpr_response2014.pdf) (“*Deer Park Order*”), at 18 (citing 40 C.F.R. § 70.6(a)(3)(i)(A, B), (c)(1)).

<sup>32</sup> *Id.* citing 40 C.F.R. § 70.6(a)(3)(i)(B).

<sup>33</sup> *Id.* citing 40 C.F.R. § 70.6(c)(1) and other EPA Title V Petition Orders.

<sup>34</sup> *In the Matter of United States Steel Corporation, Clairton Coke Works Permit No. 0052-OP22* (Sept. 18, 2023), [https://www.epa.gov/system/files/documents/2023-10/us-steel-clairton-order\\_9-18-23.pdf](https://www.epa.gov/system/files/documents/2023-10/us-steel-clairton-order_9-18-23.pdf) (“*Clairton Order*”), at 9; *see also* 40 C.F.R. § 70.6(a)(3)(i)(B).

<sup>35</sup> *Clairton Order* at 9.

monitoring” for a facility, including (but not limited to) the variability of emissions from the unit in question and the likelihood of a violation of the requirements.<sup>36</sup> EPA explains that “the rationale for the selected monitoring requirements must be clear and documented in the permit record.”<sup>37</sup>

**B. The Indiana Harbor East Renewal Permit fails to include adequate monitoring requirements sufficient to assure compliance with numeric PM10 emission limits applicable to Baghouses #187 and #188.**

1. Specific Grounds for Objection, Including Citation to Permit Terms

Section D.4 of the Indiana Harbor East Renewal Permit (T089-46463-00316) addresses the Lake County PM10 Emission Requirements of 326 IAC 6.8-2-17, which are source-specific PM requirements for the Indiana Harbor East facility contained in the Indiana SIP.<sup>38</sup> These are “applicable requirements” that must be addressed in a Title V permit.<sup>39</sup> Conditions D.4.1(b) and (c) establish specific PM10 emission limits for the Coal Pulverizer D Baghouse (187) and Coal Pulverizer E Baghouse (188) of 0.0015 grains per dry standard cubic foot, 0.93 pound per hour.<sup>40</sup> Condition D.4.4 establishes the following monitoring requirements to assure compliance at those units:<sup>41</sup>

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<sup>36</sup> *Id.* (quoting *CITGO Order* at 7–8).

<sup>37</sup> *CITGO Order* at 7–8 (granting petition because permitting authority “did not articulate a rationale for its conclusions that the monitoring requirements... are sufficient to assure compliance”); *see also* 40 C.F.R. § 70.7(a)(5).

<sup>38</sup> Indiana Harbor East Permit at 63; 73 Fed. Reg. 23356 (April 30, 2008) (SIP Approval).

<sup>39</sup> 40 C.F.R. § 70.2 (definition at “applicable requirement” at (1)); *Pacific Coast Order* at 7.

<sup>40</sup> Indiana Harbor East Permit at 63-64.

<sup>41</sup> *Id.* at 64-65.

D.4.4 Visible Emissions Notations	
(a)	Visible emission notations of the Coal Pulverizer D Baghouse (187) and Coal Pulverizer E Baghouse (188) exhausts shall be performed once per day during normal daylight operations when exhausting to the atmosphere. A trained employee shall record whether emissions are normal or abnormal.
(b)	In the case of batch or discontinuous operations, readings shall be taken during that part of the operation that would normally be expected to cause the greatest emissions.
(c)	If visible emissions are observed, and corrective actions cannot be initiated within one hour of the observation, the Permittee shall record the reason that corrective action cannot be taken within the hour and an employee certified to perform an EPA Method 9 evaluation shall determine whether opacity exceeds twenty percent (20%) in one (1) six (6) minute averaging period as determined in 326 IAC 5-1-4; and: ***
(d)	If abnormal conditions are observed, all actions described in paragraph (e) above must be taken in as reasonable response. Section C - Response to Excursions or Exceedances contains the Permittee's obligation with regard to the reasonable response steps required by this condition. Failure to take response steps shall be considered a deviation from this permit.

The Renewal Permit is deficient because it does not provide adequate and enforceable monitoring to ensure compliance with the numeric PM10 emission limits for Baghouses #187 and #188 contained in Condition D.4.1, and because the permit record does not provide a clear rationale for why IDEM believes the monitoring requirements currently in place are sufficient to determine compliance with these numeric emission limits.

