

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

IN THE MATTER OF	)	
	)	PETITION FOR OBJECTION
	)	
Clean Air Act Title V Operating Permit	)	
No. 127-46984-00001	)	
	)	Permit Number 127-46984-00001
Issued to Cleveland-Cliffs Burns Harbor LLC	)	
	)	
Issued by the Indiana Department of	)	
Environmental Management	)	
_____	)	

**PETITION REQUESTING THAT THE ADMINISTRATOR OBJECT TO THE
ISSUANCE OF TITLE V PERMIT NO. 127-46984-00001 FOR CLEVELAND-CLIFFS
BURNS HARBOR LLC**

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 Integrity Project, Environmental Law and Policy Center, Faith in Place, Gary Advocates for Responsible Development, and Just Transition Northwest Indiana (collectively, “Petitioners”) respectfully petition the Administrator of the U.S. Environmental Protection Agency (“Administrator” or “EPA”) to object to the Title V Operating Permit No. 127-46984-00001(the “Permit”) issued by the Indiana Department of Environmental Management (“IDEM”) on July 6, 2026 to the Cleveland-Cliffs Burns Harbor plant (“Facility” or “Burns Harbor”) owned and operated by Cleveland-Cliffs (“CC”) in Porter County, Indiana.

As discussed further below, EPA must object to the Permit because it fails to include sufficient monitoring, testing, and reporting requirements for emission limits for various units. Specifically, the Permit fails to require adequate monitoring, testing, and reporting requirements to assure compliance with:

- (1) Various SO₂ limits;
- (2) NO_x limits for the Coke Oven Process Plant;
- (3) PM limits for the Blast Furnaces;

- (4) PM limits for the Sinter Plant, Hot Strip Mill and Cold Sheet Mill; and
- (5) PM limits and NO_x offset limits for the Basic Oxygen Furnace Shop, Cold Sheet Mill, and Scrap Cutting Machine.

Additionally, EPA should object to the Permit because it impermissibly fails to include Corrective Action Plans, Operation and Maintenance Plans, and Preventive Maintenance Plans, where the underlying requirements of these plans are applicable requirements and the plans are necessary to assure compliance with other applicable requirements in the Permit.

I. PETITIONERS

The Environmental Integrity Project (“EIP”) is a non-profit, non-partisan watchdog organization founded to advocate for the effective enforcement of environmental laws, with a specific focus on the Clean Air Act and large stationary sources of air pollution such as the Facility. EIP has three goals: (1) to illustrate through objective facts and figures how the failure to enforce and implement environmental laws increases pollution and harms public health; (2) to hold federal and state agencies, as well as individual corporations accountable for failing to enforce or comply with environmental laws; and (3) to help local communities obtain protections guaranteed by environmental laws. EIP is headquartered in Washington, D.C.

Environmental Law and Policy Center (“ELPC”) is a nonprofit advocacy organization that works to protect public health and the natural resources of nine states in the Midwest, including the Great Lakes. 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.

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 (“GARD”) 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.

II. FACILITY DESCRIPTION AND PERMITTING HISTORY

The Facility is CC’s second-largest integrated steel mill in the U.S. and has operated on the shores of Lake Michigan in Northwest Indiana since 1964.¹ It processes up to 5 million net tons of raw steel annually, producing hot-rolled, cold-rolled, hot-dip galvanized coils and plate products.² The Facility includes coke ovens, blast furnaces, and sinter plant operations that emit tons of harmful air pollutants across Northwest Indiana. The coke ovens alone are responsible for 48% of NO_x, 37% of VOC, and 33% of SO₂ emissions from the Facility.³

Operating as part of one of the largest integrated steel mills in the world, Burns Harbor is composed of multiple emission units and associated equipment. The Facility consists of the following major emission units: (a) coke oven process plant, (b) coke by-products recovery plant, (c) blast furnace granulated coal injection system, (d) continuous sintering process plant, (e) blast

¹ Burns Harbor was built in 1964 by Bethlehem Steel, bought by ISG in 2003, acquired by ArcelorMittal in 2007, and bought by Cleveland-Cliffs in 2020. Global Energy Monitor Wiki, *Cleveland-Cliffs Burns Harbor steel plant* (last updated September 25, 2023), available at https://www.gem.wiki/w/index.php?title=Cleveland-Cliffs_Burns_Harbor_steel_plant&oldid=483827.

² Cleveland-Cliffs Inc., *Burns Harbor Fact Sheet*, August, 2023, https://d1io3yog0oux5.cloudfront.net/_5a26a9d339fa7a49f5aabe30eb17284d/clevelandcliffs/db/1170/10175/fact_sheet/CLF_FactSheet_BurnsHarbor_082023.pdf.

³ 2022 Air Emission Inventory Statement for Cleveland-Cliffs Burns Harbor LLC, dated June 27, 2023, p. 1, available at IDEM Virtual File Cabinet.

furnaces C and D, (f) basic oxygen furnace shop, (g) slab/plate mill complex, (h) hot strip mill operations, (i) cold sheet mill operations, (j) power station, (k) service shops and technical maintenance operations, (l) fugitive dust emissions operations, and (m) scrap metal cutting machine. Most of these major emission units comprise the key unit plus associated facilities, process equipment, and operational practices. Burns Harbor also operates dozens of insignificant activities.⁴

As IDEM explains, the major source for Title V permitting purposes is the steel works, which is composed of “a primary source, Cleveland-Cliffs Burns Harbor LLC . . . and its contractors.”⁵ IDEM states that the listed contractors “were issued separate Part 70 operating permits solely for administrative purposes.”⁶

On March 7, 2024, IDEM issued a draft renewal Title V Operating Permit for Burns Harbor, with the public comment period ending on May 28, 2024. Petitioners timely submitted comments on the draft permit on May 28, 2024, which raised many of the issues stated in this Petition. Petitioners Comments on Proposed Permit No. T127-46984-00001 (“Petitioners’ Comments”) are attached as Exhibit 2.

On May 8, 2026, IDEM submitted the proposed permit to EPA for its 45-day review period.⁷ On that same day, IDEM made available on their Air Quality Permit Status Search website the proposed Title V Operating Permit, along with a Summary of Public Comments and Department Responses (“RTC” or “Response to Comments”), attached as Exhibit 3 to this Petition.

⁴ Ex.1, Part 70 Operating Permit Renewal No. 127-46984-00001, Cleveland-Cliffs Steel LLC, 250 West US Highway 12 Burns Harbor, IN 46304 (July 6, 2026), <https://permits.air.idem.in.gov/46984f.pdf> [hereinafter “Permit”] at 11-26.

⁵ Permit at 11.

⁶ *Id.*

⁷ 326 IAC 2-7-18(b).

EPA’s 45-day review period of the proposed permit ended on June 22, 2026. On July 6, 2026, IDEM issued the final renewal Permit to CC. The 60-day public petition period on the Permit began on June 22, 2026, and ends on August 21, 2026. Therefore, this Petition is timely. 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 and via electronic mail to IDEM and CC.

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 “the Act”).⁸ 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.⁹

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.¹⁰ 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.¹¹ Title V regulations require that the permitting authority’s rationale for any proposed

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

⁹ *Id.* at 32251.

¹⁰ *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)).

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

permit conditions be clear and documented in the permit record.¹² EPA explains that within the permit record, “permitting authorities have a responsibility to respond to significant comments” received on a proposed permit.¹³

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.¹⁴ “Applicable requirements” include any requirements of a federally enforceable state implementation plan (“SIP”) and any preconstruction requirements that are incorporated into the Title V permit.¹⁵ 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.”¹⁶ 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.”¹⁷ The Administrator “shall grant or deny such petition within 60 days after the petition is filed.”¹⁸

IV. GROUNDS FOR OBJECTION

First, EPA must object to the Permit because it fails to include and/or assure compliance with all applicable requirements of the Clean Air Act. Specifically, the Permit fails to require adequate

¹² 40 C.F.R. § 70.7(a)(5).

¹³ *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.

¹⁴ 40 C.F.R. § 70.8(c).

¹⁵ 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”).

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

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

¹⁸ 42 U.S.C. § 7661d(b)(2).

monitoring, testing, recordkeeping, and reporting requirements to assure compliance with the following limits:

- (1) Various SO₂ limits;
- (2) NO_x limits for the Coke Oven Process Plant;
- (3) PM limits for the Blast Furnaces;
- (4) PM limits for the Sinter Plant, Hot Strip Mill and Cold Sheet Mill; and
- (5) PM limits and NO_x offset limits for the Basic Oxygen Furnace Shop, Cold Sheet Mill and Scrap Cutting Machine.

