

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

IN THE MATTER OF)	PETITION FOR OBJECTION
)	
Part 70 Operating Permit Renewal)	
Operation Permit No. T127-47725-00009)	
)	Permit Number T127-47725-00009
Issued to U.S. Steel Corporation – Midwest)	
Plant)	
U.S. Highway 12, Portage, Indiana)	
)	
Issued by the Indiana Department of)	
Environmental Management)	
_____)	

**PETITION REQUESTING THAT THE ADMINISTRATOR OBJECT TO THE
ISSUANCE OF TITLE V PERMIT NO. T127-47725-00009 FOR THE U.S. STEEL –
MIDWEST PLANT FACILITY**

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”), Abrams Environmental Law Clinic, Faith in Place, Gary Advocates for Responsible Development, Just Transition Northwest Indiana, National Parks Conservation Association, 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. T127-47725-00009 (“Renewal Permit” or “Permit”) issued by the Indiana Department of Environmental Management (“IDEM” or “Department”) on September 10, 2025, to U.S. Steel Corporation (“U.S. Steel”) for the Midwest Plant facility (“Midwest Plant”) located at U.S. Highway 12 in Portage, Indiana (IDEM Source ID 127-00009) (“Facility”). The Renewal Permit is attached as Exhibit 1 to this Petition.

As discussed further below, EPA must object to the Renewal Permit because it fails to include all applicable requirements of the Clean Air Act, as well as clear and enforceable monitoring requirements sufficient to assure compliance with all applicable requirements.

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.

Abrams Environmental Law Clinic at the University of Chicago Law School works on behalf of clients ranging from national non-profits to groups of concerned people sitting around a kitchen table in an environmental justice community, to challenge those who pollute illegally, fight for stricter permits, advocate for changes to regulations and laws, hold environmental agencies accountable, and develop innovative approaches for improving the environment.

Faith in Place is a multifaith movement and network working throughout Indiana, Illinois, and Wisconsin for environmental justice through connection, education, and advocacy.

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.

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.

The National Parks Conservation Association (“NPCA”) is the independent, nonpartisan voice of America’s national parks. With more than 1.9 million members and supporters, NPCA

works to protect and preserve our nation’s most iconic and inspirational places for present and future generations.

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

Midwest Plant is U.S. Steel’s steel finishing facility which operates as part of U.S. Steel Gary Works. Midwest Plant has operated on 750 acres of Lake Michigan shoreline in Northwest Indiana since 1959. It produces “tin mill products and hot-dip galvanized, cold-rolled and electrical lamination steels that are used by customers in the automotive, construction, container and electrical markets.”¹ Midwest Plant was part of Nippon Steel Corporation’s acquisition of U.S. Steel as finalized on June 18, 2025.²

Operating as part of one of the largest integrated steel mills in the world (Gary Works), Midwest Plant is composed of multiple emission units and associated equipment. The Facility consists of the following major emission units: (a) No. 1 Galvanizing Line, (b) No. 2 Galvanizing Line, (c) Continuous Anneal Line, (d) Batch Annealing Furnaces, (e) Pickle Line, (f) 80 inch Cold Reduction Mill, (g) 52 inch Cold Reduction Mill, (h) No. 3 Galvanizing Line, (i) Electrolytic Cleaning Line, (j) Chrome Electroplate Line, (k) Temper Mills, (l) Tin Electroplate Line, and (m) Diesel-fired emergency generators.³ Most of these major emission units comprise the key unit plus

¹ About Midwest (last accessed December 15, 2025), <https://midwest.uss.com/>.

² Alexandra Alper, *Nippon Steel’s purchase of U.S. Steel closes, with big role for Trump*, Reuters (June 18, 2025), <https://www.reuters.com/sustainability/boards-policy-regulation/nippon-steels-acquisition-us-steel-closes-with-big-role-trump-2025-06-18/>.

³ Ex. 1, Part 70 Operating Permit Renewal No. T127-47725-00009, U.S. Steel Corporation – Midwest Plant, U.S. Highway 12, Portage, Indiana 46368 (September 10, 2025) (“Renewal Permit”), also available at <https://permits.air.idem.in.gov/47725p.pdf>, at 7-11. Note: The final Renewal Permit provided by IDEM is part of one 458-page PDF file that contains multiple individually paginated documents (including the final Renewal Permit and

associated facilities, process equipment, and operational practices.⁴ Midwest Plant also contains dozens of insignificant activities.⁵

As IDEM explains, the major source for Title V permitting purposes is the steel finishing facility, which is composed of “US Steel-Midwest Plant, the primary operation” and associated collocated on-site contractors.⁶ IDEM notes that while two of the three contractors are considered separate major sources with their “own Part 70 permit”:

US Steel-Midwest Plant and Metal Working Lubricants, formally [sic] Oil Technology, Inc. are . . . considered one source due to contractual control. Therefore, the term “source” in the Part 70 documents refers to both US Steel-Midwest Plant and Metal Working Lubricants as one source. One combined Part 70 permit will be issued to US Steel-Midwest Plant and Metal Working Lubricants.⁷

IDEM posted the draft Renewal Permit for the 30-day public comment on July 18, 2024.⁸ On August 17, 2024, Petitioners submitted comments on behalf of themselves and several other Petitioners (“Petitioners’ Comments”).⁹

IDEM submitted the proposed Renewal Permit to EPA for its review on September 10, 2025.¹⁰ EPA’s 45-day review period ended on October 25, 2025 without an EPA objection.¹¹ Accordingly, the 60-day public petition period on the Renewal Permit ends on December 24, 2025,

Attachments A-E, Addendum to the Technical Support Document (“ATSD”), Appendix A to the Addendum to the Technical Support Document (“Appendix A”), and the Technical Support Document (“TSD”). The Renewal Permit begins on PDF page 1 of that document.

⁴ See generally Renewal Permit at 7-11.

⁵ See generally *id.* at 11-14.

⁶ *Id.* at 6.

⁷ *Id.* at 6-7.

⁸ Addendum to the Technical Support Document for Permit Renewal No. T127-47725-00009 (“ATSD”), at 1. Available at Ex. 1, PDF page 331 of 458. The ATSD includes copies of the public comments received and IDEM’s responses to them.

⁹ See generally, ATSD (addressing Petitioners’ August 19, 2024, comments on the draft Midwest Plant Renewal Permit).

¹⁰ Ex. 6, IDEM, Air Quality Permit Status Search, Permit Details for Midwest Plant (Source ID 127-00009), at Milestone Details.

¹¹ *Id.*

and this petition is timely.¹² 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 U.S. Steel.

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”).¹³ 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.¹⁴

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.¹⁵ 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.¹⁶ Title V regulations require that the permitting authority’s rationale for any proposed permit conditions be clear and documented in the permit record.¹⁷ EPA has explained that within

¹² See 40 C.F.R. 70.8(d).

¹³ 57 Fed. Reg. 32250, 32258 (July 21, 1992).

¹⁴ *Id.* at 32251.

¹⁵ *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 (“Sandy Creek Order”), at 12 (quoting 42 U.S.C. § 7661c(c)).

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

¹⁷ 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.¹⁸

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.¹⁹ “Applicable requirements” include, among other things, any requirements of a federally enforceable state implementation plan (“SIP”) and any preconstruction requirements that are incorporated into the Title V permit.²⁰ 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.”²¹ 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.”²² The Administrator “shall grant or deny such petition within 60 days after the petition is filed.”²³

IV. GROUNDS FOR OBJECTION

EPA must object to the Renewal Permit because it fails to include and/or assure compliance with all applicable requirements of the Clean Air Act. As explained more fully below, the Renewal Permit:

- (1) Fails to clearly include the applicable National Emission Standards for Hazardous Air Pollutants (“NESHAP”) and New Source Performance Standards (“NSPS”)

¹⁸ *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 (“CITGO Order”), at 7.

¹⁹ 40 C.F.R. § 70.8(c).

²⁰ 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 (“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”).

²¹ 42 U.S.C. § 7661d(b)(2); 40 C.F.R. § 70.8(d).

²² 42 U.S.C. § 7661d(b)(2); 40 C.F.R. § 70.8(c)(1).

²³ 42 U.S.C. § 7661d(b)(2).

- requirements and monitoring, recordkeeping, and reporting requirements sufficient to assure compliance with them at multiple units;
- (2) Fails to include the required Preventive Maintenance Plan and NESHAP Operation and Maintenance Plans;
 - (3) Fails to include sufficiently specific permit terms to ensure that the fuel use restriction assures compliance with PM limits at multiple units;
 - (4) Fails to ensure that the fuel use restriction assures compliance with SO₂ requirements; and
 - (5) Fails to identify the applicability of and compliance with Continuous Assurance Monitoring (“CAM”) requirements to NO_x Emissions at No. 3 Galvanizing Line.

Section A below summarizes the relevant Part 70 requirements that apply to testing, monitoring, recordkeeping, and reporting requirements, while Sections B through F address how the Renewal Permit has failed to meet those and other Part 70 requirements for the five permit deficiencies 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.”²⁴ 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.”²⁵ 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

²⁴ 42 U.S.C. § 7661c(c); *see also* 40 C.F.R. § 70.6(c)(1).

²⁵ *Sandy Creek Order* at 12 (quoting 42 U.S.C. § 7661c(c)).

with the limit.²⁶ 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 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.”²⁷

As EPA explains, the Part 70 rules address the CAA requirement that all Title V permits include adequate monitoring, and contain three pathways for permits to satisfy those monitoring requirements:²⁸

- (1) The Title V permit must properly incorporate “monitoring requirements contained in applicable requirements;”²⁹
- (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;”³⁰ 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.”³¹

²⁶ 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, (“Hu Honua Order”), at 10.

²⁷ *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 (“Pencor-Masada Order”), at 7.

²⁸ *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 (“Deer Park Order”), at 18 (citing 40 C.F.R. § 70.6(a)(3)(i)(A, B), (c)(1)).

²⁹ *Id.* citing 40 C.F.R. § 70.6(a)(3)(i)(A).

³⁰ *Id.* citing 40 C.F.R. § 70.6(a)(3)(i)(B).

³¹ *Id.* citing 40 C.F.R. § 70.6(c)(1) and other EPA Title V Petition Orders including *In the Matter of Mettiki Coal, LLC*, Order on Petition No. III-2013-I (September 28, 2014) at 6-7; *CITGO Order* at 6-7; *In the Matter of United States Steel Corporation – Granite City Works*, Order on Petition No. V-2009-03 (January 31, 2011) at 15-16.

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.”³² 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.³³ 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 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.³⁴ EPA explains that “the rationale for the selected monitoring requirements must be clear and documented in the permit record.”³⁵

B. The Renewal Permit fails to clearly include the applicable NESHAP and NSPS requirements and monitoring, recordkeeping, and reporting requirements sufficient to assure compliance with them at multiple units.

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

Section E.1 of the Midwest Plant Renewal Permit (T127-47725-00009) addresses NESHAP requirements for the Pickle Line, noting that:³⁶

Under 40 CFR 63, Subpart CCC, the Pickle Line (U010 and SPL) is considered an existing affected facility.

The Renewal Permit then includes the following conditions listing the Subpart CCC requirements applicable to this unit:³⁷

³² *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 (“Clairton Order”), at 9; *see also* 40 C.F.R. § 70.6(a)(3)(i)(B).

³³ *Clairton Order* at 9.

³⁴ *Id.* (quoting *CITGO Order* at 7–8).