## 2. Part 70 Requirements Not Met, Issue Raised in Public Comment

Title V permits must contain testing, monitoring, reporting, and recordkeeping requirements sufficient “to assure compliance with the permit terms and conditions,”<sup>42</sup> and “the rationale for the selected monitoring requirements must be clear and documented in the permit record.”<sup>43</sup> The Indiana Harbor East Renewal Permit fails to meet the requirements of Part 70 because it fails to include monitoring requirements sufficient to assure continuous compliance with numeric PM10 emission limits. Moreover, the lack of clarity in the monitoring terms of Condition

<sup>42</sup> 42 U.S.C. § 7661c(c); 40 C.F.R. § 70.6(c)(1).

<sup>43</sup> *CITGO Order* at 7-8.

D.4.4 renders it and the underlying numeric PM10 emission limits in Condition D.4.1 practically unenforceable.

U.S. EPA raised this issue in Comment #4(a) on the draft Renewal Permit, stating:<sup>44</sup>

**EPA Comment 4**

The following permit conditions require a trained employee to record whether emissions are normal or abnormal. It is unclear whether the compliance monitoring approach in this case, which expects employees to reliably assess the level of visible emissions in comparison to a potentially nonzero reference amount of visible emissions, is practicably enforceable and sufficient to provide reasonable assurance of complying with the respective emission limits. EPA suggests reviewing these monitoring conditions to ensure they are sufficient in assuring compliance with the permitted requirements, and revising the permit as needed.

a. Permit condition D.4.4(a) from the exhaust of baghouse 187 and 188.

The public comment clearly notes issues with the practical enforceability of the terms “trained employee” and “normal or abnormal” in Condition D.4.4 (a) and the lack of clarity on how this term will “reliably assess” compliance with the “permitted requirements,” which are the numeric emission limits in Condition D.4.

### 3. Analysis of IDEM’s Response

IDEM responded to EPA’s comment as follows:<sup>45</sup>

**IDEM Response to EPA Comment 4**

IDEM finds that visible emission notations are an acceptable compliance monitoring requirement. Visible emission notations are a reasonable method for assuring each associated control device is working properly. In addition to visible emissions, the baghouses found in D.4.4(a), D.6.9, and D.14.5 are required to conduct pressure drop parametric monitoring, broken or failed bag detection response steps, and develop, maintain, and implement preventive maintenance plans for each baghouse (See Condition B.10). No changes were made to the proposed Part 70 Permit Renewal No. T089-46463-00316 as a result of this comment.

This response fails to address the specific issue raised by the EPA comment – the use of unenforceable terms such as “trained employee” and “normal or abnormal” and whether the

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<sup>44</sup> ATSD at 43. Note that IDEM did not provide copies of any public comments in the record for these two Renewal Permits. However, Petitioners contacted Sam Portanova of EPA Region 5 (as identified in the ATSD) regarding these comment letters, and he confirmed that IDEM’s ATSD contained a complete copy of the substantive comments in those letters. Accordingly, this Petition cites to the ATSD when discussing EPA Region 5’s comments on these Renewal Permits.

<sup>45</sup> ATSD at 43.

specific provisions of Condition D.4.4(a) will reliably assess and assure compliance with Condition D.4.1, which contains numeric PM10 emission limits.

As an initial matter, the applicable requirements – the Lake County PM10 Emission Requirements contained in 326 IAC 6.8-2-17 – do not contain specific monitoring provisions. Thus, the “Title V permit must include periodic monitoring sufficient to yield reliable data from the relevant time period that are representative of compliance with the permit.”<sup>46</sup> The monitoring terms in Condition D.4.4(a), and D.4.4 generally are not sufficient to yield such reliable data to ensure compliance with the numeric PM10 emission limits of 0.0015 grains per dry standard cubic foot, 0.93 pound per hour. “Normal or abnormal” are vague terms that do not have any clear connection to the applicable numeric emission limits. Likewise, it is not clear what type of training the “trained employee” will receive that would render him or her able to view exhaust from Baghouses #187 and #188 and determine whether it meets these numeric limits. Condition D.4.5.1 notes that a “trained employee is an employee who has worked at the plant at least one (1) month and has been trained in the appearance and characteristics of normal visible emissions for that specific process,”<sup>47</sup> but IDEM fails to explain how such a process would result in the ability to estimate numeric PM emissions. Moreover, as noted in EPA’s original comment, such training and the resulting observations provide no assurance of compliance with PM10 emission limits if the employees have been trained during a period where normal emissions would be “a potentially nonzero reference amount,” i.e., where the condition of the Baghouses have been degrading and some unspecified amount of PM10 emissions in the exhaust are thus “normal.”<sup>48</sup>

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<sup>46</sup> *Deer Park Order* at 18, citing 40 C.F.R. § 70.6(a)(3)(i)(B).