Next, EPA must object to the Permit because EPA failed to respond to Petitioners' comments about the sufficiency of monitoring requirements for the Basic Oxygen Furnace Shop, Cold Sheet Mill, and Scrap Metal Cutting Machine. Finally, EPA must object to the Permit because it fails to include the required Corrective Action Plans, Operation and Maintenance Plans, and Preventive Maintenance Plans.

Section A below summarizes the relevant Part 70 requirements that apply to testing, monitoring, recordkeeping, and reporting requirements, while Section B addresses how the Permit has failed to meet those Part 70 requirements for the applicable emission limits described above. Section C addresses IDEM's failure to include required plans in the Permit.

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."¹⁹ As the relevant permitting authority, IDEM has the responsibility "to ensure

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

that the [T]itle v permit ‘set[s] forth’ monitoring to assure compliance with all applicable requirements.”²⁰ Further, any emission limit in a Title V permit must be enforceable as both a legal and practical matter. For a limit to be enforceable as a practical matter, a permit must clearly specify how emissions will be measured or determined for purposes of demonstrating compliance with the limit.²¹ 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.”²²

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

- (1) The Title V permit must properly incorporate monitoring requirements contained in applicable requirements;²³
- (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;²⁴ 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.²⁵

²⁰ *Sandy Creek Order* at 12 (quoting 42 U.S.C. § 7661c(c)).

²¹ 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.

²² *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.

²³ *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)).

²⁴ *Id.* citing 40 C.F.R. § 70.6(a)(3)(i)(B).

²⁵ *Id.* citing 40 C.F.R. § 70.6(c)(1) and other EPA Title V Petition Orders.

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.”²⁶ 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.²⁷ 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.²⁸ EPA explains that “the rationale for the selected monitoring requirements must be clear and documented in the permit record.”²⁹

B. The Permit fails to include adequate monitoring requirements sufficient to assure compliance with applicable emission limits at multiple units.

IDEM’s response to comments is generally insufficient. This is because IDEM did not specifically address substantive comments about monitoring requirements and grouped their response into a short narrative and several revised permit conditions. Moreover, as discussed in greater detail below, this issue also affects specific responses from IDEM that also require EPA to object to the Permit.

1. IDEM failed to provide an adequate response to public comment.

EPA has long maintained that “it is a general principle of administrative law that an inherent component of any meaningful notice and opportunity for comment is a response by the

²⁶ *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).

²⁷ *Clairton Order* at 9.

²⁸ *Id.* (quoting *CITGO Order* at 7–8).

²⁹ *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).

regulatory authority to significant comments.”³⁰ Thus, the Title V rules specifically require permitting authorities such as IDEM to provide “a written response to all significant comments raised during the public participation process on the draft permit.”³¹

Petitioners submitted twelve pages of comments addressing specific monitoring conditions in the Draft Permit that did not assure compliance with applicable emission limits.³² Petitioners’ comments contained nine separate subsections addressing specific categories of monitoring deficiencies across various emission units.³³ However, IDEM responded to these comments in one undifferentiated two-page narrative and two pages of revised permit provisions.³⁴ IDEM’s response largely just cited various permit conditions and asserted that they assure compliance with emissions limits without explaining *how* they did so.³⁵ IDEM also failed to otherwise address the specific monitoring deficiencies raised in Petitioners’ comments, aside from the portion of the response addressing Petitioners’ SO₂-related comments.³⁶

In addition, IDEM simply referred to prior general responses as follows:³⁷

³⁰ *In the Matter of Kerr-McGee, LLC, Frederick Gathering Station*, Petition VIII-2007 (Feb. 7, 2008), https://www.epa.gov/sites/default/files/2015-08/documents/kerrmcgee_frederick_decision2007.pdf (“*Kerr-McGee Order*”), at 4.

³¹ 40 C.F.R. § 70.8(a)(1).

³² Comments at 12-27.

³³ *Id.*, Sec. VIII (A) – (I).

³⁴ ATSD at 132-135.

³⁵ *Id.* at 132-133.

³⁶ Compare *id.* at 132-33 (series of individual sentences identifying separate conditions) with *id.* at 133-134 (providing 2 paragraphs of discussion of SO₂-related monitoring and concluding that “the compliance determination and monitoring, recordkeeping, and reporting requirements contained Sections C.16 and C.28 are sufficient to assure compliance with the applicable permit requirements in Section C.10”).

³⁷ *Id.* at 134

Please see the following IDEM responses at the beginning of the ATSD under the General Statements and IDEM Responses section:

- IDEM Response to General Statement 2 - Coke By-Products Recovery Plant and Sinter Plant
- IDEM Response to General Statement 5 - Emission Controls, Emission Limitations, Compliance Determination, Compliance Monitoring, Recordkeeping, and Reporting
- IDEM Response to General Statement 6 - Compliance Inspections, Violations, Enforcement Actions, Permit Deviations, and Submitting Complaints
- IDEM Response to General Statement 7 - Air Monitoring

But these responses do not respond to Petitioners' specific comments. Instead, the responses:

- simply list various monitoring-related conditions and sections of the Permit that require Burns Harbor "to comply" with various emission limits without explaining how the specific compliance terms are sufficient to assure compliance;³⁸
- summarily conclude that various permit conditions are "sufficient to demonstrate compliance with the applicable permit Requirements" and discuss the ability of IDEM to require additional monitoring in the future;³⁹
- discuss the nature of compliance inspections, how they allow "IDEM, OAQ to determine if Cleveland-Cliffs Burns Harbor LLC is in continuous compliance with all air permit terms and conditions," and the enforcement tools available to IDEM when needed;⁴⁰ and
- summarize how IDEM implements air monitoring in Indiana as a whole through its ambient air monitoring network, without any specific information about monitoring of pollution at Burns Harbor or a discussion of facility-specific monitoring that is sufficient to assure compliance with applicable emission limits and standards.⁴¹

³⁸ *Id.* at 5-6 (IDEM Response to General Statement 2 - Coke By-Products Recovery Plant and Sinter Plant).

³⁹ *Id.* at 16 (IDEM Response to General Statement 5 - Emission Controls, Emission Limitations, Compliance Determination, Compliance Monitoring, Recordkeeping, and Reporting).

⁴⁰ *Id.* at 16-18 (IDEM Response to General Statement 6 - Compliance Inspections, Violations, Enforcement Actions, Permit Deviations, and Submitting Complaints).

⁴¹ *Id.* at 18-20 (IDEM Response to General Statement 7 - Air Monitoring).

Accordingly, IDEM failed to provide meaningful responses to most of Petitioners' monitoring-related comments. These cursory responses to Petitioners' comments addressing specific monitoring deficiencies are insufficient to meet that requirement.⁴² Labeling permit conditions as "Compliance Requirements" or identifying conditions that require Burns Harbor to comply with emission limits does not address the central issue raised in Petitioners' comments because it does not explain how the specific monitoring requirements in the Permit assure that IDEM, EPA, and the public can determine whether Burns Harbor is meeting those limits and take enforcement action as provided for under the Act.⁴³ IDEM's general reliance on future actions it could take to assure compliance also fails to meet that standard.⁴⁴

Accordingly, EPA should grant this petition regarding the monitoring claims set forth below because IDEM failed to provide an adequate response to public comment. In addition, Petitioners provide supplementary information on how the Permit and associated record issued by IDEM fail to assure compliance with applicable emission limits and standards raised in our comments. In the interest of efficiency, we are addressing each specific claim below and not repeating the arguments presented above regarding the general insufficiency of IDEM's responses.

⁴² See *In the Matter of Consolidated Edison Company Hudson Avenue Generating Station*, Petition Number II–2002–10 (Sept. 30, 2003), https://www.epa.gov/sites/default/files/2015-08/documents/hudson_decision2002.pdf, at 8 (granting petition where the permitting authority provided "only a cursory response" to public comment); *In the Matter of Louisiana Pacific Corporation*, Order on Permit Number V–2006–3 (Nov. 5, 2007), https://www.epa.gov/sites/default/files/2015-08/documents/lp_tomahawk_decision2006.pdf, at 4–5 (granting petition where permitting authority's cursory response "that the permit requirements are adequate" did not allow EPA to determine whether the permit contained all applicable requirements).

⁴³ 42 U.S.C. § 7661c(a); see also *In the Matter of Wheelabrator Baltimore, L.P.*, Order on Permit 24–510–01886 (April 14, 2010), https://www.epa.gov/sites/default/files/2015-08/documents/wheelabrator_decision2009.pdf, at 7 (granting petition where permitting authority's response did not address the "central issue" raised by petitioners).

⁴⁴ See *Kerr-McGee Order* at 4 (granting petition where permitting authority discussed actions it might take in the future to address the concerns raised by petitioners" because "[r]eliance on past practice" without additional basis was an inadequate response).

