



May 19, 2025

VIA ELECTRONIC MAIL

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Re: Public Comments on the Renewal and Significant Source Modification to an Administrative Part 70 Operating Permit for Holcim, Inc., contractor of Cleveland Cliffs Steel Operation Permit No. T089-48779-00458; Significant Source Modification No. 089-48769-00458

Dear Ms. Tolliver,

The Environmental Law & Policy Center (“ELPC”), along with the Abrams Environmental Law Clinic, Northwestern Environmental Advocacy Center, Conservation Law Center, Gary Advocates for Responsible Development, Just Transition Northwest Indiana, and Northern Lake County Environmental Partnership, (collectively, “Commenters”) respectfully submit the following comments on the above-referenced Draft renewal and Significant Source Modification to an “Administrative” Part 70 Operating Permit (“Draft Permit”) issued by the Indiana Department of Environmental Management (“IDEM” or “the Department”) for the stationary slag granulating and pelletizing operations that Holcim, Inc. (“Holcim”), conducts as a contractor of Cleveland-Cliffs LLC in Lake County. We appreciate the opportunity to make these public comments.

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

I. Introduction

Holcim operates a slag granulating and pelletizing facility in East Chicago, Indiana that emits substantial amounts of pollution and is a Title V Major Source.¹ The facility is contracted to process slag for the Cleveland Cliffs Indiana Harbor steel mills. The proposed renewal and source modification to an Administrative Part 70 Operating Permit would allow Holcim to add a new emissions unit, a diesel-fired generator identified as “EG-2.”²

The comments below are summarized here

- IDEM must provide a legal justification for issuing administrative permits
- IDEM must provide a Statement of Basis for the Draft Permit
- IDEM must remove the “emergency” affirmative defense provision from the Draft Permit
- IDEM must clarify limits to ensure they are enforceable
- IDEM must clarify its conditions regarding the sitewide opacity limits; and
- IDEM should require Holcim to submit a new Fugitive Emissions Control Plan.

II. IDEM has not justified issuing an “Administrative Permit.”

This permitting action is purported to be a renewal and significant source modification for an Administrative Part 70 Operation Permit.³ However, IDEM provides no explanation in the Draft Permit or TSD for how an “administrative” Part 70 permit is defined or how it differs from a normal Part 70 permit. Commenters found nothing in Indiana’s State Implementation Plan (“SIP”) or any other Indiana regulations authorizing such permits.⁴ IDEM’s practice of separately permitting the various contractors and the Indiana Harbor East and West plants through “administrative only” and Part 70 permits is inconsistent and unclear. IDEM must explain its rationale and authority for issuing Part 70 permits to the Entire Source while only issuing “administrative permits” to the various contractors.

III. The Final Permit must include a Statement of Basis

Clean Air Act regulations (40 CFR § 70.7(a)(5)) require IDEM to “provide a statement that sets forth the legal and factual basis for the draft permit conditions (including references to

¹ Holcim Significant Modification to an Administrative Part 70 Operating Permit (“Draft Permit”) <http://permits.air.idem.in.gov/48769d.pdf>

² *Id.* at 3.

³ *Id.*

⁴ 326 IAC 2, Rule 7. See Clean Air Act Final Approval of Operating Permit Program Revisions; Indiana, 67 Fed. Reg. 34844 (May 16, 2002).

the applicable statutory or regulatory provisions).” This “statement” is a separate document from the permit that must “include a discussion of decision-making that went into the development of the Title V permit and to provide the permitting authority, the public, and the USEPA a record of the applicability and technical issues surrounding issuance of the permit.”⁵ In addition to discussing monitoring and operational requirements, the statement of basis must identify all applicability and exemption determinations, and “include the rationale for such a determination and reference any supporting materials relied upon in the determination.”⁶ Finally, it should include attainment status, permitting history, and “[c]ompliance history including inspections, any violations noted, a listing of consent decrees into which the permittee has entered and corrective action(s) taken to address noncompliance.”⁷

The Draft Permit does not contain any designated “Statement of Basis.” To the extent IDEM believes that the Technical Support Document (TSD) can serve as a Statement of Basis, the Department is incorrect. The TSD only “sets forth the legal and factual basis for a draft Part 70 permit conditions (including references to the applicable statutory or regulatory provisions).”⁸ The TSD does include multiple Statement of Basis items, including permitting and compliance history. The TSD does include a section on enforcement, but it merely states “[t]here are no enforcement actions pending”⁹; it does not address compliance history. IDEM must provide a statement of basis for public review and comment before issuing the Final Permit.