<sup>47</sup> *Indiana Harbor East Permit* at 66.

<sup>48</sup> *ATSD* at 43.

In addition, the specific terms in Condition D.4.4(a) make the PM10 emission limits of Condition D.4.1 practically unenforceable because they specifically limit the PM10 compliance determination, and thus any finding of noncompliance, to a multi-step process that begins with and is limited to observations of a “trained employee.” Not only is this “training” insufficient, as discussed above, but the compliance determination – and the monitoring required to determine compliance – cannot be limited to only the source’s employees; the CAA requires that it be enforceable by IDEM, EPA, and the public.<sup>49</sup>

While IDEM responds that Condition D.4.4 and other requirements (such as parametric monitoring and bag detection) assure that the “associated control device” (i.e., Baghouses #187 #188) are working properly, such assertions do not explain how these methods can be used to determine compliance with the specific PM10 emission limits contained in Condition D.4.1 and required by the Indiana SIP – 0.0015 grains per dry standard cubic foot, 0.93 pound per hour. In addition, the Renewal Permit itself identifies the bag pressure drop readings as the method for determining compliance with Condition D.4.5, *not* the numerical limits in Condition D.4.1.<sup>50</sup> Petitioners could not identify any information in the Permit or elsewhere in the record that establishes how these conditions assure compliance with the numeric PM10 emission limits.<sup>51</sup> Moreover, it is not clear that they could provide such an assessment, since pressure drop readings do not quantify PM emissions; instead they are an indicator of baghouse performance, are

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<sup>49</sup> 42 U.S.C. § 7661c(a).

<sup>50</sup> Indiana Harbor Permit at 66, Condition D.4.6(b).

<sup>51</sup> *See, e.g.*, Technical Support Document for Indiana Harbor East Renewal Permit, No.T089-46463-00316 at 32-33 (noting the numerical PM10 emission limits that apply but without any discussion of terms intended to assure compliance with them). *Available at* Ex. 1, PDF page 730 of 788, as explained in n. 1, *supra*. *See also* ATSD *generally* (no discussion of determining compliance with PM10 emission limits in Condition D.4.1 aside from EPA Comment 4 and IDEM’s response, which is deficient for the reasons discussed above).

influenced by many factors (such as dust load, cleaning system performance, and air volume), and do not directly correlate with specific, numeric readings of PM emissions.<sup>52</sup>

The other compliance provisions in Condition D.4 also fail to assure compliance with the hourly PM emission limits. The remainder of Condition D.4.4 contains two provisions with similarly vague terms that make them unenforceable, such as “operation that would normally be expected to cause the greatest emissions” in D.4.4(b) and the useless direction in Condition D.4.4(d) to take “all actions described in paragraph (e)” if “abnormal conditions” occur, where there is no such paragraph (e) in Condition D.4.4 or elsewhere.<sup>53</sup> Condition D.4.4(c) sets out requirements for taking Method 9 opacity observations, but those more methodical readings only occur *after* observations using the problematic provisions in Condition D.4.4(a) discussed above and *if* there are visible emissions that are not resolved through unspecified “corrective action.”<sup>54</sup> Plus, these Method 9 opacity readings are similarly insufficient to gauge compliance with numeric PM10 emission limits. Nowhere in the Renewal Permit or the accompanying record has IDEM designated how such opacity readings would correlate with specific numeric PM10 amounts.

For the reasons provided above, IDEM’s response does not address the issues of enforceability and compliance assurance raised in the public comments, and Condition D.4.4(a) is insufficient to assure compliance with the applicable requirements for numeric PM10 emission limits contained in Condition D.4.1. Accordingly, EPA must grant this Petition on this issue and either direct IDEM to revise the Renewal Permit to include supplemental monitoring to assure

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<sup>52</sup> See FabCo Industrial Services, *Baghouse Differential Pressure: What You Should Know* (Sept. 10, 2024), <https://www.fabcoind.com/baghouse-differential-pressure-what-you-should-know/>; see also, generally, EPA, Section 6: Particulate Matter Controls (EPA/452/B-02-001) (Dec. 1998), <https://www3.epa.gov/ttnca1/cica/files/cs6ch1.pdf> (setting forth the very complex analysis required to determine PM control from baghouses, including the computation of and impact of pressure drop).

<sup>53</sup> Indiana Harbor Permit at 64-65.

<sup>54</sup> *Id.*

compliance with the hourly, numeric PM10 emission limits contained in Condition D.4.1, or, at a minimum, require IDEM to explain fully how the current permit provisions assure compliance with the hourly, numeric PM10 emission limits.