2. Failure to Assure Compliance with various SO₂ Limits

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

The Permit contains SO₂ limits and alternative limits for several Burns Harbor facilities that are applicable requirements that must be addressed by adequate monitoring to assure compliance. Specifically, Condition C.10(b) provides SO₂ emission limits in both lb/MMBtu and lb/hr for the following equipment:

- 1) Blast furnace C & D stoves;
- 2) Sinter plant windbox;
- 3) No. 1 & 2 coke battery underfire stacks;
- 4) 160 inch plate mill continuous reheat furnaces No. 1 & 2 and boilers No. 1 & 3;
- 5) 110 inch plate mill furnaces No. 1 and 2;
- 6) 160 inch plate mill in & out furnaces No. 4-7;
- 7) Power station boilers No. 7-12; and
- 8) Blast furnace gas flare.⁴⁵

Because each of these conditions are required by the SIP, they are “applicable requirements” that must be addressed in a Title V permit.⁴⁶

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

The Permit is deficient because it does not contain testing, monitoring, reporting, and recordkeeping requirements sufficient “to assure compliance with” the specific numeric hourly SO₂ emission limits in Conditions C.10(b).⁴⁷ The Permit is also deficient because the permit record does not provide a clear and documented rationale for IDEM’s position that the monitoring

⁴⁵ Permit at 39-40

⁴⁶ 40 C.F.R. § 70.2 (definition of “applicable requirement” at (1)).

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

requirements currently in place are sufficient to determine compliance with these hourly numeric emission limits.⁴⁸

Petitioners challenged the Draft Permit's inadequate testing, monitoring, reporting, and recordkeeping requirements in public comments. Petitioners raised several issues relating to the SO₂ compliance provisions in Condition C.16 that cited a "[SO₂ Sampling Protocol]" and a related protocol from a 1994 construction permit that were not identified in or attached to the Draft Permit.⁴⁹ Petitioners then raised issues with compliance with the specific hourly SO₂ emission limits for the listed units. Specifically, Petitioners noted that compliance with the SO₂ hourly emission limits in Condition C.10(b) was determined by conditions that simply required Burns Harbor "to submit quarterly reports including records of fuel usage, average sulfur content and heating value, the calculated sulfur dioxide emission rate in lb/hr, lb/MMBtu or lb/ton for each day, and the average sulfur dioxide emissions for each day in lb/hr during the calendar quarter."⁵⁰ Petitioners then noted that these provisions requiring daily emission computations cannot "assure compliance with *hourly* SO₂ limits" and that IDEM did not provide an explanation or rationale to how these conditions were adequate for that purpose.⁵¹

c. Analysis of IDEM's Response

While IDEM did provide a more fulsome response to these comments on SO₂ emission compliance than on Petitioners' other monitoring related comments and made permit changes to address some of the issues Petitioners raised, the response still fails to respond to Petitioners' key

⁴⁸ 40 C.F.R. § 70.7(a)(5).

⁴⁹ Comments at 16-17.

⁵⁰ Comments at 18 (for the No. 1 & 2 coke battery underfires) and 20 (for the other listed units).

⁵¹ *Id.* at 18 (emphasis in original) and 20 (same).

comment by explaining *how* the Permit assures compliance with the hourly SO₂ emission limits. Specifically:

- IDEM explained how the Sulfur Dioxide (SO₂) Fuel Sampling and Analysis protocol was now included in the Permit as Attachment P and provided links to the related 1994 construction permit in the RTC.⁵²
- The response also explained that condition C.28 required quarterly reporting of various fuel recordkeeping and related calculations of daily SO₂ emissions during each calendar quarter and noted that these were the procedures specified in clause 326 IAC 7-4-14(1)(E).⁵³ and summarized how the protocol determined the appropriate emission factors for each fuel to use in those calculations.⁵⁴
- Finally, IDEM concluded – without any further discussion – that “the compliance determination and monitoring, recordkeeping, and reporting requirements contained Sections C.16 and C.28 are sufficient to assure compliance with the applicable permit requirements in Section C.10.”⁵⁵

Nothing in IDEM’s response addresses how these fuel tracking requirements and emission calculations—which are calculated on a daily basis—assure compliance with hourly SO₂ emission limits. While Condition C.28 may track the reporting requirements set forth in the SIP-approved regulation at 326 IAC 7-4-14(1)(E), that does not mean such provisions are sufficient to assure compliance with hourly limits. In fact, as explained above, Title V permits “must include

⁵² ATSD at 134. While this aspect of the response generally addresses our comments, we note that the actual pages of the Permit providing the Sulfur Dioxide (SO₂) Fuel Sampling and Analysis are not identified as Attachment P. *See* Permit at 711-13, where the first page of the protocol is titled “Attachment 2.”

⁵³ ATSD at 134.

⁵⁴ *Id.*

⁵⁵ *Id.*

supplemental monitoring to assure such compliance” when the monitoring in the applicable requirement, such as the daily SO₂ calculations in 326 IAC 7-4-14(1)(E), are insufficient to assure compliance.⁵⁶

IDEM failed to adequately respond to Petitioners’ comments, resulting in a Permit that lacks monitoring necessary to assure compliance with the hourly SO₂ emission limits in Condition C.10. Accordingly, EPA must grant this Petition on this issue and either direct IDEM to revise the Permit to include supplemental monitoring to assure such compliance or require IDEM to explain fully how the current permit provisions assure continuous compliance with these hourly numeric emission limits.

3. Inadequate NO_x Monitoring for the Coke Oven Process Plant

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

Condition D.1.1(a) of the Permit contains a NO_x limit for the Coke Battery #2 of less than 650 tons per twelve consecutive month period with compliance determined at the end of each month.⁵⁷ This limit was included “pursuant to CP127-2725-00001, issued January 28, 1994” in order to “render the requirements of the Prevention of Significant Deterioration, 326 IAC 2-2, and Emissions Offset rule 326 IAC 2-3 not applicable for particulate matter (PM & PM₁₀), sulfur dioxide, carbon monoxide, volatile organic compounds, and nitrogen oxide emissions at Coke Battery #2.”⁵⁸ Accordingly, because this NO_x emission limit was established in an existing air permit and is used to avoid SIP-approved PSD and nonattainment permitting requirements, it is an “applicable requirement” that must be addressed in a Title V permit.⁵⁹

⁵⁶ *Deer Park Order* at 18, citing 40 C.F.R. § 70.6(c)(1) and other EPA Title V Petition Orders.

⁵⁷ Permit at 54.

⁵⁸ *Id.*, Cond. D.1.1 (introductory and concluding text).

⁵⁹ 40 C.F.R. § 70.2 (definition at “applicable requirement” at (1) and (2)).

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

As noted in Conditions D.1.1, this NO_x emission limit is required under a 1994 construction permit that was issued as a minor source permit and included this limit (and others) to avoid major PSD and nonattainment NSR permitting requirements.⁶⁰ The Permit is deficient because it does not include all applicable requirements from the underlying permit, including required stack testing, or monitoring to assure compliance with the NO_x limit.⁶¹ The Permit is also deficient because the permit record does not provide a clear and documented rationale for IDEM's position that remaining monitoring requirements are sufficient to assure compliance with the rolling, 12-month limit for NO_x emissions from the Coke Oven Process Plant.⁶²

Petitioners raised this issue in their public comments. Petitioners noted that the reporting requirements in Condition D.1.16 stated that compliance with the NO_x emission limit “is demonstrated by monthly summaries of information, including tons of NO_x, dry coal and coke oven gas supplied to the steel manufacturing plant from Coke Battery 2,” but IDEM “failed to include all applicable requirements from the Underlying Permit in the Draft Permit. Most importantly, the Underlying Permit requires compliance with the NO_x limit to be demonstrated by a stack test, not a summary of other ‘information.’”⁶³ Petitioners then directed IDEM to “incorporate the stack test requirement from the Underlying Permit” and “ensure that the testing requirements added to the Permit are reasonably related to the annual (and possibly monthly) NO_x

⁶⁰ Permit at 54, Cond. D.1.1 (introductory and concluding text); *see also* CP127-2725-00001 (Jan. 28, 1994), available at https://ecm.idem.in.gov/cs/idcplg?IdcService=GET_FILE&dID=3080394&dDocName=35249095&Rendition=web&allowInterrupt=1&noSaveAs=1

⁶¹ 40 C.F.R. § 70.6(a)(3)(i)(A).

⁶² 40 C.F.R. § 70.7(a)(5).