IV. IDEM must remove the emergency affirmative defense provision

Section B.11 of the Draft Permit contains an emergency affirmative defense provision.¹⁰ However, the EPA issued a final rule on July 21, 2023, that removed these provisions from regulations governing Title V permit programs.¹¹ The rule clearly requires states that adopted these provisions into their part 70 operating permit programs to revise their programs and remove these provisions.¹² Additionally, “individual operating permits that contain Title V affirmative defenses based on 40 CFR 70.6(g) or similar state regulations will eventually need to be revised.”¹³ The EPA expects these “necessary” permit revisions to occur during “permit renewals or revisions.”¹⁴ Consequently, IDEM must use this current permit renewal to remove this expired provision from the Draft Permit.

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

⁶ *Id.* at 2.

⁷ *Id.* at 3.

⁸ 316 IAC 2-7-8(d)(1).

⁹ Draft Permit Technical Support Document at 6.

¹⁰ *Id.* at 15.

¹¹ 88 Fed. Reg. 47029 (July 21, 2023).

¹² *Id.* at 47030.

¹³ *Id.*

¹⁴ *Id.* at 47031.

V. IDEM must clarify limits to ensure they are enforceable

Pursuant to 42 U.S.C § 7661c(a) and 40 C.F.R. § 70.6(a)(1), Title V Permits issued by IDEM under the Clean Air Act are required to include “enforceable emission limitations and standards,” and other conditions that “are necessary to assure compliance with applicable requirements.” Thus, in addition to emissions limits, IDEM must include all monitoring, reporting, and recordkeeping requirements to assure compliance with applicable standards.¹⁵ However, IDEM has failed to include the requisite standards and conditions in this permit that will ensure Holcim can comply with this permit.

A. Emissions Limitations for Slag Pit Emissions

Section D.1.1 of the Draft Permit IDEM states:

Pursuant to SSM 089-11512-00458, issued on March 14, 2000, the Permittee may split the slag stream between the granulator/pelletizer system and the slag pits; however, **the Permittee shall not utilize both the granulator/pelletizer system and the slag pits in order to increase slag processing throughout.**

Compliance with these limits shall ensure that the net emission increase of all criteria pollutants from the slag granulator, slag pelletizer, and associated equipment shall be limited below the associated Emissions Offset significant levels to render the requirements of 36 IAC 2-3 not applicable. [emphasis added]¹⁶

This section allows Holcim to evade Emissions Offset requirements for the facility. They have permitted the use of multiple options for processing slag and acknowledge that if all are used, there could be a debottlenecking, allowing increase processing of slag. The language in D.1.1 seems to imply limitations exist to ensure this doesn’t happen, but nothing in D.1.1 or elsewhere in the permit has any limits on throughput for the different slag streams. IDEM fails to provide the limits that will ensure that the net emission increase will be limited below the Emission Offset significant levels. The permit is also silent concerning Holcim’s duty to report the amount of slag processed through the two streams.

Furthermore, section D.1.6, which covers the recordkeeping and reporting requirements, omits any requirements related to condition D.1.1.¹⁷ The Draft Permit must include recordkeeping conditions to show that slag hasn’t increased and that the facility is not reaching Emission Offset significant levels. It is imperative that Holcim collect and report information to IDEM regarding the amount of slag processed through each unit and demonstrate their compliance with permitted emissions levels. This Title V permit is not complete if it fails to

¹⁵ 42 U.S.C. § 7661c(c); 40 C.F.R. §70.3(a)(3).

¹⁶ Draft Permit at 33-34.

¹⁷ *Id.* at 35.

include the applicable emissions limits, along with adequate monitoring, recordkeeping and reporting to assure compliance with the limit.

Section D.1.4 sets a particulate matter (PM) emissions limit for several slag production units and associated equipment. However, this section contains unclear emissions limits and fails to identify which slag production units are part of which emissions units.¹⁸ The PM limit for these slag units is 0.03 grain per dry standard cubic foot (dscf).¹⁹ But IDEM fails to explain how Holcim will demonstrate compliance with these limits.²⁰ Moreover, section D.1.6 does not contain any recordkeeping or reporting requirements for these units.²¹ IDEM must include the requisite standards that apply to these units and ensure that Holcim can appropriately follow the limitations assigned in the Draft Permit. Additionally, IDEM should list the emissions units with their respective slag production units to ensure the permit is clear and transparent. IDEM's statement that the PM limits covers the "associated equipment" is unclear, and this section of the permit should be revised so the facility and public understand which emissions units the slag production units and their associated equipment are related to.²²

B. Emissions Limitations and Standards for the Diesel Generators

The Permit's emission limits, standards, and descriptions for diesel generators are unclear, confusing, and unenforceable. IDEM must revise these portions, as explained below, and produce a permit that complies with Title V regulations, and is clear enough for the facility, regulators, and the public to understand.