**C. The Indiana Harbor East Renewal Permit fails to include adequate testing and monitoring requirements sufficient to assure compliance with the NOx emission limit applicable to the No. 6 Batch Anneal facilities.**

1. Specific Grounds for Objection, Including Citation to Permit Terms

Condition D.12.4 of the Indiana Harbor East Renewal Permit (T089-46463-00316) addresses the NOx emission limit for the No. 6 Batch Anneal facilities,<sup>55</sup> as required by Prevention of Significant Deterioration (“PSD”) and the Emission Offset Minor Limit requirements of 326 IAC 2-2 and 2-3, respectively.<sup>56</sup> Condition D.12.4 states:<sup>57</sup>

D.12.4 Prevention of Significant Deterioration (PSD) and Emission Offset Minor Limit [326 IAC 2-2] [326 IAC 2-3 [326 IAC 2-2] Pursuant to CP 089-8672, issued on June 15, 1998, the NOx emissions from No. 6 Batch Anneal facilities shall not exceed 20.19 tons per twelve (12) consecutive month period, with compliance determined at the end of each month. Compliance with this limit and emission offset credits in Condition D.12.5(c) and permanent shutdown of units in Condition D.12.5(d), shall render the requirements of 326 IAC 2-2 (PSD) and 326 IAC 2-3 (Emission Offset) not applicable.
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Because PSD permitting and Emission Offset requirements are contained in the Indiana SIP,<sup>58</sup> they are “applicable requirements” that must be addressed in the Renewal Permit.<sup>59</sup>

<sup>55</sup> Note that while the emission unit description in Section D. 12 of the Renewal Permit discusses the “Batch Anneal Facilities,” which includes “annealing furnaces and hydrogen anneal bases, purge and inner cover” which exhaust through stack 113, the Conditions in that Section use a variety of terms, including “No. 6 Batch Anneal (113)” in D. 12.1, “No.6 Batch Anneal furnace (113)” in D.12.3, “No. 6 Batch Anneal facilities” in D.12.4, and “No. 6 Annealing Furnace” in D.12.5(d). Indiana Harbor East Permit at 85-86. This Petition will use the term facilities unless quoting or referencing a document that uses another term.

<sup>56</sup> Indiana Harbor East Permit at 85-86.

<sup>57</sup> Indiana Harbor East Permit at 85-86.

<sup>58</sup> See generally EPA Approved Regulations and Statutes in the Indiana SIP, <https://www.epa.gov/air-quality-implementation-plans/epa-approved-regulations-and-statutes-indiana-sip> (listing multiple actions approving the PSD requirements of 326 IAC 2-2 and the Emission Offset requirements of 326 IAC 2-3 into the Indiana SIP).

<sup>59</sup> 40 C.F.R. § 70.2 (definition at “applicable requirement” at (1) and (2)); *Pacific Coast Order* at 7.

While Condition D.12.8 contains a “NOx compliance equation” that purports to estimate monthly NOx emission based on throughput at the Batch Anneal facilities,<sup>60</sup> there is no accompanying testing to ensure the accuracy and adequacy of this equation. The Renewal Permit record also fails to provide a clear rationale for why IDEM believes the existing monitoring requirements without such testing are sufficient to assure compliance with these numeric emission limits.

## 2. Part 70 Requirements Not Met, Issue Raised in Public Comment

U.S. EPA raised this issue in Comment #5(e) on the draft Renewal Permit, stating:<sup>61</sup>

### **EPA Comment 5**

The following emission limits in the permit do not have corresponding monitoring, reporting, recordkeeping, or testing. The permit should include compliance methods to sufficiently demonstrate compliance with these limits.

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- e. PM emission limit for furnaces 81A, 182A, 183, and 174 (permit condition D.12.2) and NOx emission limit for No. 6 batch anneal furnace (113) (permit condition D.12.4).

The public comment clearly notes that the Renewal Permit did not include sufficient testing and monitoring to assure compliance with the NOx emission limit in Condition D.12.4.<sup>62</sup>

## 3. Analysis of IDEM’s Response

IDEM responded to EPA Comment #5(e) by adding the “NOx Compliance Equation” in Condition D.12.8 and accompanying monitoring and recordkeeping in Conditions D.12.9 and 10 to the Renewal Permit,<sup>63</sup> but also noted:<sup>64</sup>

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<sup>60</sup> Indiana Harbor East Permit at 86-87.

<sup>61</sup> ATSD at 43.