⁶³ Comments at 21, citing CP-127-2725 (January 28, 1994) at Operation Condition 18, pg. 6.

limit and ensure that the stack tests demonstrate that the facility is capable of complying with the applicable emissions standards at all times.”⁶⁴

c. Analysis of IDEM’s Response

IDEM’s response cites to the underlying construction permit, CP127-2725-00001, provides a website link to it, and notes that conditions of that permit are contained in sections D.1, D.3, D.6, and D.12 of the Permit.⁶⁵ The Response also states that “Conditions D.1.8, D.1.12 and D.1.14 are the Compliance Monitoring Requirement for the Coke Batteries.”⁶⁶ No other portion of IDEM’s response mentions CP127-2725-00001 or the NO_x limit in D.1.1(a), nor does IDEM address Petitioners’ comments regarding the stack testing required under CP127-2725-00001 or the need for NO_x testing requirements that are reasonably related to the annual, 12-month rolling average NO_x limit.⁶⁷ Furthermore, these issues are not addressed in the Additional Changes section.⁶⁸

The various sections and conditions cited by IDEM in the response also fail to address the stack testing issue raised in Petitioners’ comments. Specifically, nothing in section D.1 copies the requirement in Condition 18 of CP127-2725-00001 that NO_x emission parameters established during stack performance tests” be combined with the amount of coke oven gas to determine compliance with the 650 tons per year rolling average.⁶⁹ In addition, Conditions D.1.8, D.1.12,

⁶⁴ *Id.*, citing 40 C.F.R. § 63.7822(a); Env’t. Prot. Agency, *Issuance of the Clean Air Act National Stack Testing Guidance, Memorandum* (April 27, 2009) at 14, 15, https://www.epa.gov/sites/default/files/2013-09/documents/stacktesting_1.pdf.

⁶⁵ ATSD at 133.

⁶⁶ *Id.*

⁶⁷ *See generally* ATSD at 132-135.

⁶⁸ *See generally* ATSD at 45-64.

⁶⁹ *Compare* Permit at 54-31 with CP127-2725-00001 (Jan. 28, 1994), available at https://ecm.idem.in.gov/cs/idcplg?IdcService=GET_FILE&dID=3080394&dDocName=35249095&Rendition=web&allowInterrupt=1&noSaveAs=1, at 6.

and D.1.14 address visible emission, opacity, and coal processing limits, respectively, not the NO_x limit in D.1.1(a).

Accordingly, as explained above, IDEM failed to provide a meaningful response to Petitioners' significant comments on the lack of required and reasonably related NO_x emission testing. This failure to respond is especially concerning because the NO_x limit in D.1.1(a) was established to avoid major PSD and nonattainment NSR permitting requirements. Such "synthetic minor" limits are used to maintain emissions below certain thresholds to avoid requirements applicable to major emission sources under CAA permitting programs (such as PSD and nonattainment permitting). For that reason, synthetic minor permit limits "must include sufficient terms and conditions such that the source cannot lawfully exceed the limit."⁷⁰ Such limits must also be supported by testing, monitoring, recordkeeping, and reporting requirements that are "sufficient to enable regulators and citizens to determine whether the limit has been exceeded and, if so, to take appropriate enforcement action."⁷¹ In this case, Condition D.1.16 directs that compliance with the NO_x emission limit is demonstrated by Burns Harbor providing the quarterly report using the form in the Permit.⁷² But that form simply requires Burns Harbor to list the month and the total amount of NO_x emissions for that month, the previous 11 months, and the 12-month total.⁷³ As neither the conditions in Section D.1 nor the quarterly reporting form specify *how* the monthly NO_x emissions will be calculated, the Permit does not assure compliance with the NO_x emission limits or allow IDEM, EPA, or the public to determine whether the NO_x limit has been exceeded and take appropriate enforcement action.⁷⁴

⁷⁰ *In the Matter of Yuhuang Chemical, Inc.* (Aug. 31, 2016), https://www.epa.gov/sites/default/files/2016-09/documents/yuhuang_response2015_0.pdf ("Yuhuang Order") at 14.

⁷¹ *Pencor-Masada Order* at 7.

⁷² Permit at 61.

⁷³ *Id.* at 162

⁷⁴ *Pencor-Masada Order* at 7.

Accordingly, EPA must grant this Petition on this issue and either direct IDEM to revise the Permit to include the stack testing required in CP127-2725-00001 and other monitoring reasonably related to the annual NO_x limit in order to assure compliance with it. Alternatively, EPA must require IDEM to fully explain how the current permit provisions are adequate to assure compliance with the NO_x limit in Condition D.1.1(a).

4. Inadequate PM Monitoring for the Blast Furnaces

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

The Permit includes several hourly PM emission limits for units at the blast furnaces. Specifically:

- Condition D.5.2(b) contains a 7.2 lb/hr limit for the car dump as specified in a 1993 construction permit, CP127-2802-00001;⁷⁵
- Condition D.5.2(d) limits fugitive PM emissions for the “front end loader reclaim process serving 4Na, 3N, and 4Nb (after control) [to] no greater than 14.10 lb/hr, 3.18 lb/hr and 0.32 lb/hr, respectively,” as provided in SSM No. 127-34963-00001;⁷⁶ and
- Condition D.5.4(a) requires that the “allowable PM emission rate [for] the rail car thaw shed, handling transfer stations, material piles and stacker/reclaimers, C and D Stockhouses shall not exceed 71.62 pounds per hour each, when operating at a process weight rate of 623 tons per hour” using the emission equation provided, pursuant to 326 IAC 6-3-2(e).⁷⁷

⁷⁵ Permit at 71.

⁷⁶ *Id.*

⁷⁷ *Id.* at 72.

The Permit also notes that Conditions D.5.2(b) and (d) were included in the underlying construction permits to “render 326 IAC 2-2 [the PSD permitting requirements] not applicable” to the permitted projects.⁷⁸ Accordingly, because these PM emission limits were established in existing air permits, used to avoid SIP-approved PSD permitting requirements, and required under the Indiana SIP, they are “applicable requirements” that must be addressed in a Title V permit.⁷⁹

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

As noted in these conditions, these PM emission limits are required under existing air permits CP127-2802-00001 and SSM No. 127-34963-00001 and are required by the SIP-approved regulation 326 IAC 6-3-2(e).⁸⁰ The Permit is deficient because it does not contain testing, monitoring, reporting, and recordkeeping requirements sufficient to assure compliance with the specific numeric hourly PM emission limits in these conditions.⁸¹ The Permit is also deficient because the permit record does not provide a clear and documented rationale for IDEM’s position that the monitoring requirements currently in place are sufficient to determine compliance with these hourly numeric emission limits.⁸²

Petitioners raised these issues in their public comments. First, Petitioners noted that they could not locate CP127-2802-00001 in the permit record or IDEM’s online virtual file cabinet, and thus could not review it to make sure all requirements for the car dump PM emission limit in D.5.2(b) were included in the Title V permit.⁸³ Petitioners then noted that the PM emissions limit was calculated using an equation contained in Condition D.5.4(a), which includes a variable

⁷⁸ *Id.* at 71.

⁷⁹ 40 C.F.R. § 70.2 (definition at “applicable requirement” at (1) and (2)).

⁸⁰ Permit at 71-72; *see also* Indiana SIP Chart, noting 326 IAC 6-3-2 was SIP-approved at 70 Fed. Reg. 42495 (7/25/2005).

⁸¹ 40 C.F.R. § 70.6(c)(1).

⁸² 40 C.F.R. § 70.7(a)(5).

⁸³ Comments at 22.

(denoted as *P*) for process weight rate. The Permit, however, does not specify that process weight rate, rendering the PM emission limit in D.5.2(b) functionally non-existent and calling into question CC's ability to comply.⁸⁴ Finally, Petitioners noted that while Conditions D.5.2(b) and (d) contain hourly PM emits, compliance with them was determined by records of *monthly* information under Condition D.5.9 and was thus inadequate because the monitoring was not reasonably related to the PM emission limit averaging times.⁸⁵

c. Analysis of IDEM's Response

IDEM responded to the issue regarding location of the underlying permit by stating:⁸⁶

Conditions of CP 127-2802-0001 are listed in sections D.3 and D.5 of the proposed permit. CP 127-2802-0001 can be found in VFC, the VFC document # for this permit is 56040562, please refer to the link below:
https://ecm.idem.in.gov/cs/idcplg?IdcService=GET_FILE&dID=3754443&dDocName=56040562&Rendition=web&allowInterrupt=1&noSaveAs=1

However, this response continues to be insufficient because the link provided in the RTC opens a restricted-access page in IDEM's Virtual File Cabinet.⁸⁷ Petitioners also could not locate the permit using an advanced search for document #56040562 referenced in the response. Accordingly, Petitioners remain unable to verify that the Permit contains all applicable requirements of CP 127-2802-0001, including any monitoring, testing, or recordkeeping related to the PM limits in Condition D.5.2(b).