For example, Section E.1, contains the New Source Performance Standards (NSPS) for the excess granulated slag screening emissions unit and its diesel-fired generator.²³ This section identifies the excess slag processing unit as "EG-2" and then, right below, identifies the accompanying diesel-fired generator as "EG-2" as well. IDEM repeated this again in Section A.3(d) of the permit, and does the same for emissions unit "EG-1" in section E.2.²⁴ Describing two units with the same identifier creates unnecessary confusion for this permit. IDEM should clarify which permit terms and Title V requirements apply to which emissions units.

IDEM's explanation of how the NSPS and NESHAP standards apply to Holcim are also unclear. While the Draft Permit clearly lays out that 40 CFR 60, Subpart IIII and 40 CFR 63, Subpart ZZZZ apply to the facility, Section E.1 merely cites to these regulations.²⁵ IDEM fails to state which parts of these regulations apply to the facility or which permit conditions they

¹⁸ Those units are the expanded slag production, granulated slag production, expanded slag screening, excess granulated slag screening and all of their associated equipment. Draft Permit at 34.

¹⁹ *Id.* at 34.

²⁰ *Id.*

²¹ *Id.* at 35.

²² *Id.* at 34.

²³ *Id.* at 38.

²⁴ *Id.* at 7, 38-39.

²⁵ *Id.* at 3, 38-39.

dictate. As a result, we request that IDEM answer the following questions to improve the public's understanding of the permit:

- 1) What are the sizes of the generators?
- 2) It appears the NSPS sections listed refer to stationary compression ignition internal combustion engines (CI ICE) with a displacement of less than 30 liters per cylinder. Is that the type of CI ICE here? The permit also references § 40.4204(b), which is for engines model year 2007 and later. Does that mean the CI ICE here was made after 2007?
- 3) What type of fuel limitations are there, such as ultra-low sulfur diesel?
- 4) Section E.2 references 40 C.F.R. 60.4207(b) saying that stationary CI ICE subject to this subpart with a displacement of less than 30 must meet a 15 part per million standard. How will Holcim comply? Did Holcim provide provider certifications?

IDEM's practice of including entire sections of Federal rules in the permit and a few references to specific conditions that apply to the affected facility falls short of 40 C.F.R. 70.6(a)(1).²⁶ This practice deprives the source, the regulator, and the public of Title V's intended goal having all conditions in one permit.²⁷ It is impossible for readers of the Draft Permit to understand what recordkeeping and reporting requirements are applicable to the emissions units being permitted. Because of this, it is hard for commenters to know whether the facility is complying with Subpart III.

To avoid Emissions Offset regulations, Holcim and IDEM agreed that the facility would adhere to certain NO_x emissions limits for its diesel-fired generator.²⁸ Section D.1.3 establishes that limit as 3.2 lb./MMBtu.²⁹ This limit comes from EPA's AP-42 factors and represents the highest polluting level of a generator, Tier 1. The Permit imposes no testing requirement, provides no engineering information, and otherwise fails to explain why IDEM believes this is the proper emission rate or that the unit will comply. While source testing is not always appropriate or required, the Draft Permit needs clarity, whether in the permit or statement of basis, as to how this unit will comply.

Finally, since there is no source testing requirement or fuel sulfur limit, the only practical limitation here is a limitation on the total gallons of fuel used. There is no reason to believe that only a gallon limitation will ensure the unit achieves compliance with the New Source Review (NSR) avoidance limit of 25 tons per year (tpy). IDEM must include additional limits in order to have this limit function as a practically enforceable restriction on the potential to emit of the unit.

²⁶ Idaho Department of Environmental Quality Title V Program Review, <https://www.epa.gov/caa-permitting/title-v-program-reviews-idaho> at 7.

²⁷ 42 U.S.C. § 7661c(c); 40 C.F.R. §70.3(a)(3).

²⁸ Draft Permit at 34.