³⁵ *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).

³⁶ Renewal Permit at 50.

³⁷ *Id.* at 50-51 (listing 11 different provisions of 40 CFR Part 63 Subpart CCC).

E.1.2	Steel Pickling-HCl Process Facilities and Hydrochloric Acid Regeneration Plants NESHAP [40 CFR Part 63, Subpart CCC] [326 IAC 20-29]
The Permittee shall comply with the following provisions of 40 CFR Part 63, Subpart CCC (included as Attachment A to the operating permit), which are incorporated by reference as 326 IAC 20-29, for the emission unit(s) listed above:	
(1)	40 CFR 63.1155
(2)	40 CFR 63.1156
(3)	40 CFR 63.1157(a)
(4)	40 CFR 63.1159(b) and (c)
(5)	40 CFR 63.1160(a) and (b)
(6)	40 CFR 63.1161(a), (b), and (d)
(7)	40 CFR 63.1162(a) and (c)
(8)	40 CFR 63.1163
(9)	40 CFR 63.1164
(10)	40 CFR 63.1165
(11)	Table 1 to Subpart CCC of Part 63

The Renewal Permit likewise purports to incorporate NESHAPs Subpart SSSS (at Section E.2), Subpart ZZZZ (at Section E.3), and Subpart DDDDD (at Section E.4) requirements, as well as NSPS Subpart IIII (at Section E.5) requirements, for multiple other emission units using this same technique, *i.e.*, by including a provision that lists, and supposedly incorporates by reference, provisions from those subparts.³⁸ The Renewal Permit then copies the entirety of all provisions of each NESHAP and NSPS Subpart as a separate attachment to the permit.³⁹ These NESHAP and NSPS rules are Title V “applicable requirements” for the listed emission units during certain periods of operation and must be addressed in the Renewal Permit.⁴⁰

The Renewal Permit is deficient because it does not provide sufficient information to determine whether the supposedly affected emission units are governed by the listed NESHAP and NSPS Subparts, and if so, to identify which provisions of those listed Subparts – including the relevant monitoring, recordkeeping and reporting requirements -- apply. Consequently, the Renewal Permit fails to assure compliance with that NESHAP and NSPS.

³⁸ See Renewal Permit at 52-59.

³⁹ See Renewal Permit Attachments A-E at PDF 65-330.

⁴⁰ 40 C.F.R. § 70.2 (definition at “applicable requirement” at (4).

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

Petitioners raised the issue that the Renewal Permit did not contain sufficient monitoring, recordkeeping, and reporting requirements regarding the NESHAP and NSPS requirements in Comment #4 on the draft Renewal Permit. Citing EPA Title V orders, EPA guidance, and relevant federal and state regulations Petitioners stated:⁴¹

To the extent IDEM is attempting to incorporate the NESHAP and NSPS standards by reference into the Draft Permit, these vague references do not suffice. “[I]ncorporation must be done in a way that clearly identifies a source’s NESHAP obligations.”³³ All incorporations by reference in a Title V permit “must be detailed enough that the manner in which the referenced material applies to the facility is clear and is not reasonably subject to misinterpretation.”³⁴ Furthermore, “[w]here only a portion of the referenced document applies, applications and permits must specify the relevant section of the document.”³⁵ And “[a]ny information cited, cross referenced, or incorporated by reference must be accompanied by a description or identification of the current activities, requirements, or equipment for which the information is referenced.”³⁶ That is, the “[t]he permit

needs to cite to whatever level is necessary to identify the applicable requirements that apply to each emissions unit or group of emission units...and to identify how those units will comply with the requirements.”³⁷ Blanket references are insufficient, especially where NESHAP and NSPS requirements contain exceptions, alternative standards, and/or options that an owner may elect to use.³⁸

Petitioners then provided several examples demonstrating the inadequacy of IDEM’s incorporation by reference of the NESHAP Subpart CCC provisions in the Renewal Permit as applied to the Pickle Line. These examples included:⁴²

⁴¹ ATSD at 12-13, PDF 342-343.

⁴² *Id.* at 13, PDF 343.

As discussed above, the Draft Permit does not meet these standards for incorporation by reference, and examining the regulations only underscores this fact. For example, Condition E.1.2(3) merely lists 40 CFR 63.1159(b) and (c) as applying to the Pickle Line emissions unit. Looking at Attachment A where 40 CFR 63, Subpart CCC is listed, § 63.1159(b) states that an “operator of an affected vessel shall provide and operate...a closed-vent system for each vessel.” Going back to Section E.1(e)(3), the Draft Permit identifies “[f]our (4) 10,000 gallon offline pickle solution storage tanks with uncontrolled fugitive emissions exhausting through vent F020.” Do these uncontrolled fugitive emissions venting through F020 violate 40 CFR 63.1159(b)? Or is there other equipment in the Pickle Line for which this provision applies?

Similarly, Condition E.1.2(5) lists 40 CFR 63.1160(a) and (b) as applying to the Pickle Line emissions unit. But 40 CFR 63.1160(b)(1) requires an operation and maintenance plan to “be incorporated by reference into the source’s title V permit”³⁹ and the Draft Permit fails to incorporate any operation and maintenance plan.⁴⁰ The only near-reference to such a plan is in the Preventive Maintenance Plan (“PMP”) section, which states that “[t]o the extent the Permittee is required by 40 CFR Part 60/63 to have an Operation Maintenance, and Monitoring (OMM) Plan for a unit, such Plan is deemed to satisfy the PMP requirements.”⁴¹ However, the Draft Permit does not even clearly identify which emissions units require either a PMP or an OMM, and the Draft Permit even proposes to remove any emissions unit-specific reference to PMPs and replace it with “a general condition...that will apply to the entire source.”⁴² This is not appropriate incorporation by reference.

One final example: Condition E.1.2 lists 40 CFR § 63.1162(a) and § 63.1163 as applying to the Pickle Line emissions unit. Section 63.1162(a) requires the Pickle Line to have a performance test for HCl emissions once every 2 1/2 years or twice per Title V permit term. However, the Pickle Line is not included in the TSD’s Summary of Testing Requirements.⁴³ And § 63.1163 requires notification of a performance test at least 60 days before the test,⁴⁴ whereas, performance testing for the entire source under Condition C.8 only requires notification of the actual test date “fourteen (14) days prior to the actual test date.” These examples from just a single emissions unit (the Pickle Line) demonstrate that the Draft Permit’s method of incorporation by reference results in too much ambiguity and is, therefore, insufficient.

3. Analysis of IDEM’s Response

IDEM, like Petitioners, cites White Paper 2 for the incorporation by reference standard, stating:⁴³

U.S. EPA has provided guidance on this in White Paper 2 for Improved Implementation of The Part 70 Operating Permits Program (March 5, 1996), which explains how incorporation by reference (IBR) can satisfy the requirements of CAA § 504. In all cases where IBR is employed, the title V permit must contain references that are “detailed enough that the manner in which the referenced material applies to the facility is clear and is not reasonably subject to misinterpretation.” *White Paper 2* at 37.

⁴³ *Id.* at 14, PDF 344.

IDEM's substantive response, however, just repeats that its approach to incorporation by reference in the Renewal Permit somehow meets this standard.⁴⁴

Contrary to the commenter's claim, both in the draft TSD and Part 70 Operating Permit Renewal, IDEM, OAQ has cited to the specific portions of each applicable NSPS and NESHAP. Such self-implementing applicable requirements should generally be included in, or incorporated into, a title V permit without further review. U.S. EPA does not state that they must be contained in the D sections. IDEM, OAQ includes the applicable state requirements in the D sections and the applicable federal requirements in the E sections. In addition, IDEM, OAQ attaches each applicable federal rule in its entirety to the permit. IDEM, OAQ has provided the public with a detailed applicability determination. The fact that the commenter does not approve of the format it was provided in does not justify changing the format IDEM, OAQ uses for all Part 70 Operating Permits.

IDEM's response only underscores that IDEM's incorporation by reference method lacks the specificity required to satisfy CAA § 504. As noted earlier, the purpose of the Title V program is to “enable the source, States, EPA, and the public to understand better the requirements to which the source is subject, and whether the source is meeting those requirements.”⁴⁵ In this way, “the [T]itle V operating permit program is a vehicle for compiling the air quality control requirements as they apply to the source's emission units and for providing adequate monitoring, recordkeeping, and reporting to assure compliance with such requirements.”⁴⁶ The program should “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.”⁴⁷ NESHAP and NSPS requirements in a Title V permit are sufficient to ensure compliance when “the Permit is specific enough to define how the applicable requirement applies to the facility, i.e., [] its application [is] unambiguous; and...the Permit provides for practical enforceability of the NESHAP.”⁴⁸

⁴⁴ *Id.*

⁴⁵ 57 Fed. Reg. 32251 (July 21, 1992).

⁴⁶ *In the Matter of Oak Grove Management Company*, Order on Petition No. VI-2017-12 (October 15, 2021) at 2.

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

⁴⁸ *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 (“*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, at 15-16 (noting that because certain NSPS requirements only applied to

EPA has commented on similar IDEM permits that such “‘high level’ federal rule citations containing multiple requirements . . . do not sufficiently identify the specific requirements as applicable to the subject units and activities”⁴⁹ at a facility. Rather, a “permit needs to cite to whatever level is necessary to identify the applicable requirements that apply to each emissions unit or group of emission units (if generic grouping is used), and to identify how those units will comply with the requirements.”⁵⁰ Furthermore, EPA will object to those permits that:

have attempted to incorporate by reference NSPS (or NESHAP) requirements without providing sufficient detail to determine the specific requirements that apply to emission units at the source. Specifically, in the *Tesoro Order*, the EPA found that references to sections of a NESHAP that were irrelevant to the source created ambiguity and applicability questions that “render the Permit unenforceable as a practical matter and incapable of meeting the Part 70 standard that it assure compliance with all applicable requirements.”⁵¹

The Renewal Permit, however, merely lists the purported NESHAP requirements as shown in Condition E.1.2 above,⁵² and then provides a copy of each entire NESHAP rule separately as an attachment. The combination of inadequate descriptions of specific emission units and the mere listing of NESHAP provisions make the NESHAP requirements in the Permit “reasonably subject to misinterpretation” and thus IDEM fails to incorporate the NESHAP appropriately.

Even IDEM struggles with determining the applicability of such supposedly “self-implementing” requirements. Only after examining the requirements closely in responding to

portions of the source’s operation, the Title V permit “must be revised to clarify” the applicability of those requirements).

⁴⁹ See Part 70 Operating Permit Renewal No. T089-41271-00453, BP Product North America, Inc. – Whiting Business Unit, 2815 Indianapolis Boulevard, Whiting, Indiana 46394 (November 4, 2025), Addendum to the Technical Support Document for Permit Renewal No. T089-41271-00453, EPA Comment 1, <https://permits.air.idem.in.gov/41271f.pdf> (“BP Whiting ATSD”) at 33, PDF 1705.

⁵⁰ *In the Matter of South32 Hermosa Inc., South32 Hermosa Project*, Order on Petition No. IX-2024-20 (May 30, 2025), https://www.epa.gov/system/files/documents/2025-06/south32-hermosa-order_5-30-25.pdf (“*South32 Order*”), at 34 quoting Letter from John S. Seitz, EPA to Robert Hodanbosi and Charles Lagges, STAPPA/ALAPCO, Enclosure B at 6 (May 20, 1999)..