<sup>62</sup> If the Administrator finds that the public comments did not raise this issue with reasonable specificity, this issue is still valid as IDEM’s response noting that NOx emission has not and cannot be performed (see discussion below) creates sufficient grounds arising after under CAA § 505(b)(2) and 40 C.F.R. §§ 70.8(d) and 70.12(a)(2)(v).

<sup>63</sup> ATSD at 46-47.

<sup>64</sup> *Id.* at 44.

The NOx emission factor for the No. 6 batch anneal furnace has not been tested. IDEM Compliance and Enforcement Branch has determined that a one-time test on the NOx emission factor of the No. 6 Batch Anneal Furnace would not be possible.

For that reason alone, there is no way to ensure that the NOx emission factor in the “NOx Compliance Equation” is correct and that the NOx emissions calculated with it accurately reflect the No. 6 Batch Anneal facility’s compliance with the emission limits in Condition D.12.4.

IDEM claims that it failed to require testing of the NOx emissions factor because “IDEM Compliance and Enforcement Branch has determined that a one-time test on the NOx emission factor of the No. 6 Batch Anneal Furnace would not be possible.”<sup>65</sup> In fact, NOx emissions stack testing of batch annealing furnaces is possible and was completed at another source in Indiana.<sup>66</sup> IDEM provides no detail on *why* NOx emissions stack testing is not possible at Indiana Harbor East or whether changes could be made to allow such testing. Nor does the Department explain how the other compliance provisions are sufficient to ensure compliance with the applicable NOx emission limits without accompanying NOx emissions testing. This testing is essential to determine the adequacy of the monitoring required in Condition D.12.8, which is simply a calculation of NOx emissions based on the emission factor and facility throughput. Without such testing or more detailed, site-specific information, Condition D.12.8 is insufficient to determine compliance with the 20.19 ton 12-month NOx emission limit in Condition D.12.4.

Moreover, even if the NOx Compliance Equation rested on valid emissions factors, which it does not, the method used to document compliance with the equation is insufficient. Condition D.12.10(a) requires Cleveland-Cliffs to “document the compliance status” with the NOx

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<sup>65</sup> *Id.* at 44.

<sup>66</sup> IDEM Memo, RE: Nucor Steel, Crawfordsville, Indiana, Source ID NO. 107-00038, Permit ID No. SSM 107-14143-00038 (Dec. 17, 2001), [https://www3.epa.gov/ttn/chief/old/ap42/ch12/s051/reference/bref25\\_c12s0501\\_ch3\\_2004draft.pdf](https://www3.epa.gov/ttn/chief/old/ap42/ch12/s051/reference/bref25_c12s0501_ch3_2004draft.pdf) (summarizing stack testing of NOx and CO emissions at multiple annealing furnaces at this steel facility).

Compliance Equation by recording “the pressure drop for the scrubber,” which appears to be the “pressure drop across the Annealing Furnace scrubber” measured in Condition D.12.9.<sup>67</sup> But IDEM does not explain how monitoring pressure drop of the Annealing Furnace scrubber would assure compliance with monthly NOx emissions limits, and there is no reason to believe it would; as explained above, pressure drop is used to assess control functionality and does not correlate to numeric emission limits.<sup>68</sup> Thus, it is not clear how IDEM, Cleveland-Cliffs, EPA, or the public can rely on the NOx Compliance Equation in Condition D.12.8 to ensure that NOx emissions from the No. 6 Batch Anneal facilities do not exceed “20.19 tons per twelve (12) consecutive month period” as required by Condition D.12.4.<sup>69</sup>

This failure to assure compliance with the numeric NOx emission limits in Condition D.12.4 is particularly problematic because the limits in that Condition appear to have been included to avoid the more stringent control and other requirements required by the PSD and Emission Offset rules in the Indiana SIP.<sup>70</sup> Such “synthetic minor” limits are used to maintain emissions below certain thresholds to avoid requirements applicable to major emission sources under CAA permitting programs (such as PSD and nonattainment permitting).<sup>71</sup> For that reason, synthetic minor permit limits “must include sufficient terms and conditions such that the source cannot lawfully exceed the limit.”<sup>72</sup> Such limits must also be supported by testing, monitoring, recordkeeping, and reporting requirements that are “sufficient to enable regulators and citizens to

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<sup>67</sup> Indiana Harbor East Permit at 87.

<sup>68</sup> See n. 52 and related discussion, *supra*.

<sup>69</sup> Indiana Harbor East Permit at 85.