IDEM provided no specific responses to the other issues raised in Petitioners' comments regarding the adequacy of monitoring for the PM emission limits at the Blast Furnaces. Neither

⁸⁴ *Id.* incorporating similar argument on pages 21-22 regarding the compliance equation in Condition D.1.3(a) for the coke battery PM limits.

⁸⁵ Comments at 23.

⁸⁶ ATSD at 133.

⁸⁷ See https://ecm.idem.in.gov/cs/idcplg?IdcService=GET_FILE&dID=3754443&dDocName=56040562&Rendition=web&allowInterrupt=1&noSaveAs=1.

IDEM's response nor the "Additional Changes" section even reference Conditions D.5.2(b), D.5.2(d), or D.5.4(a).⁸⁸ IDEM likewise failed to discuss or revise the compliance equation in Condition D.5.4(a) to address the unidentified process weight rate factor P .⁸⁹ Nor has IDEM provided any clear rationale of how the recordkeeping requirement in Condition D.5.9 to maintain various monthly information is sufficient to assure compliance with the hourly PM emission limits in Conditions D.5.2(b) and (d).

Similar to concerns raised above regarding the PM limits, this failure to respond is especially concerning because these PM limits were established to avoid SIP-required permitting programs, and thus must be supported by "sufficient terms and conditions such that the source cannot lawfully exceed the limit."⁹⁰ Likewise, the lack of sufficient testing, monitoring, recordkeeping, and reporting requirements renders them unenforceable by IDEM, EPA, and the Public.⁹¹ Nothing in IDEM's RTC or Condition D.5.9 explains how this monthly information can be used to determine whether Burns Harbor is complying with the specific hourly PM emission limits in Conditions D.5.2(b) and (d).

Accordingly, EPA must grant this Petition on these issues and direct IDEM to re-notice the Draft Permit with a working and accessible copy of CP127-2802-00001, revise Condition D.5.4(a) to clarify how PM emission limits will be calculated (and thus enforced), and revise D.5.9 to include monitoring reasonably related to the hourly PM emission limits in Conditions D.5.2(b) and (d). Alternatively, EPA can require IDEM to explain fully how the current permit provisions are

⁸⁸ See generally ATSD at 132-135 and 45-64.

⁸⁹ Compare this to IDEM's response to the similar, cross-referenced comment to Condition D.1.3(a), where IDEM said it agreed with the comment and added the "missing process weight rate in tons per hour...in the unit description." ATSD at 134. See also Permit at 55, Condition D.1.3 (defining P as "process weight in tons per hour (as given in the emission unit description)").

⁹⁰ *Yuhuang Orde* at 14.

⁹¹ *Pencor-Masada Order* at 7.

adequate to assure compliance with the PM emissions limits in Conditions D.5.2(b), D.5.2 (d), and D.5.4(a).

5. Inadequate PM Emission Limits and Related Monitoring for the Sinter Plant, Hot Strip Mill, and Cold Sheet Mill

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

The Permit contains Conditions D.4.1, D.8.1(a), and D. 9.1, which each contain an hourly limit on PM emissions from the Sinter Plant, the Hot Strip Mill rolling process, and the Cold Sheet Mill, respectively, as required by 326 IAC 6-3-2(e).⁹² Accordingly, because these PM emission limits are required under the Indiana SIP, they are “applicable requirements” that must be addressed in a Title V permit.⁹³

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

The PM emission limits contained in Conditions D.4.1, D.8.1(a), and D. 9.1 are required by the SIP-approved regulation 326 IAC 6-3-2(e).⁹⁴ The Permit is deficient because it does not contain the information necessary to determine the specific hourly PM limits or the related monitoring, reporting, and recordkeeping requirements sufficient “to assure compliance with” the limits at these units.⁹⁵ The Permit is also deficient because the permit record does not provide a clear and documented rationale for IDEM’s position that these limits and their associated monitoring sufficient to determine compliance with the hourly PM emission limits required by the Indiana SIP.⁹⁶

⁹² Permit at 69, 93, and 94.

⁹³ 40 C.F.R. § 70.2 (definition at “applicable requirement” at (1)).

⁹⁴ Permit at 71-72; *see also* Indiana SIP Chart, noting 326 IAC 6-3-2 was SIP-approved at 70 Fed. Reg. 42495 (7/25/2005).

⁹⁵ 40 C.F.R. §§ 70.6(a)(1) and (c)(1).

⁹⁶ 40 C.F.R. § 70.7(a)(5).

Petitioners raised this issue in their public comments. Similar to the issue addressed above regarding Condition D.5.4(a), Petitioners noted that Conditions D.4.1, D.8.1(a), and D. 9.1 contained PM emission limits that were determined using the equation, and neither that limit nor compliance with it could be determined because the equation did not specify the *P* variable (process weight rate) that Burns Harbor was required to use.⁹⁷

Petitioners also noted that the monitoring, recordkeeping, and reporting requirements for the PM limits at the Sinter Plant and Hot Strip Mill were insufficient. For the Sinter Plant limit in Condition D.4.1, Petitioners noted that the Draft Permit “fails to include *any* monitoring, testing, recordkeeping, or reporting requirements to assure compliance for this emissions limit.”⁹⁸ For the Hot Strip Mill limit in Condition D.8.1(a), Petitioners noted that: (a) the Permit included only general record-keeping requirements and needed to include additional information to demonstrate compliance with the PM limit; and (b) the Draft Permit created overall confusion by appearing to include requirements for decommissioned hot strip mill furnaces.⁹⁹

c. Analysis of IDEM’s Response

IDEM partially responded to these Hot Strip Mill comments by deleting the provisions of Section D.8 addressing the decommissioned hot strip mill furnaces.¹⁰⁰ However, IDEM did not add any new monitoring to address the hourly PM limits, and the remaining recordkeeping in D.8.2 simply requires maintenance of records under the general recordkeeping requirements of

⁹⁷ Comments at 24 (Sinter Plant), 23 (Hot Strip Mill), and 25 (Cold Sheet Mill), incorporating similar arguments from Section VIII.C.2 (pages 21-22) regarding the equation in Condition D.1.3(a) for the coke battery PM limits.

⁹⁸ Comments at 24.

⁹⁹ Comments at 23.

¹⁰⁰ ATSD at 133 (referring to “Significant Permit Modification 127-38133-00001, issued on April 18, 2017 relating to the proposed replacement of the three (3) existing pusher type Reheat Furnaces with two (2) Walking Beam Furnaces at the Hot Strip Mill”) and 54-55 (showing the deleted provisions).

Condition C.23 and Section C generally.¹⁰¹ Condition C.23 is the required “Malfunctions Report” for any malfunction of an emission unit, which is defined as “any sudden, unavoidable failure of any air pollution control equipment, process, or combustion or process equipment to operate in a normal and usual manner.”¹⁰² While there could be an exceedance of a PM emission limit during such a malfunction, the Hot Strip Mill could also exceed PM limits at other times when no malfunction reporting would be required. Accordingly, the Permit does not provide the information necessary to determine whether Burns Harbor is complying with the hourly PM emission limits in Condition D.8.1(a). Likewise, Section C generally requires Burns Harbor to report monitored emissions and other information as required by specific Conditions in the Permit. These general provisions of Section C do not remedy the failure of section D.8 to require any information on compliance with the specific PM limit in D.8.1(a).¹⁰³

IDEM’s response fails to address Petitioners’ comment that there are no required procedures to determine compliance with PM emission limit at the Hot Strip Mill (only general record-keeping requirements) and that the final Permit should require more information to demonstrate compliance with the Hot Strip Mill PM limit.¹⁰⁴ Moreover, as explained above, it is not clear how a requirement to “document the compliance status” through malfunction reports and general recordkeeping requirements allows IDEM, EPA, and the public to determine how much PM Burns Harbor is emitting from the Hot Strip Mill and whether it is below the SIP required limit in 326 IAC 6-3-2(e).¹⁰⁵

¹⁰¹ *Id.* at 55 (showing changes).

¹⁰² Draft Permit at 47

¹⁰³ *See generally* Permit at 41-51, Conditions C.11 to C.28 (addressing Testing, Compliance, Monitoring, Corrective Action, Recordkeeping, and Reporting Requirements).

¹⁰⁴ Comments at 23.

¹⁰⁵ *Pencor-Masada Order* at 7.

In addition, IDEM does not appear to provide any response or changes to the Permit to address Petitioners' comment that there was no monitoring of the PM limit for the Sinter Plant in Condition D.4.1.¹⁰⁶ Without any such response or changes, the Permit fails to comply with the Title V requirements because it contains no monitoring to assure compliance with Condition D.4.1 and the underlying SIP requirement.