⁵¹ *South32 Order* at 34 quoting *Tesoro Order* at 8.

⁵² Renewal Permit at 50-51.

comments did IDEM itself determine that one specific Subpart CCC requirement did not apply to a specific subunit, explaining that “[u]pon further review, the requirement to have a closed vent system on hydrochloric acid storage vessels in 63.1159(b) is not applicable to the four . . . tanks.”⁵³ In any case, this response does not clarify how the other requirements of Subpart CCC listed in Condition E.1.2. apply to the other subunits of the Pickling Line.

Similar ambiguity exists in the applicability of the NESHAP and NSPS requirements to multiple emission units. For example, IDEM identifies NESHAP Subpart DDDDD Table 3 as an applicable requirement in Condition E.4.2(20).⁵⁴ Table 3 of the NESHAP includes a number of work practices which are required by different types of units based on a variety of factors, including their heat capacity and fuel type.⁵⁵ However, the permit does not provide any indication of *which* of the various work practices included in the Table 3 apply to the subject emission units (Nos. 1, 2, and 3 Galvanizing Lines, Continuous Anneal line, and Batch Annealing Furnaces).⁵⁶ Moreover, despite only identifying NESHAP Subpart DDDDD Tables 3, 9, and 10 as applicable to the emission units above, all 15 of the tables are included in Attachment D.⁵⁷

Likewise, IDEM’s response to Petitioners’ comment providing an example of the lack of incorporation of the Operation and Maintenance Plans required by NESHAP Subparts CCC, SSSS, and DDDDD is unresponsive as the Renewal Permit does not contain the actual plans that apply to Midwest Plant’s emission units (*see* discussion in Section C).⁵⁸ And IDEM’s response to Petitioners’ comments on the discrepancies in the testing requirements listed in the Renewal Permit

⁵³ ATSD at 14.

⁵⁴ Renewal Permit at 57.

⁵⁵ *See* Attachment D at 79-82, PDF 261-264.

⁵⁶ *Id.*; *see also* Renewal Permit at 57.

⁵⁷ *See generally*, Attachment D at 69-118, PDF 251-300.

⁵⁸ *See* ATSD at 16-17, PDF 346-347.

compared to those required by 40 C.F.R. §§ 63.1162(a) and 63.1163 is equally unavailing.⁵⁹ IDEM claims that:

The Compliance Determination and Monitoring Requirements section of the Technical Support Document (TSD) identifies the applicable compliance determination and monitoring requirements to satisfy the requirements of 326 IAC 2-7-5. It is not intended to address the applicable compliance determination and monitoring requirements under 40 CFR 60 and 40 CFR 63. In the federal rule applicability section of the TSD, IDEM, OAQ identified that the source has emission units subject to the requirements of 40 CFR 63.1162(a) and 63.1163.

The notification requirements in Section C.8 (326 IAC 3-6) are independent of any notification requirements in 40 CFR 63.1163. The source is required to notify the Administrator in writing of

his or her intention to conduct a performance test at least 60 calendar days before the performance test is scheduled to begin, to allow the Administrator to review and approve the site-specific test plan required under § 63.7(c) of subpart A of this part and, if requested by the Administrator, to have an observer present during the test. Compliance with 40 CFR 63.1163(d) satisfies the requirements in Section C.8.

This hardly constitutes “compiling the air quality control requirements”⁶⁰ in the Renewal Permit 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.”⁶¹ Petitioners can point to numerous other examples of ambiguities and lack of specificity in the Renewal Permit. For example, Condition E.2.2(5) cites to § 63.5120, which contains three different emission standards for HAPs, but the Renewal Permit does not specify which of the three standards the No. 3 Galvanizing Line must achieve.⁶² Additionally, Section E.2 of the Renewal Permit does not include the NESHAP requirement in § 63.5121, which would impose certain operating limits on the No. 3 Galvanizing Line roll coaters. Do those coaters not include any controls? There is no indication either way in the permit record.⁶³

⁵⁹ Renewal Permit at 50.

⁶⁰ *In the Matter of Oak Grove Management Company*, Order on Petition No. VI-2017-12 (October 15, 2021) at 2.

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

⁶² Renewal Permit at 52.

⁶³ *See generally*, Section E.2 at 52-53.

Similarly, Condition E.3.2(a)(2) lists NESHAP Subpart ZZZZ, § 63.6585(a) and (b) as applying to the two 130 hp diesel-fired emergency generators, while Condition E.3.2(b)(2) suggests all of the requirements in § 63.6585 apply to those units.⁶⁴ However, the entirety of § 63.6585 cannot apply to a single emission unit as § 63.6585(b) applies to emission units that are a major source, whereas § 63.6585(c) applies to emission units that are an area source.⁶⁵ The emission and operating limitations and the performance testing required under Subpart ZZZZ depend upon the engine's brake horsepower. The Renewal Permit, however, does not include the brake horsepower for any emissions unit; thus, it is impossible to determine which of these Subpart ZZZZ requirements apply.⁶⁶

Likewise, Condition E.5.2(2), cites to NSPS Subpart IIII § 60.4205(b) to determine applicability of the NSPS to the listed engines and Condition E.5.2(4) cites to § 60.4207(b) for fuel requirements.⁶⁷ However, the applicability of each of these provisions depends upon each engine's displacement per cylinder, and the permit record does not contain any cylinder displacement information. Finally, Condition E.5.2(9) identifies Table 5 as applicable to the listed engines but fails to list the labeling and recordkeeping requirements in §§ 60.4210(f) and 60.4214(b), respectively, which Table 5 indicates applies to the engines.⁶⁸

In short, IDEM fails to address the core issue raised by Petitioners' comment: the Renewal Permit's failure to properly incorporate the specific NESHAP and NSPS requirements applicable to specific emission units at the Midwest Plant. Consequently, the Permit fails to include all applicable requirements and thus also fails to assure compliance with those applicable

⁶⁴ Renewal Permit at 54.

⁶⁵ See 40 C.F.R. § 63.6585.

⁶⁶ See generally, NESHAP Subpart ZZZZ.

⁶⁷ Renewal Permit at 58.

⁶⁸ *Id.* at 59. See also NSPS Subpart IIII.

requirements. This thwarts practical enforceability as the Renewal Permit does not provide the information necessary for the Facility, regulator, or layperson to determine which specific NESHAP and NSPS requirements apply and whether the Facility is complying with them. Under similar circumstances, EPA has required state regulators to “revise the Permit . . . to ensure that it includes the applicable requirements of the [NSPS and/or NESHAP].”⁶⁹ Additionally, EPA has required regulators wishing to use incorporation by reference to “ensure that the Permit is unambiguous as to which requirements (including the emission limitations and standards, as well as the applicable testing, monitoring, recordkeeping, and reporting requirements) apply to which [emission units] at the facility.”⁷⁰

Accordingly, EPA must grant this Petition on this issue and direct IDEM to: (1) remove those parts of the NESHAP and NSPS that *do not* apply to any of the emission units and/or subunits from the Renewal Permit; (2) properly identify which emission unit subunits each section of the specific NESHAP and NSPS provisions *do* apply to; and (3) determine if those requirements are enough to assure compliance with the NESHAP and/or NSPS or if there are additional monitoring, recordkeeping, and reporting requirements that must be imposed in order to assure compliance and to practically enforce those requirements. In EPA’s own words on a similar permit, IDEM must “revise the permit accordingly to ensure that all applicable sections of the federal standards are included in the permit with sufficient specificity, and as they apply to each unit (or groups of units), in accordance with 40 CFR 70.6(a)(1) and EPA’s March 5, 1996 White Paper Number 2 for Improved Implementation of the Part 70 Operating Permits Program.”⁷¹

⁶⁹ *South32 Order* at 35.

⁷⁰ *Id.*

⁷¹ *See* BP Whiting ATSD 33, PDF 1705.

C. The Renewal Permit fails to include the required Preventive Maintenance Plan and NESHAP Operation and Maintenance Plans.

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

The Renewal Permit fails to include the Preventive Maintenance Plan (“PMP”) and the operation and maintenance (“O&M”) plans required under the NESHAP rules applicable to the Facility (collectively, “Plans”). These Plans and the underlying requirements must be included in the Permit because: (a) the Plans are required by the Indiana SIP and federal NESHAPs; (b) they constitute applicable requirements under the Part 70 rules; (c) they are required to make the provisions requiring compliance and implementation of the Plans enforceable; and (d) the Plans are necessary to determine compliance with other applicable requirements.

Condition B.10 of the Renewal Permit generally outlines the legal requirements for the Midwest Plant’s PMPs and states that the “Permittee shall implement the PMPs.”⁷² Condition D.7.7(b)(1) requires Midwest Plant to comply with the PMP as follows:⁷³

(1) The Permittee shall record the natural gas flow rate and urea flow rate at least four (4) times per hour until the primary CEM or a backup CEM is brought online and functioning properly. The Preventive Maintenance Plan for the SNCR shall contain troubleshooting contingency and corrective actions for when the readings are outside of the normal range for any one reading during downtime of the NOx CEMS. When for any one reading, the natural gas flow rate and urea flow rate are outside the normal range during downtime of the NOx CEMS, the Permittee shall take reasonable response steps in accordance with Section C - Response to Excursions or Exceedances.

This PMP requirement ensures the Permittee can immediately take corrective actions to abnormal readings on the Selective Non-Catalytic NOx Reduction (“SNCR”) control unit when the continuous emission monitor (“CEM”) on the No. 3 Galvanizing Line is offline, ensuring the numeric NOx emissions limit in Condition D.7.1 is not exceeded.⁷⁴ This is crucial because the

⁷² Renewal Permit at 17.

⁷³ *Id.* at 42.

⁷⁴ *Id.* at 40-41.

Facility is relying on the operation of the SNCR (in Conditions D.7.1 and D.7.4) and the NOx emission limit in Condition D.7.1 to avoid the requirements of Prevention of Significant Deterioration (“PSD”) and Emission Offset.⁷⁵

Other Midwest Plant emission units have similarly required PMPs in the past. Conditions D.1.2, D.2.4, D.5.2, and D.7.4 in Midwest Plant’s previous Title V permit, No. 127-40699-00009 issued January 8, 2020 (“2020 Permit”), required that the Midwest Plant have PMP plans for the No. 1 Galvanizing Line, the No. 2 Galvanizing Line, the Pickle Line, and the No. 3 Galvanizing Line.⁷⁶ These conditions stated that “[a] Preventive Maintenance Plan is required for this facility and its control device. Condition B - Preventive Maintenance Plan contains the Permittee’s obligation with regard to the preventive maintenance plan required by this condition.”⁷⁷ Conditions D.1.2, D.2.4, D.5.2, and D.7.4 thus made clear that the PMP is an applicable requirement for these emissions units.

In the Renewal Permit, however, IDEM proposes to remove these conditions:⁷⁸

The following changes were made to conditions contained previously issued permits/approvals (these changes may include Title I changes):

(1) IDEM has removed the Preventive Maintenance Plan Conditions D.1.2, D.2.4, D.5.2, D.7.4 have been removed from the draft permit. IDEM agrees it is not necessary to include a condition in every D Section requiring a preventive maintenance plan. Rather, a general condition will still be included Section B - Preventive Maintenance Plan of the permit that will apply to the entire source.