²⁹ *Id.*

VI. Sitewide Opacity Limits

The Draft Permit contains conditions establishing an opacity limit for the entire source.³⁰ At the site level, opacity shall not exceed an average of 20% in any six-minute period or exceed 60% for more than a cumulative total of fifteen minutes in a six-hour period.³¹ The Draft Permit fails, however, to specify how the permittee should demonstrate compliance with the 20%/six-minute limit. The Final Permit must specify monitoring requirements to assure compliance with the 20%/six-minute opacity limit that is both accurate and continuous enough to determine when the limit has been exceeded.

The Draft Permit allows Holcim to establish compliance with the other opacity limits (60% for more than a cumulative total of fifteen minutes in a six-hour period) through Method 9 or continuous opacity monitoring (“COMs”).³² It is unclear if Holcim is using both methods at all times, some combination thereof, or just one of the two. This lack of clarity alone prevents Commenters from determining if the monitoring is sufficient to assure compliance with the stated opacity limits. That is especially true because Method 9 observations are insufficient to assure compliance with the limits. Method 9 relies on visual observations that can only be made under certain conditions, e.g., it is difficult or impossible to take measurements at night, during dark or cloudy days, when it is raining, etc. Further, Method 9 readings are too infrequent to determine compliance with a standard at all times. Conducting visible observations for no more than once a week at the site-level would miss potential opacity exceedances at all other times.

Accordingly, Commenters request that IDEM answer the following questions:

1. Do the two opacity limits apply at all times, including at night, or on dark, cloudy or rainy days?
2. Can Method 9 opacity measurements be conducted at night (about half of the hours in a year) or on dark, cloudy or rainy days?
3. If the answer to Question 2 above is no, how will IDEM assure compliance with the opacity limit if Method 9 cannot be used more than half of the time the opacity limit is in effect? Can periodic Method 9 readings assure compliance with the opacity limit during the hours in between these tests?
4. Has IDEM considered including a “digital opacity device” for compliance monitoring? If so, how often would a digital opacity device be deployed, and in what way can it be used to assure compliance at all times the opacity limit is in effect (e.g., at night or on dark or cloudy days)?
5. Why has IDEM not required COMs to be installed on all units with stacks?
6. Has IDEM considered 24/7 video surveillance of opacity in areas where high opacity levels from fugitive sources are anticipated?

³⁰ *Id.* at 22.

³¹ *Id.*

³² *Id.*

VII. Fugitive Emissions Control Plan

The Draft Permit contains a two-page Fugitive Emissions Control Plan (“the Plan”) that is insufficient for a Title V permit.³³ Commenters are concerned that the Plan’s brevity and limited descriptions for dust management at the site will limit Holcim’s ability to adequately monitor and control the fugitive emissions.

First, Procedure 2 requires the shift supervisor to use their “professional discretion to determine if the conditions” require water treatment.³⁴ It then says that “once environmental has received proper opacity training, this knowledge will be passed on to the supervisors, allowing for more accurate evaluation of current conditions.”³⁵ Given that this Plan is dated December 1, 2024, IDEM should clarify whether the shift supervisors and environmental have received opacity training. They should also clarify how this training will be used in their site assessments and whether those methods are Method 22 readings or Method 9. The Plan should list what conditions would cause them to decide water is necessary, what conditions determine it is not necessary, and set procedures to evaluate the control measure’s success. Holcim staff should be tracking whether they are narrowing the conditions necessitating the control measures. There is no clear guidance for how Holcim staff are looking for emissions, what they are looking for, and what would cause a problem. Holcim should revise the Plan and incorporate all of these considerations.

The recordkeeping and reporting provisions of the Plan also require revisions and further clarification. The Plan requires a quarterly report to include the dates any required control measures were not implemented, but the recordkeeping provision fails to require Holcim staff to track when control measures were required but not used.³⁶ Because of this oversight, it is likely that Holcim will not have anything to report on this issue. The Plan also requires recordkeeping at the site “regardless of conditions.” Commenters request IDEM to answer the following clarifying questions to fully understand this term:

1. Does this mean a record must be generated each shift when the visual assessment occurs?
2. Will Holcim staff fill out a record for each of the five locations listed in the plan area?

Additionally, the plan covers five areas at the Holcim site: the hot slag pits, the dewatering pad/cast out, the parking lot, the lightweight screening area, and lot A. Presumably these areas have very different pollution generating equipment. The Plan should list the types of equipment, the potential for PM, and include the corrective actions for each piece of equipment.

³³ *Id.* at 52-53.

³⁴ *Id.* at 53.

³⁵ *Id.*

³⁶ *Id.*

VIII. Conclusion

We urge IDEM to revise the permit as outlined in the above sections and produce a final permit consistent with Indiana regulations and the requirements of the Title V permit program.

Sincerely,



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