Finally, IDEM did not make any changes to the emission limit equations in Conditions D.4.1, D.8.1(a), and D.9.1 to clarify the *P* variable (process weight rate) that Burns Harbor was required to use to determine the specific hourly limits that apply to PM emissions from the Sinter Plant, the Hot Strip Mill rolling process, and the Cold Sheet Mill.¹⁰⁷ Without that information, the Permit is deficient because it is impossible to know the specific PM limit required by the SIP for each unit and whether Burns Harbor is complying with it. It would be easy for IDEM to provide such clarity, as evidenced by the change they made to a different provision that also used this equation.¹⁰⁸ However, IDEM did not clarify this in its response or revisions.

Accordingly, EPA must grant this Petition on these issues and direct IDEM to revise the conditions addressing the PM emission limit requirements of 326 IAC 6-3-2(e) to add the appropriate process weight information to the emission limit calculation and to add any monitoring requirements necessary to assure compliance with the resulting limits. EPA can also require IDEM to demonstrate how the current permit provisions are adequate to assure compliance with the SIP-based PM emissions limits in Conditions D.4.1, D.8.1(a), and D. 9.1.

¹⁰⁶ See generally ATSD at 132-135 and 45-64.

¹⁰⁷ *Id.*

¹⁰⁸ Compare with ATSD at 134 (IDEM's response to the similar, cross-referenced comment to Condition D.1.3(a) "agreed" with the comment and added the "missing process weight rate in tons per hour...in the unit description). See also Permit at 55, Condition D.1.3 (defining *P* as "process weight in tons per hour (as given in the emission unit description)") and 11- 22, Condition A.3 (including throughput and other process rates in individual unit descriptions).

C. IDEM failed to respond to comments about monitoring requirements for the basic oxygen furnace shop, cold sheet mill, and scrap metal cutting machine.

As previously explained, “an inherent component of any meaningful notice and opportunity for comment is a response by the regulatory authority to significant comments.”¹⁰⁹ The Title V rules specifically require permitting authorities such as IDEM to provide “a written response to all significant comments raised during the public participation process on the draft permit.”¹¹⁰ As explained below, Petitioners commented on the sufficiency of monitoring requirements for hourly PM limits for the basic oxygen furnace shop, hourly NO_x offset limits for the cold sheet mill and multiple hourly PM limits at the scrap cutting machine. IDEM completely failed to reply to these comments.

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

The Permit includes multiple emission limits for which compliance is determined based on stack testing, including:

- Conditions D.6.1(a) and (c), D.6.2(a) – (d), D.6.3 (a) – (m), and D.6.5(a) – (c) and (e): numerous hourly PM emission limits for different facilities at the basic oxygen furnace shop pursuant to various SIP rules and construction permits, some of which render the PSD requirements of 326 IAC 2-2 not applicable;¹¹¹

¹⁰⁹ *In the Matter of Kerr-McGee, LLC, Frederick Gathering Station*, Petition VIII-2007 (Feb. 7, 2008), https://www.epa.gov/sites/default/files/2015-08/documents/kerrmcgee_frederick_decision2007.pdf (“*Kerr-McGee Order*”), at 4.

¹¹⁰ 40 C.F.R. § 70.8(a)(1).

¹¹¹ Permit at Conditions D.6.1(a) and (c), D.6.2(a) – (d), D.6.3 (a) – (m), and D.6.5(a) – (c) and (e).

- Condition D.9.3: an hourly NO_x offset limit for the hot dip coating line at the cold sheet mill, established in Construction Permit 127-1989-00001 to “render the Emission Offset rule, 326 IAC 2-3, not applicable;”¹¹² and
- Conditions D.14.1 and D.14.2: multiple hourly PM emission limits at the scrap metal cutting machine required under SSM No. 127-47148-00001 to render the PSD requirements of 326 IAC 2-2 not applicable and as required by 326 IAC 6-3-2, respectively.¹¹³

Accordingly, because these PM emission limits are required under existing air permits and used to avoid the major source permitting requirements of the Indiana SIP, they are “applicable requirements” that must be addressed in a Title V permit.¹¹⁴

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

The hourly PM emission limits described in the Conditions listed above for the basic oxygen furnace shop, cold sheet metal, and scrap metal cutting machine are required by the SIP-approved regulations or existing air permits. The Permit is deficient because it does not contain monitoring, testing, reporting, and recordkeeping requirements sufficient “to assure compliance with” the PM emission limits at these units.¹¹⁵

Petitioners raised this issue in comments, noting that although these units had hourly PM limits, the corresponding compliance provisions in Conditions D.6.6(a) and (b), D.9.3, and D.14.5 failed to require monitoring to assure compliance with these limits.¹¹⁶ Petitioners noted that the monitoring, recordkeeping, and reporting requirements must be reasonably related to the averaging

¹¹² Permit at 95, Condition D.9.3.

¹¹³ Permit at 109.

¹¹⁴ 40 C.F.R. § 70.2 (definition at “applicable requirement” at (1) and (2)).

¹¹⁵ 40 C.F.R. §§ 70.6(a)(1) and (c)(1).

¹¹⁶ Comments at 25 (basic oxygen furnace shop and cold sheet mill) and 27 (scrap metal cutting machine).

time to determine compliance with emission limits and should be conducted under conditions that reflect the full range of normal operating conditions.¹¹⁷ Finally, Petitioners noted that IDEM failed to explain how the frequency of stack testing was adequate to assure compliance with the hourly emission limits.

3. Analysis of IDEM's Response

IDEM failed to respond to these stack testing insufficiency comments in the RTC. IDEM did not specifically reference the hourly PM emissions limits for the basic oxygen furnace shop, cold sheet mill, and scrap metal cutting machine in its RTC, and the Additional Changes section did not change the stack testing or other monitoring provisions.¹¹⁸ Likewise, IDEM failed to provide any clear rationale of how the frequency of stack testing is sufficient to assure compliance with these hourly emission limits. As noted previously, this failure to respond is especially concerning because some these PM limits were established to avoid SIP-required permitting programs, requiring heightened scrutiny to ensure they cannot be exceeded and supported by testing, monitoring, recordkeeping, and reporting requirements to make them enforceable by IDEM, EPA, and the public.¹¹⁹

Accordingly, EPA must grant this Petition on these issues and direct IDEM to explain fully how the current permit provisions are adequate to assure compliance with the hourly PM emissions limits for the basic oxygen furnace shop (Conditions D.6.1(a) and (c), D.6.2(a) – (d), D.6.3 (a) – (m), D.6.5(a) – (c) and (e)), cold sheet mill (Condition D.9.3), and scrap metal cutting machine (Conditions D.14.1 and D.14.2).

¹¹⁷ *Id.* at 25.

¹¹⁸ *See generally* ATSD at 132-135 and 45-64.

¹¹⁹ *Yuhuang Order* at 14; *Pencor-Masada Order* at 7.

D. The Renewal Permit fails to include the required Corrective Action Plans, Preventive Maintenance Plans, and Operation and Maintenance Plans.

The Permit fails to include the Corrective Action Plans (“CAPs”), Operation and Maintenance Plan (“O&M plans”), and Preventive Maintenance Plan (“PMPs”) required in the Permit (collectively, “Plans”). These Plans and the requirements that they contain constitute applicable requirements under Part 70. In addition, the Plans are necessary to assure compliance with other applicable requirements in the Permit. As explained below, pursuant to 40 C.F.R. § 70.6(a)(1), when a Title V Permit requires a facility to operate an emissions unit according to a designated plan, that plan itself must be included in the permit.

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

a. Corrective Action Plan

The Permit notes at Section D.4.3 that the facility is subject to 326 IAC 8-13. Under this provision, Burns Harbor is required to operate the Continuous Sintering Process Plant according to a CAP.¹²⁰ The “corrective action plan shall contain control measures, such as, but not limited to, reducing sinter production, changing sinter burden characteristics, or modifying sintering process equipment operations.”¹²¹ On July 5, 2000, EPA approved Indiana’s corresponding SIP provisions that include these CAP requirements.¹²² Therefore, the CAP is an applicable requirement that is federally enforceable by EPA.¹²³ The Permit is deficient because it does not cite to or incorporate this Plan as required by 40 C.F.R. § 70.6(a)(1).

¹²⁰ 326 IAC 8-13-4(b)(5).

¹²¹ *Id.*

¹²² 65 Fed. Reg. 41,350, 41,351 (July 5, 2000) (codified at 40 CFR 52.770(c)).