The general requirement for a PMP as outlined in Section B is not equivalent to those in Section D which are part of the Facility’s compliance requirements. Indeed, Condition B.10 does not even identify which emissions units require individual PMPs. The PMPs, however, are part of

⁷⁵ *Id.*

⁷⁶ Ex. 3, Part 70 Operating Permit Renewal No. T127-40699-00009, U.S. Steel Corporation – Midwest Plant, U.S. Highway 12, Portage, Indiana 46368 (January 8, 2020) (“2020 Permit”), also available at <https://permits.air.idem.in.gov/40699f.pdf>, at 35, 37, 41, and 44.

⁷⁷ *Id.*

⁷⁸ TSD at 26, PDF 458.

the compliance requirements in the SIP-approved rules of 326 IAC 1-6-3 and 326 IAC 2-7-4(c)(8) and thus constitute applicable requirements for specific emission units at the Midwest Plant. The Renewal Permit must identify the emissions units that require PMPs and incorporate the facility-specific PMPs appropriately as applicable requirements in the Permit.

The Renewal Permit likewise fails to include the applicable O&M Plans. The Renewal Permit requires Midwest Plant to comply with O&M Plans required by the federal NESHAPs, which have also been incorporated into state law.⁷⁹ Specifically, Condition E.1.2(5) purports to incorporate the NESHAP Subpart CCC requirements at 40 C.F.R. § 63.1160(b).⁸⁰ 40 C.F.R. § 63.1160(b) requires Midwest Plant to “prepare an operation and maintenance plan for each emission control device” and specifies that “[t]he plan shall be incorporated by reference into the source's title V permit.” These O&M Plans are applicable requirements and must be included in the Renewal Permit for that reason.

In addition, as explained below, the PMP and the Subpart CCC O&M Plan are necessary to assure compliance with other applicable requirements and must be included in the Permit to ensure it contains adequate and enforceable monitoring requirements.

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

The Renewal Permit fails to meet the requirements of Part 70 because it fails to include the PMP and the Subpart CCC O&M Plans as required by the Indiana SIP and the Part 70 rules, and as necessary to assure compliance with applicable emission limits.

Petitioners clearly raised the failure to include the Plans in the Renewal Permit in public comment, stating:⁸¹

⁷⁹ 326 IAC 20-29-1(b) incorporates by reference 40 CFR 63, Subpart CCC.

⁸⁰ Renewal Permit at 50.

⁸¹ Appendix A at 12-13, PDF 412-413. Because Appendix A to the ATSD copied the substantive text of Petitioners' comments provided in Ex. 2, we cite to Appendix A when discussing Petitioners' comments.

Midwest Plant is required to operate according to an **Operation and Maintenance Plan**. In fact, 40 CFR § 63, Subpart CCC states that an operation and maintenance plan is required for each pickling line and “shall be incorporated by reference into the source’s title V permit.”⁴⁸ However, despite the Draft Permit including provisions relevant to operation and maintenance plans in Attachment A (40 CFR § 63, Subpart CCC), *no* permit conditions cite to or incorporate the Operation and Maintenance Plan. Because Midwest Plant must operate in accordance with its Operation and Maintenance Plan, IDEM must include the Plan in the Final Permit.

Similarly, the Steel Finishing Facility is required to operate according to a **Preventive Maintenance Plan** (“PMP”). The TSD acknowledges that USS “is subject to 326 IAC 1-6-3,”⁴⁹ which describes what should be included in PMPs. The Draft Permit also has a general section titled “Preventive Maintenance Plan” which generally describes PMP regulations under 326 IAC 1-6-3 and 326 IAC 2-7-5(12), and states that the “Permittee shall implement the PMPs.”⁵⁰ It also explains that this is a requirement regardless of the emission unit’s potential to emit or whether it has associated control devices.⁵¹ But the Draft Permit does not include any PMPs or provide the date it submitted its PMP to IDEM. Moreover, because the Draft Permit only identifies the Selective Non-Catalytic NOx Reduction Unit within the No. 3 Galvanizing Line as requiring a PMP,⁵² it is unclear if Midwest Plant even has a PMP for any other emission units. Because Midwest Plant must operate according to its PMP, the Plan must be included in the Final Permit, particularly PMP monitoring provisions.⁵³ Additionally, IDEM should reject the proposed

change to the Draft Permit which would eliminate separate conditions for each of the emission units and replace it with a source-wide PMP condition.⁵⁴ Instead, IDEM should clarify which emissions units have individual PMPs and when the source-wide PMP was last updated.

Petitioners explained that the PMP & O&M Plan were applicable requirements for Midwest Plant.⁸² Petitioners elaborated on the specific requirements of the PMP and the O&M Plan required by Subpart CCC and explained that because specific units at Midwest Plant were required to operate in accordance with the Plans, they “must be included in the Final Permit.”⁸³ Petitioners also emphasized that the Plans be properly incorporated in or attached to the Renewal Permit “to ensure they are practically enforceable.”⁸⁴

3. Analysis of IDEM’s Response

IDEM responded to Petitioners’ comment as follows:⁸⁵

⁸² *Id.*

⁸³ *Id.* at 12, PDF 412.

⁸⁴ *Id.* at 13, PDF 413.

⁸⁵ ATSD at 18, PDF 348.

IDEM disagrees with the commenter's characterization of the extent to which CAA regulations "require" additional documents to be incorporated into a Part 70. Neither 40 CFR 70.5 – Permit applications nor 40 CFR 70.6 – Permit content name any of the documents that the commenter lists. Whether one or more of those additional documents is "Other specific information that may be necessary to implement and enforce other applicable requirements of the Act or of this part or to determine the applicability of such requirements" [40 CFR 70.5(c)(5)] is plainly at the discretion of the permitting authority. Historically, IDEM has not incorporated the documents the commenter cites into Part 70 permits.

Federal regulations are mute with regard to preventive maintenance plans (PMP). The IDEM rule for Part 70 permit applications, at 326 IAC 2-7-4(c)(8), requires that applicants confirm that the source maintains a PMP as described at 326 IAC 1-6-3 and that the plan will be forwarded to IDEM upon request. The IDEM rule for Part 70 permit content, at 326 IAC 2-7-5(12), includes conditions that require the source to maintain the PMP on-site, implement the PMP, and forward the PMP to IDEM upon request. IDEM's requirements for PMP's, which apply to any source required to obtain a permit, are thus more explicit than the federal Part 70 regulation. The PMP, which varies in complexity with the nature of the emissions unit, is subject to review by the inspector as well as the requirement for submission upon request.

The specified plans cited by the commenters are kept on site so that on-site employees can effectively implement the plans and so that a copy is available for review by an IDEM, OAQ inspector. During an inspection, the IDEM, OAQ inspector will perform a records review, which includes review of the specified plans cited by the commenters, to determine if the source is in compliance with the applicable requirements. These plans are typically living documents and may change from time to time based the source's current operations, procedures, needs, etc. If a source is not in compliance with any applicable permit requirements, the source may be referred to compliance and enforcement.

With regard to the O&M Plans, IDEM also stated:⁸⁶

Operation and Maintenance Plan

The table below summarizes the permit conditions and permit attachments that incorporate any applicable operation and maintenance plan requirements for these federal rules.

Permit Condition	Federal Rule and Title	Federal Rule Permit Attachment
E.1.2	40 CFR Part 63, Subpart CCC, NESHAP for Steel Pickling-HCL Process Facilities and Hydrochloric Acid Regeneration Plants	Attachment A
E.2.2	40 CFR Part 63, Subpart SSSS, NESHAP for Surface Coating of Metal Coil	Attachment B
E.4.2	40 CFR Part 63, Subpart DDDDD, NESHAP for Industrial for Institutional, Commercial, and Industrial Boilers and Process Heaters	Attachment D

⁸⁶ ATSD at 16, PDF 346 in response to Petitioner Comment 4.

IDEM's response is incorrect and inadequate. First, IDEM must include the actual facility-specific Plans in the Renewal Permit because they contain applicable requirements. Midwest Plant is required to have a PMP under SIP-approved Indiana regulations at 326 IAC 1-6-3.⁸⁷ Thus, any PMPs are an applicable requirement of the Renewal Permit because they are "requirements provided for in the applicable implementation plan."⁸⁸ In developing those SIP rules, Indiana determined that a facility-specific PMP was necessary.⁸⁹ Moreover, because the Indiana SIP requires Midwest Plant to have and apply these Plans, IDEM must include these Plans in the Renewal Permit under 40 C.F.R. § 70.6, which requires Title V permits to contain "[a]ll monitoring and analysis procedures or test methods required under applicable monitoring and testing requirements."⁹⁰

Likewise, the O&M Plans are applicable requirements because they are required under the federal NESHAP program, making them a "requirement under section 112 of the Act."⁹¹ In developing those rules, EPA specifically determined that development and implementation of a facility-specific O&M plan was necessary to assure compliance with the rule requirements.⁹² EPA also directed that the facility-specific Subpart CCC O&M plan be included in the source's Title V permit.⁹³

IDEM's response notes that Attachments A, B, and D "incorporate any applicable operation and maintenance plan requirements for these federal rules."⁹⁴ However, simply copying the text of the federal NESHAP rules that require Midwest Plant to develop and implement O&M

⁸⁷ 55 Fed. Reg. 18604 (May 3, 1990).

⁸⁸ 40 C.F.R. § 70.2 (definition at "applicable requirement" at (1)).

⁸⁹ See 326 IAC 1-6-3.

⁹⁰ 40 C.F.R. § 70.6(a)(3)(i)(A).

⁹¹ 40 C.F.R. § 70.2 (definition at "applicable requirement" at (4)).

⁹² 40 C.F.R. §§ 63.7800(b), 63.7833(b)(1), and 63.1160(b).

⁹³ *Id.* at § 63.1160(b).

⁹⁴ ATSD at 16, PDF 346.

Plans, as IDEM has done here,⁹⁵ does not fulfill the Title V requirement to include the applicable requirements – i.e., the actual facility-specific O&M plans that must be implemented at Midwest Plant – in the Renewal Permit.

Contrary to IDEM’s response to comments, the Department has no “discretion” to determine that these Plans are not applicable requirements at Midwest Plant. In fact, EPA already addressed this issue, noting that permitting authorities must ensure that monitoring and other compliance requirements “contained in applicable requirements are properly incorporated into the [T]itle 5 permit” under 40 C.F.R. § 70.6(a)(3)(i)(A).⁹⁶ The Renewal Permit must be revised to include the Midwest Plant PMP and O&M Plans in order to comply with the CAA and the Part 70 rules.

Second, IDEM must include the Plans in the Renewal Permit because specific provisions of that Permit require Midwest Plant to comply with them. As EPA found in the Oak Creek Title V Order, when “compliance with the approved [plan] is required” by the specific terms of a permit, “the plan must be included in the permit” under 40 C.F.R. § 70.6(a)(1).⁹⁷ As noted above, the compliance monitoring requirements provisions contained in Condition D.7.7 require Midwest Plant include “troubleshooting contingency and corrective actions” within the PMP,⁹⁸ and Condition B.10(b) requires the Permittee to “prepare and maintain Preventive Maintenance Plans (PMPs) no later than ninety (90) days after issuance of this permit.”⁹⁹ Similarly, the NESHAP provision incorporated at Conditions E.1.2(5) requires the Midwest Plant to develop and

⁹⁵ See, e.g., Renewal Permit at 50 and Attachment A at 4-5 (incorporating 40 C.F.R. § 63.1160(b) verbatim).