<sup>70</sup> Indiana Harbor Permit at 86 (noting that compliance with the NOx emission limit, as well as other actions, “shall render the requirements 326 IAC 2-2 (PSD) and 326 IAC 2-3 (Emission Offset) not applicable”).

<sup>71</sup> See *id.* at 86, Condition D.12.5(c) (noting that the NOx emission limits arose, in part, as a “substitute for lowest achievable emission rate (LAER)” requirement).

<sup>72</sup> *In the Matter of Yuhuang Chemical, Inc.* (Aug. 31, 2016), [https://www.epa.gov/sites/default/files/2016-09/documents/yuhuang\\_response2015\\_0.pdf](https://www.epa.gov/sites/default/files/2016-09/documents/yuhuang_response2015_0.pdf), at 14.

determine whether the limit has been exceeded and, if so, to take appropriate enforcement action.”<sup>73</sup> For the reasons explained above, the Renewal Permit fails those tests.

Making matters worse, the permit limits in Condition D.12.4 were originally established in a permit issued more than 25 years ago, and the No.6 Batch Anneal facilities have been operating for nearly as long.<sup>74</sup> Courts have recognized that the CAA’s mandate that Title V permits include sufficient monitoring “means that a monitoring requirement insufficient ‘to assure compliance’ with emission limits has no place in a permit unless and until it is supplemented by more rigorous standards,” especially in older permits addressing older limits.<sup>75</sup>

Finally, while Condition D.12.4 references CP 089-8672, that construction permit previously issued by IDEM does not contain specific monitoring provisions for the 12-month 20.19 tons NOx limit.<sup>76</sup> The Renewal Permit “must include periodic monitoring sufficient to yield reliable data from the relevant time period that are representative of compliance with the permit.”<sup>77</sup> The Permit fails to include such testing and monitoring requirements to assure compliance with the 20.19 tons NOx limit.

For the reasons discussed above, EPA must grant this Petition on this issue and direct IDEM either to require periodic testing of the NOx emissions from the No. 6 Batch Anneal facilities to confirm the monitoring requirements in the Renewal Permit are adequate to avoid triggering the PSD and Emission Offset requirements of the Indiana SIP or, at a minimum, to

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<sup>73</sup> *Pencor-Masada Order* at 7.

<sup>74</sup> See Indiana Harbor East Permit at 85 (noting that the NOx limit for the No.6 Batch Annealing facilities was established “Pursuant to CP 089-8672, issued on June 15, 1998,” a construction permit authorizing those facilities).

<sup>75</sup> *Sierra Club, et al, v. EPA*, 536 F.3d 673, 677 (D.C. Cir. 2008).

<sup>76</sup> See, generally, Ex. 5, Construction Permit No. CP-089-8672-00316, Inland Steel Company, 3210 Watling Street, East Chicago, Indiana 46312 (undated; issued on June 15, 1998 per Indiana Harbor East Permit at 85), <https://permits.air.idem.in.gov/8672f.pdf>.

<sup>77</sup> *Sierra Club*, 536 F.3d at 677.

explain fully why such testing is not possible and how the current monitoring provisions assure compliance with the 12-month NOx emission limit without such testing.

**D. The Indiana Harbor West Renewal Permit fails to include adequate monitoring, recordkeeping, and reporting requirements sufficient to assure NESHAP Subpart DDDDD applicability and compliance at No. 6, No. 7, and No. 8 Boilers.**

1. Specific Grounds for Objection, Including Citation to Permit Terms

Section E.5 of the Indiana Harbor West Renewal Permit (T089-46464-00318) addresses National Emission Standards for Hazardous Air Pollutants (NESHAP) requirements for the No. 6, No. 7, and No. 8 Boilers (collectively, “Boilers”), noting that:<sup>78</sup>

[Under 40 CFR 63, Subpart DDDDD, when one of boilers 6 through 8 is receiving less than 90% of its total annual gas volume from blast furnace gas (BFG), it is considered an affected facility]

The Renewal Permit then specifies:<sup>79</sup>

E.5.2 National Emission Standards for Hazardous Air Pollutants for Industrial, Commercial, and Institutional Boilers and Process Heaters Requirements [40 CFR Part 63, Subpart DDDDD] [326 IAC 20-95]  
The Permittee shall comply with the following provisions of 40 CFR Part 63, Subpart DDDDD (included as Attachment E to the operating permit), which are incorporated as reference as 326 IAC 20-95 for the emission units listed above:  
[Listing 25 different provision of 40 CFR Part 63]

Thus, these NESHAP Subpart DDDDD rules are Title V “applicable requirements” for the Boilers during certain periods of operation and must be addressed in the Renewal Permit.<sup>80</sup>

The Renewal Permit is deficient because it does not provide adequate and enforceable monitoring, recordkeeping, and reporting requirements to determine when the Boilers are affected facilities under Subpart DDDDD and thus fails to assure compliance with that NESHAP.