¹²³ 40 C.F.R. § 70.2 (definition at “applicable requirement” at (1)).

b. Operation and Maintenance Plan

Burns Harbor is also required to operate according to an O&M plan. Part 63, Subpart FFFFFF requires that a “written operation and maintenance plan” be prepared with corrective action procedures and notes that “compliance with nonopacity emission standards” is determined by “evaluation of an owner or operator’s conformance with operation and maintenance requirements, including the evaluation of monitoring data, as specified in 40 C.F.R. § 63.6(e).”¹²⁴ Additionally, 40 C.F.R § 63.7790 requires that Sinter Plant emission sources operate “at or above the lowest value or settings established for the operating limits in [their] operation and maintenance plan.”¹²⁵ Finally, an O&M plan is required for each pickling line and “shall be incorporated by reference into the source’s title V permit.”¹²⁶

Because the federal NESHAP rules promulgated under Section 112 of the Clean Air Act require O&M plans and they are used to demonstrate compliance with the NESHAP emission limits, the underlying O&M plan requirements are applicable requirements for Title V permitting purposes.¹²⁷ Despite the Permit including provisions relevant to O&M plans in Attachment C (40 CFR § 63, Subpart FFFFFF) and Attachment D (40 CFR § 63, Subpart CCC), no permit conditions cite to or incorporate an O&M plan. The Facility must operate in accordance with its O&M plan. Therefore, the exclusion of such a plan is a clear deficiency in violation of Section 112 of the CAA and 40 C.F.R. § 70.6(a)(1).

¹²⁴ 40 CFR § 63.6(f)(2)(ii).

¹²⁵ *See also* 40 CFR § 63.7833(b)(1).

¹²⁶ 40 CFR § 63.1160(b)(1).

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

c. Preventive Maintenance Plan

Burns Harbor is generally subject to the PMP requirements at 326 IAC 1-6-3.¹²⁸ Furthermore, Burns Harbor is required to operate the scrap metal cutting machine according to a PMP.¹²⁹ These PMP requirements are SIP-approved.¹³⁰ Permit Section B.12 is titled “Preventive Maintenance Plan” and generally describes PMP regulations under 326 IAC 1-6-3 and 326 IAC 2-7-5(12). Condition B.12(a) of the Permit states that the “Permittee shall implement the PMPs.”¹³¹ The PMPs are also necessary to assure compliance with other applicable requirements. For example, Section B.12(c) notes that “IDEM, OAQ may require the Permittee to revise its PMPs whenever lack of proper maintenance causes or is the primary contributor to an exceedance of any limitation on emissions.”¹³² This demonstrates that PMPs are a necessary precursor requirement to achieve emissions limits.

The Permit does not include PMPs or provide the date the Permittee submitted a PMP to IDEM. The Permit only identifies the scrap metal cutting machine as requiring a PMP, but that PMP is not attached to the Permit.¹³³ Because the plan is not included, Petitioners were unable to determine whether the Permit includes sufficient monitoring provisions for any limits for the scrap metal cutting machine.¹³⁴ The Permit does not make clear whether Burns Harbor has a PMP for any other emissions unit. This is practically concerning because the Facility has a history of

¹²⁸ TSD at 34.

¹²⁹ Permit at D.14.3.

¹³⁰ 55 Fed. Reg. 18,604 (May 3, 1990) (codified at 40 C.F.R. § 52.770(c)).

¹³¹ Permit at Section B.12(a).

¹³² *Id.* at Section B.12(c).

¹³³ *Id.* at Section D.14.3.

¹³⁴ See *USEPA’s Response to Michigan Environmental Council Comments on Michigan’s Title V Operating Permit Program*, at ¶ 1 (Nov. 27, 2001), available at: <https://www.epa.gov/sites/default/files/2015-08/documents/mimec.pdf> (“USEPA will work with MDEQ to ensure that any key monitoring provisions in the preventative maintenance plans which are necessary to meet title V’s compliance monitoring requirements are clearly outlined in the title V permits.”).

pollution violations and safety incidents.¹³⁵ IDEM should clarify which emissions units are required to have individual PMPs, and should attach those PMPs to the permit. IDEM should also clarify when the source wide Preventive Maintenance Plan was last updated.

2. Part 70 Requirements not met, issue raised in public comment.

The Permit must contain the requirements applicable to Burns Harbor, including requirements of the Indiana SIP.¹³⁶ The Permit must also contain monitoring provisions included in applicable requirements, as well as monitoring requirements sufficient “to assure compliance with the permit terms and conditions.”¹³⁷ As previously discussed, all required Title V permit terms must be enforceable,¹³⁸ and “the rationale for the selected monitoring requirements must be clear and documented in the permit record.”¹³⁹ The Permit fails to meet the requirements of Part 70 because, as shown above, it fails to include the CAPs, the PMPs or the O&M plans under Subpart CCC and FFFFFF as is necessary to assure compliance with the Permit’s emissions limits and as is required by the Indiana SIP and the Part 70 rules.

Petitioners clearly raised the failure to include the CAPs, PMPs, and O&M plans in public comment, stating: “the Draft Permit should incorporate or attach the Corrective Action Plan,

¹³⁵ See e.g., EPA Press Office, *Cleveland-Cliffs Agrees to Improve Environmental Compliance at Indiana Facility and Pay \$3 Million Civil Penalty for Ammonia and Cyanide Violations*, U.S. Env’t Prot. Agency (Feb. 14, 2022), <https://www.epa.gov/newsreleases/cleveland-cliffs-agrees-improve-environmental-compliance-indiana-facility-and-pay-3>; Lauren Cross and Joseph S. Pate, *Explosion hits ArcelorMittal’s Burns Harbor plant; official says stove dome failure to blame*, NWI Times (Jul. 16, 2020, updated Mar. 31, 2022), https://www.nwitimes.com/news/local/lake/explosion-hits-arcelormittals-burns-harbor-plant-official-says-stove-dome-failure-to-blame/article_39033877-94fa-5635-a392-4bd5ac462211.html; Ravi Baichwal, *Explosion at steel mill rocks Burns Harbor, Ind. Community; red plume of smoke seen for miles*, ABC 7 (Nov. 30, 2021), <https://abc7chicago.com/fire-explosion-steel-mill-plant/11285502/>.

¹³⁶ 42 U.S.C. § 7661c(a).

¹³⁷ 40 C.F.R. §§ 70.6(c)(1) and (3); 42 U.S.C. § 7661c(c).

¹³⁸ 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.

¹³⁹ *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 7–8.

Operation and Maintenance Plan, [and the] Preventive Maintenance Plan. For these plans to be practically enforceable, the ¹⁴⁰ must attach and incorporate these plans.”¹⁴¹ Petitioners elaborated on the specific requirements of the CAPs, PMPs, and O&M plans, and explained that because specific units at Burns Harbor were required to operate in accordance with the Plans, the “Plan[s] must be included in the.”¹⁴¹

3. Analysis of IDEM’s Response

IDEM responded to Petitioners’ comments regarding all plans as follows:

The Corrective Action Plan, Operation and Maintenance Plan, Preventive Maintenance Plan, and the Ozone Action Day Plan are required to be prepared, maintained, and be implemented by the source. They are not part of the permit and are not subject for public review. They are typically kept on site so that on-site employees can effectively implement them and that a copy is available for review by an IDEM-OAQ inspector.¹⁴²

IDEM responded specifically regarding PMPs in its Response to General Statement 11 by stating:

PMPs are typically kept on site so that on-site employees can effectively implement the PMPs 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 PMPs, to determine if the source is in compliance with the PMP requirements. The intent of a PMP is to be a living document based on necessary maintenance requirements during the life of various equipment and may change from time to time based on the maintenance needs at the facility. If a source is not in compliance with the PMP for the source, the source may be referred to compliance and enforcement.¹⁴³

IDEM simply did not address whether any other units, aside from the scrap metal cutting machine, have a PMP. IDEM also did not address when the source-wide PMP was last updated. IDEM’s

¹⁴⁰ Addendum to the Technical Support Document at 142 (“ATSD”). Because the ATSD copied the substantive text of Petitioners’ comments provided, we cite to the ATSD when discussing Petitioners’ comments.

¹⁴¹ *Id.* at 140-41 (where Petitioners note that both the CAPs, PMPs, and O&M plans “must be included in the Permit.”)

¹⁴² *Id.* at 143.

¹⁴³ *Id.* at 30.

generic response that these Plans “are not part of the permit and are not subject for public review”¹⁴⁴ is legally and factually incorrect. As explained below, the PMP, CAP, and O&M plans must be included in the Permit under numerous statutory and regulatory requirements.