⁹⁶ *Deer Park Order* at 18 (citing 40 C.F.R. § 70.6(a)(3)(i)(A, B), (c)(1)).

⁹⁷ *In the Matter of WE Energies Oak Creek Power Plant*, Permit No. 241007690-P-10 (June 12, 2009), https://www.epa.gov/sites/default/files/2015-08/documents/oak_creek_decision2007.pdf (“Oak Creek Order”), at 26. See also *In the Matter of Columbia University*, Pet. NO. II-2000-08 (Dec. 16, 2002), https://www.epa.gov/sites/default/files/2015-08/documents/columbia_university_decision2000.pdf (“Columbia University Order”), at 27 (noting where a facility is subject to a plan, the permit must “properly incorporate that plan”).

⁹⁸ Renewal Permit at 42.

⁹⁹ *Id.* at 17.

implement the O&M plans.¹⁰⁰ Accordingly, the PMP and O&M Plans are requirements applicable to Midwest Plant that must be included in the Permit under the Part 70 rules.

Third, the Plans must be included in the Permit to make the provisions requiring compliance and implementation of the Plans enforceable. Title V requires enforceable permit terms,¹⁰¹ and IDEM completely fails to address this enforceability issue in the record.¹⁰² Without identifying which emissions units require a PMP and including the specific requirements of these Plans in the Permit, Condition D.7.7 (for the PMP) and Condition E.1.2(5) (for the O&M Plan) are unenforceable, because it is impossible for IDEM, EPA, and citizens to determine whether Midwest Plant is complying with the requirements of the Plans, and, if not, to take appropriate enforcement action.¹⁰³

Finally, the PMP and Subpart CCC O&M must also be included in the Permit because they are necessary to determine compliance with other applicable requirements. Compliance with the PMP provisions is part of the “Compliance Monitoring Requirements” for the No. 3 Galvanizing Line.¹⁰⁴ In its response to a different comment, IDEM actually identified a PMP as an “additional applicable requirement” that ensures the No. 2 Galvanizing Line is in compliance with NO_x limits, and IDEM also states that preventive maintenance is important for “ensuring the process and control devices operates properly during the emission test.”¹⁰⁵ Likewise, the underlying NESHAP requirement of Condition E.1.2(4) states that a source’s compliance with the Subpart CCC general duty to minimize emissions will be determined in part by “review of operation and maintenance procedures [and] review of operation and maintenance records.”¹⁰⁶ Thus, under 40 C.F.R. §

¹⁰⁰ 40 C.F.R. § 63.1160(b)(1).

¹⁰¹ 42 U.S.C. § 7661c(a).

¹⁰² Appendix A at 13, PDF 413.

¹⁰³ *Pencor-Masada Order* at 7.

¹⁰⁴ Renewal Permit at 42 at Condition D.7.7(b)(1).

¹⁰⁵ ATSD at 47 and 48, PDF 377 and 378.

¹⁰⁶ Renewal Permit at 50; 40 C.F.R. 63.1159, also incorporated at Midwest Plant Permit Attachment A at 4.

70.6(a)(3)(i)(B), the PMP and the Subpart CCC O&M plan are required monitoring provisions necessary to assure compliance with applicable requirements.¹⁰⁷

While IDEM emphasizes the “living” nature of the Plans and its ability to inspect them, neither of those facts override the statutory and regulatory requirements (and related EPA orders) stating that they are the types of plans that must be included in Title V permits.¹⁰⁸ Accordingly, EPA must grant Petitioners’ request for an objection on this issue and direct IDEM either to revise the Renewal Permit to include the PMP and O&M Plan, or to provide the factual and legal basis for excluding the Plans from the Renewal Permit that aligns with the relevant Title V statutory and regulatory requirements.

D. The Renewal Permit fails to include sufficiently specific permit terms to ensure that the fuel use restriction assures compliance with PM limits at multiple units.

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

The Renewal Permit is deficient because it does not contain adequate and enforceable monitoring, testing, recordkeeping, and reporting requirements to ensure compliance with the specific numeric PM emissions limits in Conditions D.1.1, D.2.3, D.3.1, D.4.1, D.5.1, D.6.1(a), D.6.1(b), D.7.3, D.8.1, D.9.1, D.10.1(a), D.10.1(b), D.10.1(c), and D.11.1.¹⁰⁹ The Renewal Permit is also deficient because the permit record does not provide a clear rationale for IDEM’s position that 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

¹⁰⁷ 40 C.F.R. § 70.6(a)(3)(i)(B).

¹⁰⁸ See generally 42 U.S.C. §§ 7661c(a)-(c); 40 C.F.R. §§ 70.6(a)(1), (3)(i)(A) and (B); *Oak Creek Order* at 26; *Columbia University Order* at 27.

¹⁰⁹ See Renewal Permit at 33, 35, 36, 37, 38, 39, 41, 44, 45, 46, and 47.

The Renewal Permit fails to meet the requirements of Part 70 because it fails to include monitoring, recordkeeping, and reporting requirements sufficient to assure continuous compliance with the specific numeric PM emission limits in Conditions D.1.1, D.2.3, D.3.1, D.4.1, D.5.1, D.6.1(a), D.6.1(b), D.7.3, D.8.1, D.9.1, D.10.1(a), D.10.1(b), D.10.1(c), and D.11.1.

Petitioners raised this issue in Comment #9 on the draft Renewal Permit, as demonstrated by the following table included in that Comment:¹¹⁰

¹¹⁰ ATSD at 19-21. Note that Petitioners originally included Condition D.12.1 in their comments on the draft Renewal Permit. IDEM has since removed several emission units from Section D.12 as “Trivial Activities” as defined at 326 IAC 2-7-1(39).

Table 2: Emissions Units With Limits, Monitoring, Recordkeeping, and Reporting Provisions as provided in the Draft Permit

Permit Section	Emissions Unit	Emissions Limit Permit Condition	Emissions Limit	Monitoring/Testing	Recordkeeping	Reporting
D.1	No. 1 Galvanizing Line	D.1.1	PM not to exceed 36 lbs/hr when process weight rate of 25.6 tons of metal/hr	None	None	None
D.2	No. 2 Galvanizing Line	D.2.1(a)	NOx not to exceed 0.512 lbs/MMBtu	D.2.4 Once per 5 year stack testing	D.2.5	None
		D.2.1(b)	NOx not to exceed 0.388 lbs/MMBtu	D.2.4 Once per 5 year stack testing	D.2.5	None
		D.2.2	only natural gas w/max heat-input rate 7.8 MMBtu/hr	None	None	None
		D.2.3	PM not to exceed 47.1 lbs/hr when process rate of 65.6 tons of metal/hr	None	None	None
D.3	Continuous Anneal Line	D.3.1	PM not to exceed 43.8 lbs/hr when process weight rate of 46.2 tons of metal/hr	None	None	None
D.4	Batch Annealing Furnaces	D.4.1	PM not to exceed 53.6 lbs/hr when process weight rate of 125.6 tons of metal/hr	None	None	None
D.5	Pickle Line	D.5.1	PM not to exceed 59.65 lbs/hr when	None	None	None

			process weight rate of 222 tons of metal/hr			
D.6	80" Cold Reduction Mill (Tandem Mill)	D.6.1(a)	PM not to exceed 57.07 lbs/hr when process weight rate of 175 tons of metal/hr	None	None	None
	52" Cold Reduction Mill (Tandem Mill)	D.6.1(b)	PM not to exceed 48.3 lbs/hr when process weight rate of 73.6 tons of metal/hr	None	None	None
D.7	No. 3 Galvanizing Line	D.7.1	NOx emission controlled by SNCR to not exceed 3.24 lbs/hr	D.7.4 SNCR operate at all times direct fire furnace in operation; D.7.6(b) CEMS to measure and record NOx hourly emission rates over 24-hr operating hr block averaging period	D.7.6(b) maintain records of emission rates in lbs/hr; D.7.7 document CEMS downtime; D.7.8(a) record NOx lbs/hr	D.7.9(a) CEMS performance audit reports; D.7.9(b) CEMS downtime reporting
		D.7.2	VOC limited to 2.6 lbs/gal of coating less water delivered to the coating applicator	D.7.5 Use of manufacturer VOC data sheets; D.7.6(a) states for D.7.2 and D.7.5 but is for NOx NOT VOC	D.7.8(b) states for D.7.2 and D.7.6 record VOC content	None
		D.7.3	PM not to exceed 44.6 lbs/hr when process weight rate of 50 tons of metal/hr	None	None	None
D.8	Electrolytic Cleaning Line	D.8.1	PM not to exceed 43.3 lbs/hr when process weight rate of 43.4 tons of metal/hr	None	None	None
D.9	Chrome Electroplate Line	D.9.1	PM not to exceed 40.4 lbs/hr when process weight rate of	None	None	None

			31.4 tons of metal/hr			
D.10	No. 1 Tin Temper Mill	D.10.1(a)	PM not to exceed 42.4 lbs/hr when process weight rate of 39.4 tons of metal/hr	None	None	None
	No. 2 Tin Temper Mill	D.10.1(b)	PM not to exceed 47.9 lbs/hr when process weight rate of 70.8 tons of metal/hr	None	None	None
	Sheet Temper Mill	D.10.1(c)	PM not to exceed 53.6 lbs/hr when process weight rate of 125.6 tons of metal/hr	None	None	None
D.11	Tin Electroplate Line	D.11.1	PM not to exceed 42.1 lbs/hr when process weight rate of 38.2 tons of metal/hr	None	None	None
D.12	Machining, brazing equipment, cutting torches, soldering equipment, welding equipment, and lime hopper	D.12.1	PM not to exceed E when process weight rate up to 60,000 tons/hr	None	None	None
	Cold cleaning degreasers	D.12.2	No VOC limit specified, provides control equipment and operating requirements	D.12.3 cannot operate cold cleaning degreaser w/solvent w/VOC composite vapor pressure that exceeds 0.019 lb/sq in measured at 68 F	D.12.4 cold degreaser solvent records	None

Petitioners' comment clearly identified the specific numeric PM emission limits in Conditions D.1.1, D.2.3, D.3.1, D.4.1, D.5.1, D.6.1(a), D.6.1(b), D.7.3, D.8.1, D.9.1, D.10.1(a), D.10.1(b),

D.10.1(c), and D.11.1, and the specific monitoring provisions identified in the Permit to assure compliance (none).

3. Analysis of IDEM's Response

IDEM responded to Petitioners' comment as follows:¹¹¹

¹¹¹ ATSD at 43-44, PDF 373-374.

The No. 1 Galvanizing Line does not have any applicable compliance monitoring requirements in Section D.1. The fume washer on the alkaline electrolytic section is for OSHA requirements and is not required to comply with applicable PM limitations. The cleaning process is not a significant source of PM emissions. The Annealing Furnace Section, Post Anneal Furnace and Roll Rig are fired by natural gas and are not a significant source of PM and SO₂ emissions. The Hot Dip Galvanize Coating Section is not a significant source of PM and the Chemical Treatment Section is covered with a lid. No visible emission notations are required because only natural gas is used.