<sup>78</sup> Indiana Harbor West Permit at 65.

<sup>79</sup> Indiana Harbor West Permit at 66.

<sup>80</sup> 40 C.F.R. § 70.2 (definition at “applicable requirement” at (4)).

2. Part 70 Requirements Not Met, Issue Raised in Public Comment

The Renewal Permit must contain testing, monitoring, reporting, and recordkeeping requirements sufficient “to assure compliance with the permit terms and conditions,”<sup>81</sup> and IDEM must provide “the rationale for the selected monitoring requirements must be clear and documented in the permit record.”<sup>82</sup> The Indiana Harbor West Renewal Permit fails to meet the requirements of Part 70 because it fails to include monitoring, recordkeeping, and reporting requirements sufficient to determine when the NESHAP Subpart DDDDD requirements apply to the Boilers and thus fails to assure compliance with those applicable requirements.

U.S. EPA raised this issue in Comment #5 on the draft Indiana Harbor West Renewal Permit, stating:<sup>83</sup>

5. Section E.5 states that Boilers No. 6, 7, and 8 are considered an affected facility under 40 CFR 63, Subpart DDDDD when they fire less than 90% of their total annual gas volume from blast furnace gas (BFG). For purposes of determining when Subpart DDDDD is applicable, the permit should include a recordkeeping requirement for Boilers No. 6, 7, and 8 to determine percentage of BFG for total annual gas volume used. While permit condition D.4.7(a)(1) does require records of total fuel usage (BFG and natural gas) each day for these boilers, it doesn't not require the source to track percentage of BFG for total gas volume used.

The public comment clearly raises the issue that the Renewal Permit is insufficient to assure compliance with the NESHAP at the Boilers since the monitoring, recordkeeping, and reporting provisions do not provide for the determination of whether and when the Subpart DDDDD requirements contained in Section E.5 and Attachment E are applicable to the Boilers.

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<sup>81</sup> 42 U.S.C. § 7661c(c); 40 C.F.R. § 70.6(c)(1).

<sup>82</sup> *CITGO Order* at 7-8.

<sup>83</sup> ATSD at 49.

3. Analysis of IDEM's Response

IDEM responded to EPA's comment as follows:<sup>84</sup>

5. The monitoring of BFG fuel usage in D.4.7(a)(1) will be used in tracking the 90% BFG fuel threshold to be subject to 40 CFR 63, Subpart DDDDD.
- No changes were made to the proposed Administrative Part 70 Operating Permit Renewal No. T089-46464-00318 as a result of this comment.

But reliance on Condition D.4.7 fails to address the core issue raised by the EPA comment: the Renewal Permit's failure to require Cleveland-Cliffs to track and report the percentage of BFG fuel used so that the Facility can know – and IDEM, EPA and the public can confirm – applicability of and compliance with the NESHAP Subpart DDDDD requirements at the Boilers.

Condition D.4.7 is insufficient to determine and assure compliance with Section E.5 for many reasons. Condition D.4.7 states:<sup>85</sup>

**Record Keeping and Reporting Requirements [326 IAC 2-7-5(3)] [326 IAC 2-7-19]**

D.4.7 Record Keeping Requirements

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(a) To document the compliance status with Conditions D.4.2, D.4.3, and D.4.5, the Permittee shall maintain the following records:

- (1) Records of the total fuel usage (blast furnace gas and natural gas) for each day at the Nos 6, 7, and 8 Boilers.
- (2) Records of the average sulfur content and heating value for each day for each fuel type used during the calendar quarter.
- (3) Records of any compliance emissions calculations.

(b) To document compliance with condition D.4.5, the Permittee shall maintain records of fuel usage and percent heat input for the ozone control period.

(c) Section C - General Record Keeping Requirements contains the Permittee's obligations with regard to the records required by this condition.

EPA clearly states that determining whether NESHAP requirements in a Title V permit are sufficient to ensure compliance depends on whether “the Permit is specific enough to define how

<sup>84</sup> ATSD at 50.