First, CC is required to have the PMP and CAP under SIP-approved Indiana regulations.¹⁴⁵ Therefore, the underlying requirements in the PMP and CAP are applicable requirements of the Permit because they are “requirements provided for in the applicable implementation plan.”¹⁴⁶ In developing those SIP rules, Indiana determined that a facility-specific CAP was necessary to address exceedances of the VOC requirements.¹⁴⁷ Indiana also determined that facility-specific PMPs were necessary to ensure the proper maintenance and repair of emissions control devices.¹⁴⁸ Moreover, because the Indiana SIP requires CC to have and apply these Plans, IDEM must include these Plans in the Permit under 40 C.F.R. § 70.6, which specifically requires Title V permits to contain “[a]ll monitoring and analysis procedures or test methods required under applicable monitoring and testing requirements.”¹⁴⁹

Likewise, the O&M plans are required under the NESHAP. Therefore, they are applicable requirements of the Permit because they are a “requirement under section 112 of the Act.”¹⁵⁰ In developing those rules, EPA specifically determined that development and implementation of an O&M plan was necessary to assure compliance with the rules’ requirements.¹⁵¹ EPA also specifically directed that a source-specific Subpart CCC O&M Plan be included in a source’s Title

¹⁴⁴ *Id.* at 143.

¹⁴⁵ 55 Fed. Reg. 18,604 (May 3, 1990) (SIP approval requiring PMPs) and 65 Fed. Reg. 41,350, 41,351 (July 5, 2000) (SIP approval requiring CAPs).

¹⁴⁶ 40 C.F.R. § 70.2 (definition at “applicable requirement” at (1)).

¹⁴⁷ *See* 326 IAC 8-13-4(b)(5).

¹⁴⁸ *See* 326 IAC 1-6-3.

¹⁴⁹ 40 C.F.R. § 70.6(a)(3)(i)(A).

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

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

V permit.¹⁵² IDEM did include the language requiring development of the O&M plan from 40 CFR 63, Subpart CCC in Attachment D and 40 CFR 63, Subpart FFFFF in Attachment C.¹⁵³ However, this is insufficient to meet the Title V permitting requirements. Simply copying specific provisions of Subparts FFFFF and CCC that require CC to develop and implement the O&M plan, as IDEM has done here,¹⁵⁴ does not fulfill the Title V requirement to include the applicable requirements – i.e., the actual source-specific underlying requirements in the O&M plan that must be implemented at Burns Harbor – in the Permit.

IDEM has no discretion to determine that the underlying requirements in these Plans are not applicable requirements at Burns Harbor. 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).¹⁵⁵ The Permit must be revised to include the Facility’s PMPs, CAPs, and O&M plans to comply with the CAA and the Part 70 rules.

Second, IDEM must include these specific Plans in the Permit because the Permit requires CC 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).¹⁵⁶ That is the case here. Permit Condition B.12

¹⁵² *Id.* at § 63.1160(b)

¹⁵³ See Attachment C at pgs. 12 (incorporating 40 C.F.R. § 63.7800), 17 (incorporating 40 C.F.R. § 63.7822), 22 (incorporating § 63.7824), 31 (incorporating 40 C.F.R. § 63.7830 and § 63.7827, 34 (incorporating 40 C.F.R. § 63.7831), 35 (incorporating 40 C.F.R. § 63.7833), 38 (incorporating 40 C.F.R. § 63.7834); see also Attachment D at pgs. 5 (incorporating 40 C.F.R. § 63.1160) and 10 (incorporating 40 C.F.R. § 63.1165).

¹⁵⁴ *Id.*

¹⁵⁵ *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)).

¹⁵⁶ *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

specifically requires the implementation of a PMP; Condition D.3.5 requires that the PMP be used to calibrate the instrument used for parametric pressure monitoring; and Condition D.14.3 notes that a PMP is necessary for the control device at the scrap metal cutting machine emissions unit. Similarly, the specific NESHAP provisions incorporated in conditions E.3.2 and E.4.2 require CC to develop and implement O&M plans. Lastly, condition D.4.3 requires that CC operate the continuous sintering process plant according to a CAP.¹⁵⁷ Accordingly, the facility-specific contents of the PMP, CAPs, and O&M plans are requirements applicable to Burns Harbor that must be included in the Permit.

Third, as noted by Petitioners, these Plans must be included in the Permit to make the provisions requiring compliance and implementation of the Plans enforceable against CC. Title V requires enforceable permit terms,¹⁵⁸ and IDEM's response completely fails to address this enforceability issue. Without including the specific underlying requirements of these Plans in the Permit, conditions B.12, D.3.5, D.4.3, D.14.3, E.3.2, and E.4.2 are unenforceable because it is impossible for IDEM, EPA, and citizens to determine whether Burns Harbor is complying with the requirements of the Plans.¹⁵⁹

Finally, the Subpart FFFFFF O&M plans must also be included in the Permit because they are necessary to determine compliance with other applicable requirements. 40 C.F.R § 63.7790 requires that sinter plant emission sources operate "at or above the lowest value or settings

University Order"), at 27 (noting where a facility is subject to a plan, the permit must "properly incorporate that plan").

¹⁵⁷ Condition D.4.3 incorporates 326 IAC 8-13 where 326 IAC 8-13-4(b)(5) contains the CAP requirement.

¹⁵⁸ 42 U.S.C. § 7661c(a).

¹⁵⁹ 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").

established for the operating limits in [their] operation and maintenance plan.”¹⁶⁰ Therefore, under 40 C.F.R. § 70.6(a)(3)(i)(B), the Subpart FFFFFF O&M plan includes underlying requirements necessary to assure compliance with Subpart FFFFFF emission requirements contained in the Permit.

While IDEM emphasizes the “living” nature of the Plans and its ability to inspect them, this does not override the statutory and regulatory requirements (and related EPA orders) stating that these Plans are the types that must be included in Title V permits, as discussed above.¹⁶¹ Accordingly, EPA must grant Petitioners’ request for an objection on this issue and direct IDEM either to revise the Permit to include the PMPs, CAPs, and O&M plans or to provide the factual and legal basis that aligns with the relevant Title V statutory and regulatory requirements that supports excluding the Plans from the Permit.

V. Conclusion

For the reasons discussed above, EPA must object to the CC Burns Harbor Permit. As clearly raised in public comments, the Permit fails to include adequate testing, monitoring, recordkeeping, and reporting requirements sufficient to assure continuous compliance with multiple units’ emission limits and fails to include the various required Plans. Accordingly, Petitioners respectfully request that EPA object to the issuance of the Permit and require that IDEM:

- (1) add supplemental monitoring to assure continuous compliance with the hourly SO₂ numeric emission limits at the blast furnace C & D stoves; sinter plant windbox; No. 1

¹⁶⁰ See also 40 CFR § 63.7833(b)(1).

¹⁶¹ 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.

- & 2 coke battery underfire stacks; 160 inch plate mill continuous reheat furnaces No. 1 & 2 and boilers No. 1 & 3; 110 inch plate mill furnaces No. 1 and 2; 160 inch plate mill in & out furnaces No. 4-7; power station boilers No. 7-12; and blast furnace gas flare or require IDEM to explain fully how the current permit provisions assure continuous compliance with these limits;
- (2) add stack testing required in CP127-2725-00001 and other monitoring reasonably related to the annual NO_x limit for the Coke Oven Process Plant in order to assure compliance with it or require IDEM to explain fully how the current permit provisions are adequate to assure compliance with the NO_x limit in Condition D.1.1(a);
- (3) re-notice the Draft Permit with a working and accessible copy of CP127-2802-00001, revise Condition D.5.4(a) to clarify how PM emission limits will be calculated (and thus enforced), and revise D.5.9 to include monitoring reasonably related to the hourly PM emission limits in Conditions D.5.2(b) and (d). Alternatively, EPA can require IDEM to explain fully how the current permit provisions are adequate to assure compliance with the PM emissions limits in Conditions D.5.2(b), D.5.2 (d), and D.5.4(a);
- (4) revise the conditions addressing the PM emission limit requirements of 326 IAC 6-3-2(e) to add the appropriate process weight information and to add any monitoring requirements necessary to assure compliance with those limits. Or require IDEM to demonstrate how the current permit provisions are adequate to assure compliance with the SIP-based PM emissions limits in Conditions D.4.1, D.8.1(a), and D.9.1.;
- (5) require IDEM to explain fully how the current permit provisions are adequate to assure compliance with the hourly PM emissions limits for the basic oxygen furnace shop

- (Conditions D.6.1(a) and (c), D.6.2(a) – (d), D.6.3 (a) – (m), D.6.5(a) – (c) and (e)), cold sheet mill (Condition D.9.3), and scrap metal cutting machine (Conditions D.14.1 and D.14.2); and
- (6) attach the Corrective Action, Operation and Maintenance, and Preventive Maintenance Plans to the Permit, or require IDEM to provide the factual and legal basis for excluding the Plans from the Permit that aligns with the relevant Title V statutory and regulatory requirements.

DATED: August 21, 2026

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