The No. 2 Galvanizing Line does not have any applicable compliance monitoring requirements in Section D.2. The fume washer on the alkaline electrolytic cleaning section is for OSHA requirements and is not required to comply with applicable PM limitations. The cleaning section is not a significant source of PM emissions. The pre-melt kettle, Annealing Furnace Section, strip dryers, roll rig and drying oven are fired by natural gas and actual PM and SO₂ emissions are not a significant source of these pollutants. The Hot Dip Galvanize Coating Section is not a significant source of PM and the Chemical Treatment Section is covered with a lid. No visible emission notations are required because only natural gas is used. The source is required to perform uncontrolled NO_x testing on the Annealing Furnace Section (U006b) stacks S-20 and S-20a once every five (5) years to demonstrate compliance with the PSD and Emission Offset avoidance limitations in Condition D.2.1.

The Continuous Anneal Line does not have any applicable compliance monitoring requirements in Section D.3. The fume washer on the alkaline electrolytic cleaning section is for OSHA requirements and is not required to comply with the applicable PM limitations. The Continuous Anneal Line is not a significant source of PM emissions. No visible emission notations are required because only natural gas is used.

The Batch Annealing Furnaces does not have any applicable compliance monitoring requirements in Section D.4. These furnaces are fired by natural gas, which is not a significant source of PM or SO₂ emissions. No visible emission notations are required because only natural gas is used.

The Pickle Line does not have any applicable compliance monitoring requirements in Section D.5. The packed bed scrubber is not necessary to comply with the applicable 326 IAC 6-3-2 PM limitation. The Pickle line does have applicable compliance monitoring requirements in 40 CFR 63, Subpart CCC for the packed bed scrubber. The Permittee is required to install, operate and maintain systems for the measurement and recording of the scrubber makeup water flow rate and, if required, recirculation water flow rate. These flow rates must be monitored continuously and recorded at least once per shift while the scrubber is operating.

The 80" and 52" Cold Reduction Mills do not have any applicable compliance monitoring requirements in Section D.6. The oil mist eliminators are for OSHA requirement and are not air pollution control devices required to comply with applicable PM limitations. The 80" and 52" Cold Reduction Mill have no applicable Article 8 rules for VOC because each mill was constructed prior to January 1, 1980.

The direct-fire furnace section is equipped with selective non-catalytic NO_x reduction unit and a Continuous Emission Monitoring System (CEMS) for NO_x in Section D.7. The source has additional monitoring requirements in the event the primary or backup CEM is malfunctioning or is down for maintenance or repairs for a period of twenty-four (24) hours or more.

The Electrolytic Cleaning Line, Chrome Electroplate Line, Temper Mills, and Tin Electroplate Line do not have any applicable compliance monitoring requirements in Sections D.8, D.9, D.10 or

D.11. The fume washers are for OSHA requirements and are not required to comply with applicable PM limitations. These emission units are not a significant source of PM emissions.

The insignificant activities in Section D.12 do not have any applicable compliance monitoring since the potential to emit PM is below the significant thresholds. Compliance for the Degreasing Operation will be verified by record keeping requirements.

Since there are no monitoring, testing, recordkeeping or reporting requirements associated with 326 IAC 6-3-2(e). PM emissions for 326 IAC 6-3-2 are based on an emissions unit's process weight throughput, not potential or actual PM emissions.

The proposed permit contains all health-based and technology-based standards established by the U.S. EPA and the Indiana Environmental Rules Board (ERB), which will limit the amount of air pollution emissions from the facility in accordance with all applicable requirements. Specifically, the permit contains all applicable control device operating requirements, monitoring requirements, testing requirements, and associated record keeping and reporting requirements to assure that all permit limitations are enforceable as a practical matter and to assure that the source can demonstrate compliance with all applicable state and federal rules on a continuous basis. These conditions work in conjunction to protect human health and the environment.

IDEM, OAQ has no authority to create any permit limits or measures that exceed what is legally required for a regulated source. IDEM, OAQ generally does not remove specific emissions units from a permit unless the source requests removal of the units or attempts to take credit for emission reductions associated with shutting down specific units.

IDEM, OAQ handles all air permit applications on an objective, consistent, and impartial basis. IDEM, OAQ staff are expected to comply with all applicable state ethics rules and policies. They strive to draft air permit documents and associated calculations/analyses that are thorough, accurate, and that contain all applicable state and federal requirements. All permit limitations are federally enforceable as a practical matter and protective of human health and the environment.

No changes to the draft permit were made as a result of this comment.

While IDEM's response raises a number of issues, the Department relies heavily on the fact that these emission units operate with natural gas and should thus produce low PM emissions to assert that no monitoring or other provisions are necessary to assure compliance with the specific PM limits.¹¹²

But while EPA will allow "use of a fuel restriction to monitor compliance for some sources,"¹¹³ that restriction must be "explicit."¹¹⁴ In circumstances where EPA has found fuel

¹¹² *Id.*

¹¹³ *In the Matter of Colorado Interstate Gas Company F Latigo Station Permit Number: 950PAR037*, (Feb. 17, 2006) ("Colorado Interstate Gas Order"), https://www.epa.gov/sites/default/files/2015-08/documents/cig_latigo_decision2005.pdf, at 8.

¹¹⁴ *Colorado Interstate Gas Order* at 8.

restriction to be appropriate monitoring compliance, the associated permit provisions specifically stated that those emissions units are “only allowed to burn natural gas.”¹¹⁵

The Renewal Permit does in fact include such a provision for the No. 2 Galvanizing Line:¹¹⁶

D.2.2 Nitrogen Oxides (NO_x) PSD and Emission Offset Limitations [326 IAC 2-2][326 IAC 2-3]
Pursuant to AA 127-8889-00009, issued on December 8, 1997, and in order to render the requirements of 326 IAC 2-2 (Prevention of Significant Deterioration (PSD)) and 326 IAC 2-3 (Emission Offset) not applicable the galvanneal furnace shall only be fired by natural gas and shall have a maximum heat-input rate of 7.8 MMBtu/hr.

For all other emission units, however, the Renewal Permit merely notes which units burn natural gas, diesel fuel, and fuel oil, respectively. Accordingly, EPA must grant this Petition on this issue and direct IDEM to revise the Renewal Permit to include permit provisions with sufficient specificity to make clear that compliance with emissions limits is satisfied based on the use of natural gas and to include appropriate fuel usage and type recordkeeping and reporting requirements.

E. The Renewal Permit fails to ensure that the fuel restriction assures compliance with SO₂ requirements.

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

The Renewal Permit TSD acknowledges that:¹¹⁷

326 IAC 7-1.1-1(Sulfur Dioxide Emission Limitations)
The source is subject to the requirements of 326 IAC 7-1.1-1 because there are facilities with the potential to emit twenty-five (25) tons per year; however there are no applicable limits for any facility, because the source uses only natural gas-fired equipment.

¹¹⁵ *In the Matter of: United States Steel Corporation - Granite City Works CAAPP Permit No. 96030056*, (Dec. 3, 2012), https://www.epa.gov/sites/default/files/2015-08/documents/uss_2nd_response2009.pdf, at 21 (“U.S. Steel Granite Works Order”) (where EPA notes that the associated permit provisions restrict fuel usage to natural gas and COD for the slab heat furnaces emissions units).

¹¹⁶ Renewal Permit at 35.

¹¹⁷ TSD at 22, PDF 454.

Although Midwest Plant is subject to the sulfur dioxide (“SO₂”) requirements in 326 IAC 7-1.1-1, the Renewal Permit does not contain any SO₂ limits, nor any monitoring, testing, recordkeeping, or reporting provisions related to SO₂.¹¹⁸ The Renewal Permit is deficient because the permit record does not provide a clear rationale for IDEM’s position that none of the emissions units require any SO₂ limits and IDEM’s claim that “the source uses only natural gas-fired equipment” is insufficient to determine compliance with the SO₂ emission limits in 326 IAC 7-1.1-1.

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

The Renewal Permit fails to meet the requirements of Part 70 because it fails to include monitoring, testing, recordkeeping, and reporting requirements sufficient to assure continuous compliance with SO₂ requirements under 326 IAC 7-1.1-1.

Petitioners raised this issue in Comment #10 on the draft Renewal Permit, stating:¹¹⁹

As shown in Table 2 above, the Draft Permit does not contain any SO₂ limits, nor any monitoring, recordkeeping or reporting provisions related to SO₂. In regards to SO₂ the TSD acknowledges that the Steel Finishing Facility “is subject to the requirements of 326 IAC 7-1.1-1 because there are facilities with the potential to emit twenty-five (25) tons per year; however there are no applicable limits for any facility, because the source uses only natural gas-fired equipment.”⁸⁷ On its face, this statement is not correct. Midwest Plant also includes equipment fueled with diesel and fuel oil.⁸⁸ This statement also fails to identify which emission units have a potential to emit 25 tons per year. The TSD does not include a potential to emit analysis. Finally, neither the Draft Permit nor TSD address the applicability of other parts of 326 IAC 7-1.1-1 to Midwest Plant, namely the requirement to comply with “compliance test methods in 326 IAC 7- 2”⁸⁹ and “sulfur dioxide limitations and other requirements under 326 IAC 2, 326 IAC 7-4, 326 IAC 7-4.1, and 326 IAC 12.”⁹⁰ IDEM must identify the emissions units which have the potential to emit 25 tons per year of SO₂, whether those emissions units have any SO₂ limits, and any applicable monitoring, testing, recordkeeping, and reporting requirements.

Petitioners’ comment clearly raises the issue that the Renewal Permit is subject to 326 IAC 7-1.1-1 requirements which apply to facilities with potential to emit over 25 tpy, and that despite the TSD’s claim that Midwest Plant only uses on natural gas-fired equipment, the Facility also includes diesel- and fuel oil-fueled equipment. Additionally, the Renewal Permit has no emission

¹¹⁸ See Table 2 *supra* Section D.

¹¹⁹ Appendix A at 22 (PDF 422).

limits for SO₂, and neither the Renewal Permit nor the TSD identifies which emission units have PTE over 25 tpy. Petitioners also note that the permit record is silent on several other applicable requirements.

3. Analysis of IDEM's Response

IDEM responded to Petitioners' comment as follows:¹²⁰

IDEM disagrees with the commenter's characterization of the extent to which the source is subject to 326 IAC 7-1.1-1 (Sulfur Dioxide Emission Limitations) since other equipment fueled with diesel and fuel oil do not have SO₂ emissions above twenty-five (25) tons per year. The galvanizing lines and batch annealing furnaces only combust natural gas. Fuel oil-fired combustion sources with heat input equal to or less than two million (2,000,000) Btu per hour and firing fuel containing less than five-tenths (0.5) percent sulfur by weight are insignificant activities pursuant to 326 IAC 2-7-1(21)(i)(cc). The insignificant activities listed in 326 IAC 2-7-1-(21) were not selected without any thought for the uncontrolled potential to emit. A No. 2 fuel oil combustion unit as described above will emit less than five (5) tons of SO₂ emissions per year. The diesel-fired emergency generators (each rated at 2,347 hp) only have the potential to emit 2.37 tons of SO₂ per year, each. Thus, the requirements of 326 IAC 7-1.1-1 are not applicable to these emission units.

Similar to the response provided in section D above, IDEM argues that these units do not require monitoring because they operate via natural gas and should therefore produce only insignificant amounts of SO₂ emissions.¹²¹ IDEM asserts that "equipment fueled by diesel and fuel oil do not have SO₂ emissions above twenty-five (25) tons per year" and are therefore not subject to 326 IAC 7-1.1-1.¹²²

IDEM's response is deficient for two reasons: (1) there is insufficient support in the permit record to determine that 326 IAC 7-1.1-1 is inapplicable based on potential to emit; and (2) to the extent that 326 IAC 7-1.1-1 is inapplicable due to the use of natural gas, that restriction must be made explicit (similar to the argument made in Section D above).