<sup>85</sup> Indiana Harbor West Permit at 47.

the applicable requirement applies to the facility, i.e., [] its application unambiguous; and...the Permit provides for practical enforceability of the NESHAP.”<sup>86</sup> The Renewal Permit fails this test. First, Condition D.4.7 is not contained in or cited by Section E.5,<sup>87</sup> and it specifically states that it will be used to “document compliance status with Conditions D.4.2, D.4.3, and D.4.5” without any mention of Section E.5.<sup>88</sup> Thus, the specific application of Condition D.4.7 to determine NESHAP applicability is not unambiguous. Second, since Condition D.4.7 does not contain any reporting requirements, it fails to provide for practical enforceability of the applicability of and compliance with the NESHAP Subpart DDDDD requirements contained in Section E.5.

Even if these two issues were resolved, Conditions D.4.7 and D.4.8 do not require Cleveland-Cliffs to monitor, record, or report when BFG usage falls below 90% of total gas volume used, which is the applicability trigger for the Subpart DDDDD requirements. Instead, it only requires reporting of the “total fuel usage for each type of fuel each day.”<sup>89</sup> While it is true, as IDEM asserts, that this information can be used to “track[] the 90% BFG fuel threshold,”<sup>90</sup> doing such applicability calculations are the responsibility of Cleveland-Cliffs – not IDEM, EPA, or the public – to ensure Indiana Harbor West complies with Subpart DDDDD. The after-the-fact calculation scheme provided by IDEM in response to EPA Comment 5 is not clear on the face of the Permit, creating “ambiguity and the applicability questions [that] render the Permit

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<sup>86</sup> *In the Matter of Tesoro Refining and Marketing Co. Martinez, California Facility* (March 15, 2005), [https://www.epa.gov/sites/default/files/2015-08/documents/tesoro\\_decision2004.pdf](https://www.epa.gov/sites/default/files/2015-08/documents/tesoro_decision2004.pdf) (“*Tesoro Order*”), at 9; *see also In the Matter of Al Turi Landfill, Inc.* (2004), [https://www.epa.gov/sites/default/files/2015-08/documents/al\\_turi\\_decision2002.pdf](https://www.epa.gov/sites/default/files/2015-08/documents/al_turi_decision2002.pdf), at 15-16 (noting that because certain NSPS requirements only applied to portions of the source’s operation, the Title V permit “must be revised to clarify” the applicability of those requirements).

<sup>87</sup> Indiana Harbor West Permit at 65-66.

<sup>88</sup> Indiana Harbor West Permit at 47.

<sup>89</sup> Indiana Harbor West Permit at 48.

<sup>90</sup> ATSD at 50.

unenforceable as a practical matter” and detracting “from the usefulness of the Permit as a compliance tool for the facility.”<sup>91</sup>

Thus, the Renewal Permit is insufficient to assure compliance of the No. 6, No. 7, and No. 8 Boilers with Section E.5, including the applicability of the NESHAP Subpart DDDDD requirements. Accordingly, EPA must grant this Petition on this issue and either direct IDEM to include a specific permit term in Section E.5 requiring Cleveland-Cliffs to monitor, record, and report when BFG usage at any Boiler falls below 90% of total gas volume used (or revise Conditions D.4.7 and D.4.8 to do so), or at a minimum, require IDEM to explain fully how the current permit provisions are sufficient to demonstrate the Boilers’ compliance with Section E.5 and the NESHAP Subpart DDDDD requirements and to practically enforce those requirements.

## **V. Conclusion**

For the reasons discussed above, EPA must object to the Indiana Harbor East and Indiana Harbor West Renewal Permits. As clearly raised in public comments, the Renewal Permits fail to include adequate testing, monitoring, recordkeeping, and reporting requirements sufficient to assure continuous compliance with multiple requirements applicable to emission units located at these Facilities. Accordingly, Petitioners respectfully request that EPA object to the issuance of the Renewal Permits and require that IDEM add:

- (1) Monitoring, recordkeeping, and reporting provisions to the Renewal Permit needed to determine compliance with the numeric, hourly PM10 emission limits applicable to Baghouses #187 and #188 at Indiana Harbor East;

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<sup>91</sup> *Tesoro Order* at 9.

- (2) Testing provisions for NOx emissions to the Renewal Permit to determine the validity of the emission factors used to determine compliance with the NOx emission limits applicable to No. 6 Batch Anneal facilities at Indiana Harbor East;
- (3) Monitoring, recordkeeping, and reporting requirements to the Renewal Permit to determine the applicability of and compliance with the NESHAP Subpart DDDDD requirements for Boilers No. 6, No. 7, and No. 8 at Indiana Harbor West; and
- (4) Detailed rationales to the records for the Renewal Permits regarding the adequacy of the selected monitoring requirements to assure compliance with the three requirements above.

DATED: June 2, 2025

Respectfully submitted,

/s/ Robert Michaels

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