¹²⁰ ATSD at 45.

¹²¹ *Id.*

¹²² *Id.*

As an initial matter, 326 IAC 7-1.1-1 contains SIP requirements for “[a]ll emission units with a *potential* to emit twenty-five (25) tons per year” of SO₂ and does not rely on actual emissions.¹²³ IDEM failed to provide a PTE analysis to determine which emissions units do or do not have a PTE over 25 tons per year. Furthermore, neither the Renewal Permit nor TSD address the applicability of other parts of 326 IAC 7-1.1-1 to the Midwest Plant, namely the requirement to comply with “compliance test methods in 326 IAC 7-2”¹²⁴ and “sulfur dioxide limitations and other requirements under 326 IAC 2, 326 IAC 7-4, 326 IAC 7-4.1, and 326 IAC 12.”¹²⁵ Therefore, IDEM must conduct a thorough PTE analysis, *and provide such analysis in the permit record*, to support its claim that no units are subject to 326 IAC 7-1.1-1, 326 IAC 2, 326 IAC 7-4, and 326 IAC 12.

Moreover, to the extent IDEM is relying on a fuel restriction to avoid SO₂ emission limits or monitoring as required 326 IAC 7-1.1-1, that restriction must be “explicit,” as explained in section D above. Specifically, where EPA allows “the use of a fuel restriction to monitor compliance,”¹²⁶ that provision must be “explicit”¹²⁷ in restricting emissions units to be “only allowed to burn natural gas.”¹²⁸ Furthermore, “the rationale for the selected monitoring requirements must be clear and documented in the permit record.”¹²⁹ However, the Renewal Permit includes no such provision limiting these units to use of natural gas. As explained above,

¹²³ 326 IAC 7-1.1-1.

¹²⁴ 326 IAC 7-1.1-1(2).

¹²⁵ 326 IAC 7-1.1-1(3).

¹²⁶ *Colorado Interstate Gas Order* at 8.

¹²⁷ *Id.*

¹²⁸ *U.S. Steel Granite Works Order* at 21 (where EPA notes that the associated permit provisions restrict fuel usage to natural gas and COD for the slab heat furnaces emissions units).

¹²⁹ *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).

such fuel use restrictions must be clearly stated in the permit.¹³⁰ IDEM needs to be clearer and state that such fuel restriction is the means of compliance with 326 IAC 7-1.1-1.

For the reasons above, the Renewal Permit fails to assure compliance with the applicable requirements of 326 IAC 7-1.1-1. Accordingly, EPA must grant this Petition on this issue and direct IDEM to either revise the record to show that federally enforceable provisions make the SO₂-related requirements in 326 IAC 7-1.1-1 inapplicable to these units or revise the Renewal Permit to include these SO₂ requirements as well as permit provisions with sufficient specificity to make clear that compliance with the emissions limits are satisfied based on the use of natural gas and to include appropriate monitoring, recordkeeping, and reporting requirements for fuel type and usage.

F. The Renewal Permit fails to identify the applicability of and compliance with Continuous Assurance Monitoring requirements to NO_x Emissions at No. 3 Galvanizing Line.

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

Under the Part 70 rules, the Compliance Assurance Monitoring (“CAM”) requirements of 40 C.F.R. § 64 are “applicable requirements” for any units at the Midwest Plant that meet the applicability requirements of 40 C.F.R. § 64.2 and thus must be included in the Renewal Permit. Specifically, CAM requirements apply to any emission unit that (1) is subject to an emission limitation or standard for the pollutant; (2) uses a control device to comply with that emission limitation or standard; and (3) has “potential pre-control device emissions” equal to or greater than the major source threshold for the regulated pollutant involved.¹³¹

¹³⁰ See *Colorado Interstate Gas Order* at 8.

¹³¹ 40 C.F.R. § 64.2(a).

While the Renewal Permit does not contain any CAM requirements, the record does not contain the information necessary to confirm that the CAM requirements of 40 C.F.R. § 64.2 are inapplicable to all emission units at the Midwest Plant. The TSD includes a table that purports to demonstrate that CAM requirements do not apply to any emission units at this Facility. However, the data provided in the table is insufficient to confirm that determination, especially regarding the “potential pre-control device emissions.” The CAM section of the TSD provides that:¹³²

¹³² TSD at 18, PDF 450.

Emission Unit/Pollutant	Control Device	Applicable Emission Limitation	Uncontrolled PTE (tons/year)	Controlled PTE (tons/year)	CAM Applicable (Y/N)	Large Unit (Y/N)
Pickle Line / PM*	WS	326 IAC 6-3-2	>100	>100	N	N
Pickle Line / PM10	WS	None	-	-	N	N
Pickle Line / PM2.5	WS	None	-	-	N	N
Pickle Line / HCL	WS	None	-	-	N	N
No. 3 Galvanizing Line (U015a) / PM	WS	None	-	-	N	N
No. 3 Galvanizing Line (U015a) / PM10	WS	None	-	-	N	N
No. 3 Galvanizing Line (U015a) / PM2.5	WS	None	-	-	N	N
No. 3 Galvanizing Line (U015a) / SO2	WS	None	-	-	N	N
No. 3 Galvanizing Line (U015b) / NOx	SNCR	326 IAC 2-2 326 IAC 2-3	<100	<100	N ¹	N
Chrome Electroplating Line / PM	FW	None	-	-	N	N
Chrome Electroplating Line / PM10	FW	None	-	-	N	N
Chrome Electroplating Line / PM2.5	FW	None	-	-	N	N
Tin Electroplating Line / PM	FW	None	-	-	N	N
Tin Electroplating Line / PM10	FW	None	-	-	N	N
Tin Electroplating Line / PM2.5	FW	None	-	-	N	N
Wheelabrator Roll Shot Blast No.1 (I009) / PM	BH	None	-	-	N	N
Wheelabrator Roll Shot Blast No.1 (I009) / PM10	BH	None	-	-	N	N
Wheelabrator Roll Shot Blast No.1 (I009) / PM2.5	BH	None	-	-	N	N
Wheelabrator Roll Shot Blast No.2 (I010) / PM	BH	None	-	-	N	N
Wheelabrator Roll Shot Blast No.2 (I010) / PM10	BH	None	-	-	N	N
Wheelabrator Roll Shot Blast No.2 (I010) / PM2.5	BH	None	-	-	N	N
Under the Part 70 Permit program (40 CFR 70), PM is not a regulated pollutant. Uncontrolled PTE (tpy) and controlled PTE (tpy) are evaluated against the Major Source Threshold for each pollutant. Major Source Threshold for criteria pollutants (PM10, PM2.5, SO2, and CO) is 100 tpy, for NOx and VOC 50 tpy, for a single HAP ten (10) tpy, and for total HAPs twenty-five (25) tpy.						
PM* For limitations under 326 IAC 6-3-2, 326 IAC 6.5, and 326 IAC 6.8, IDEM OAQ uses PM as a surrogate for the regulated air pollutant PM10. Therefore, uncontrolled PTE and controlled PTE reflect the emissions of the regulated air pollutant PM10.						
N ¹ CAM does not apply for NOx because the uncontrolled PTE of NOx is less than the major source threshold.						
Controls: BH = Baghouse, C = Cyclone, DC = Dust Collection System, RTO = Regenerative or Recuperative Thermal Oxidizer, WS = Wet Scrubber, ESP = Electrostatic Precipitator, SNCR = Selective Non-Catalytic Reduction						
Emission units without air pollution controls are not subject to CAM. Therefore, they are not listed.						

The TSD then concludes:¹³³

Based on this evaluation, the requirements of 40 CFR Part 64, CAM, are not applicable to any of the existing units as part of this Part 70 permit renewal.

¹³³ TSD at 19, PDF 451.

The Renewal Permit is deficient because it does not provide adequate information, such as the unit-specific potential to emit (“PTE”) of regulated pollutants *before* the application of any control device, to determine when emissions units are affected facilities under 40 C.F.R. § 64.2 and thus fails to assure compliance with CAM requirements.

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

The Renewal Permit fails to meet the requirements of Part 70 because it fails to include the CAM applicable requirements or provide the information necessary to confirm that those requirements do not apply.

Petitioners raised this issue in Comment #16 on the draft Renewal Permit, stating:¹³⁴

The TSD includes a table identifying emission units potentially subject to CAM and each emission limitation or a standard for a specified pollutant.¹¹⁰ The table and TSD concludes that “the requirements of 40 CFR Part 64, CAM, are not applicable to any of the existing units as part of this Part 70 permit renewal.”¹¹¹ This conclusion is not supported with the data provided—which is contradictory and insufficient. Only two of the twenty-one table entries identify an applicable emission limitation as well as uncontrolled and controlled potential to emit in tons/year. IDEM does not explain why these other emissions units do not have emission limitations on these pollutants. And without potential to emit data CAM applicability cannot be assessed. Additionally, the table identifies the No. 3 Galvanizing Line as having uncontrolled and controlled potential to emit NOx emissions of 100 tons/year, with a footnote that “CAM does not apply for NOx because the uncontrolled PTE of NOx is less than the major source threshold.”¹¹² However, the TSD notes that the major source threshold for NOx is 50 tons/year (ostensibly due to Porter County’s nonattainment status for ozone). This discrepancy must be corrected in order to accurately assess this emissions unit for CAM applicability.

Earlier Title V permits for Midwest Plant did include both controlled and uncontrolled potential to emit data within the CAM applicability table, and identified all the listed emission units as having emission limitations.¹¹³ As discussed above, the Draft Permit only identifies two emission units as having any emission limits, does not provide potential to emit data, but then still purports to conclude that CAM does not apply. IDEM must revise the Draft Permit to provide all data necessary to evaluate CAM applicability.

Petitioners’ comment clearly raises the issue that the Renewal Permit and TSD are insufficient to assure compliance with CAM requirements since the table identifying which

¹³⁴ Appendix A at 27, PDF 427.

emission units are potentially subject to CAM is inadequate to determine CAM applicability and conflicts with prior permit information provided about these units.

Furthermore, Petitioners specifically pointed to the No. 3 Galvanizing Line as an example of a unit that would suggest CAM applicability (i.e., a pre-control PTE of ~100 tpy, use of a control device, and subject to an emissions limit), and yet the Facility and IDEM still failed to apply CAM requirements.

3. Analysis of IDEM's Response

IDEM responded to Petitioners' comment as follows:¹³⁵

This draft Part 70 Operating Permit Renewal was publicly noticed on July 18, 2024. At the time, Porter County, Portage Township was designated as moderate nonattainment for the 2015 8-hour ozone standard. Volatile organic compounds (VOC) and Nitrogen Oxides (NOx) are regulated under the Clean Air Act (CAA) for the purposes of attaining and maintaining the National Ambient Air Quality Standards (NAAQS) for ozone. Therefore, VOC and NOx emissions are considered when evaluating the rule applicability relating to ozone. Therefore, VOC and NOx emissions were evaluated pursuant to the requirements of Emission Offset, 326 IAC 2-3.

At the time the major source threshold for VOC and NOx was 100 tons per year as indicated in the CAM Table in the draft TSD. The only portion of the No. 3 Galvanizing Line with add on NOx controls and an emission limitation or standard for NOx was the direct-fire furnace section (U015b). Based on the unlimited PTE calculations in Part 70 Operating Permit Renewal No. 127-33647-00009, issued on August 13, 2014, the NOx emissions from U015b were 21.47 tons per year. Therefore, CAM was not applicable for NOx.

However, in the time elapsed since the public notice began U.S. EPA, in the Federal Register Notice 89 FR 101901 dated December 17, 2024, designated Porter County, Portage Township, as serious nonattainment for the 2015 8-hour ozone standard effective January 16, 2025. Volatile organic compounds (VOC) and Nitrogen Oxides (NOx) are regulated under the Clean Air Act (CAA) for the purposes of attaining and maintaining the National Ambient Air Quality Standards (NAAQS) for ozone. Therefore, VOC and NOx emissions are considered when evaluating the rule applicability relating to ozone. Therefore, VOC and NOx emissions were evaluated pursuant to the requirements of Emission Offset, 326 IAC 2-3.

Now the major source threshold for VOC and NOx is 50 tons per year. However, as discussed above CAM would still not be applicable to U015b since the unlimited PTE of NOx is less than 50 tons per year. Finally, U015b is already equipped with a NOx CEMS, which would satisfy the requirements of CAM if the furnace was subject to the requirements of 40 CFR 63.

¹³⁵ ATSD at 59-60, PDF 389-390.

IDEM further noted that “[n]o changes to the draft permit were made as a result of these comments.”¹³⁶

Petitioners appreciate that the discrepancy in the major source standard for ozone (including VOCs and NOx) arose after the draft permit public comment period. In any case, however, the major source threshold for NOx now and at the time IDEM issued the Renewal Permit is 50 tpy because Porter County, where Midwest Plant is located, is categorized as serious ozone nonattainment.

As discussed below, IDEM’s reliance on an unlimited PTE for the No. 3 Galvanizing Line (U015b) of 21.47 tpy, based on Title V Permit No. 127-33647-00009 issued on August 13, 2014 (“2014 Permit”),¹³⁷ to avoid CAM requirements is misplaced. Additionally, IDEM failed to address Petitioners’ comment regarding the inconsistency between the data in the Renewal Permit and that included in prior permitting actions.¹³⁸

According to the emissions calculations included in the 2014 Permit that IDEM referenced, the No. 3 Galvanizing Line (identified as U015b) had an *after issuance* NOx PTE of 21.47 tpy:¹³⁹

Emission Unit	Potential to Emit after Issuance (tons/yr)								Total HAPs
	PM	PM10	PM2.5 *	SO ₂	NOx	VOC	CO	CO2	
No. 2 Galvanizing Line (Stack S-20 & S-20a)	1.30	5.20	5.20	0.41	329.30	3.76	57.49	258,258	4.04
U015b	0.41	1.63	1.63	0.13	21.47	1.18	18.04		
Remaining Natural Gas Combustion	2.56	10.26	10.26	0.81	134.94	7.42	113.35	-	-
Shot Blasters	155.98	75.10	7.51	-	-	-	-		
Emergency Generators	0.14	0.14	0.14	0.13	2.02	0.16	0.43	75	1.76E-03
Total	158.69	85.50	17.91	0.94	136.96	7.59	113.79	75	4.04

* PM2.5 listed is direct PM2.5

Note: The shaded cells indicate where limits are included.

This is important as PTE after issuance would include emissions after the application of controls and/or operational limits in the permit, while the CAM applicability rules require use of “pre-

¹³⁶ ATSD at 61, PDF 391.

¹³⁷ See generally, Part 70 Operating Permit No. T127-33647-00009 (Aug. 13, 2014), U.S. Steel Corporation – Midwest Plant, U.S. Highway 12, Portage, Indiana 46368 (“2014 Permit”), also available at <https://permits.air.idem.in.gov/33647f.pdf>.

¹³⁸ See Appendix A at 27, PDF 427.

¹³⁹ 2014 Permit, Technical Support Document, Appendix A: Emissions Calculations at 1, PDF 340 (highlighting added). Ex. 4.

control” potential emissions.¹⁴⁰ Petitioners had to go back to Title V Permit No. 127-27026-00009 issued on June 16, 2009 (“2009 Permit”)¹⁴¹ to find information regarding both uncontrolled and controlled PTE amounts for the No. 3 Galvanizing Line. The CAM Applicability table in the 2009 Permit TSD shows the following:¹⁴²

Emission Unit / Pollutant	Control Device Used	Emission Limitation (Y/N)	Uncontrolled PTE (tons/year)	Controlled PTE (tons/year)	Major Source Threshold (tons/year)	CAM Applicable (Y/N)	Large Unit (Y/N)
No.1 Galvanizing line-PM	N	Y	165.5	165.5	100	N	N
No. 2 Galvanizing line-PM	N	Y	206.3	206.3	100	N	N
No. 2 Galvanizing line Stack S-20 and Stack S-20a-NOx	N	Y	75.9	75.9	100	N	N
Continuous Annealing line-PM	N	Y	191.8	191.8	100	N	N
Batch Annealing line-PM	N	Y	234.8	234.8	100	N	N
Pickle line-PM	N	Y	247.5	247.5	100	N	N
Pickle line-HAPs	Y	Y	>25	<10	>10	N	N
80" Cold Reduction Mill-PM	N	Y	236.5	236.5	100	N	N
52" Cold Reduction Mill-PM	N	Y	211	211	100	N	N
No. 3 Galvanizing line-PM	N	Y	195.3	195.3	100	N	N
No. 3 Galvanizing line-NOx	Y	Y	75.9	14.2	25	Y	N
Electrolytic Cleaning Line-PM	N	Y	189.7	189.7	100	N	N
Chrome Electroplate line-PM	N	Y	177	177	100	N	N
No. 1 Tin Temper Mill-PM	N	Y	185.7	185.7	100	N	N
No. 2 Tin Temper Mill-PM	N	Y	209.8	209.8	100	N	N
Sheet Temper Mill-PM	N	Y	234.8	234.8	100	N	N
Tin Electroplate Line-PM	N	Y	184.4	184.4	100	N	N

*Permit 127-4814 was issued prior to the NOx waiver effective date of February 26, 1996

¹⁴⁰ 40 C.F.R. § 64.2(a)(3).

¹⁴¹ See generally, Part 70 Operating Permit No. T127-27026-00009 (June 16, 2009), U.S. Steel Corporation – Midwest Plant, U.S. Highway 12, Portage, Indiana 46368 (“2009 Permit”), also available at <https://permits.air.idem.in.gov/27026f.pdf>.

¹⁴² 2009 Permit, Technical Support Document at 12, PDF 117 (highlighting added). Ex. 5.

With an uncontrolled PTE of 75.9 and a controlled PTE of 14.2, IDEM in the 2009 Permit found that:¹⁴³

Based on this evaluation, the requirements of 40 CFR Part 64, CAM are applicable to No. 3 Galvanizing Line for NO_x upon issuance of the Title V Renewal. CAM requirements will be attained through use of a Continuous Emissions Monitor (CEMS). No CAM requirements are necessary for HAPs requirements at the Pickle line because there is an applicable NESHAP.

IDEM's response to comments fails to address Petitioners' comment noting this inconsistency between the current and prior permit records.

Under 40 C.F.R. § 64.2(a)(3), CAM applies to units with “potential pre-control device emissions of the applicable regulated air pollutant that are equal to or greater than 100 percent of the amount, in tons per year, required for a source to be classified as a major source.” As stated in the rule, potential pre-control device emissions are equivalent to potential to emit “except that emission reductions achieved by the applicable control device shall not be taken into account.”¹⁴⁴

Because the uncontrolled PTE of NO_x emissions from the No. 3 Galvanizing Line is 75.9 tpy and the unit is also subject to a NO_x emission limit and control device, the No. 3 Galvanizing Line is currently a CAM applicable emissions unit under 40 C.F.R. § 64.2. That means the Renewal Permit must include appropriate CAM requirements for this unit, including monitoring, recordkeeping, and reporting provisions.¹⁴⁵

Thus, the Renewal Permit is insufficient to assure compliance of the Midwest Plant with federal requirements, including the applicability of the CAM requirements. Accordingly, EPA must grant this Petition on this issue and require IDEM to address the inconsistency in the permit records on the applicability of CAM at No. 3 Galvanizing Line. Additionally, EPA must either direct IDEM to include a specific permit term in the Renewal Permit requiring U.S. Steel to operate

¹⁴³ *Id.* at 13, PDF 118.

¹⁴⁴ 40 C.F.R. § 64.2(a)(3).

¹⁴⁵ *See* 40 C.F.R. §§ 64.3, 64.6, 64.7 (monitoring), 40 C.F.R. § 64.4 (recordkeeping), 40 C.F.R. § 64.9 (reporting).

No. 3 Galvanizing Line according to its emission unit-specific CAM plan (including any CAM-required monitoring, recordkeeping, and reporting provisions), or at a minimum, require IDEM to explain fully how the current permit provisions are sufficient to demonstrate the No. 3 Galvanizing Line's compliance with 40 C.F.R. § 64.2 CAM requirements and to practically enforce those requirements, including an explanation of the inconsistency of that position with IDEM's prior determination that the CAM requirements did apply at the No. 3 Galvanizing Line in the 2009 Permit.

V. Conclusion

For the reasons discussed above, EPA must object to the Midwest Plant Renewal Permit. As clearly raised in public comments, the Renewal Permit fails to include adequate testing, monitoring, recordkeeping, and reporting requirements sufficient to assure continuous compliance with multiple requirements applicable to emission units located at this Facility. Accordingly, Petitioners respectfully request that EPA object to the issuance of the Renewal Permit and require IDEM to:

- (1) Revise the Renewal Permit to include the applicable NESHAP and NSPS requirements and monitoring, recordkeeping, and reporting requirements sufficient to assure compliance with them at multiple units;
- (2) Revise the Renewal Permit to include the contents of the required Preventive Maintenance Plan and NESHAP Operation and Maintenance Plan;
- (3) Revise the Renewal Permit to include sufficiently specific permit terms to ensure that the fuel use restriction assures compliance with PM limits at multiple units;
- (4) Revise the Renewal Permit to ensure that the fuel restriction assures compliance with SO₂ requirements;

- (5) Revise the Renewal Permit to identify the applicability and compliance with Continuous Assurance Monitoring requirements to NOx Emissions at No. 3 Galvanizing Line; and
- (6) Provide detailed rationales to the Renewal Permit record regarding the adequacy of the selected monitoring requirements to assure compliance with the five requirements above.

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Respectfully submitted,

/s/ Robert Michaels

Robert Michaels, Managing Attorney
Kerri Gefeke, Associate Attorney
Max Lopez, Associate Attorney
Kristi M. Smith, Smith Environmental Law, Consulting Attorney to ELPC
Environmental Law & Policy Center
rmichaels@elpc.org

Mark N. Templeton, Director
Abrams Environmental Law Clinic
University of Chicago Law School
templeton@uchicago.edu

Ashley Williams, Executive Director
Just Transition Northwest Indiana
ashley@jtnwi.org

Brian Sauder, Rev.
President and CEO
Faith in Place
brian@faithinplace.org

Tim Koenning, Midwest Program Manager
National Parks Conservation Association
tkoenning@npca.org

Dorreen Carey, President
Gary Advocates for Responsible
Development (GARD)
mbdcarey@aol.com

Julie Peller, PhD
Professor of Chemistry
Northern Lake County Environmental
Partnership
LakeCountyEnv@purdue.edu