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**VIA ELECTRONIC MAIL**

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**RE: Public Comments on the Significant Modification No. 089-49447-0013 and the Renewal of a Part 70 Operating Permit No. 089-48656-0013.**

The Environmental Law & Policy Center (“ELPC”), along with Abrams Environmental Law Center, Just Transition Northwest Indiana, Gary Advocates for Responsible, and Conservation Law Center (collectively, “Commenters”) respectfully submit the following comments on the Draft “Administrative” Part 70 Operating Permit Renewal, No. T089-48656-00133 and Significant Source Modification No. 089-49447-0013 (“Draft Permit”) issued by the Indiana Department of Environmental Management (“IDEM” or “Department”) to South Shore Slag, LLC, contractor of U.S. Steel Corporation, for the stationary operations it conducts at U.S. Steel Gary Works in Lake County. The South Shore Slag facility (“Facility”) is a slag crushing, screening, and conveying facility in Gary, Indiana that emits substantial amounts of pollution and is a Title V Major Source.<sup>1</sup> The facility is a contractor for the U.S. Steel Gary Works steel mill (IDEM Source ID 089-00121).

The Commenters previously submitted comments on the Part 70 Administrative Operating Permit Renewal on July 25, 2025. Since then, the Permittee constructed and began operating a new Aggregate Plant No. 3 prior to receiving IDEM approval and a proper permit. IDEM is now reviewing a Significant Source Modification intended to cover that new emissions unit and removing emissions units that are no longer operating. The Commenters submit the following comments addressing both the Part 70 Administrative Operating Permit and the Significant Source Modification. We appreciate the opportunity to make these public comments.

**Comment 1: IDEM Must Take Appropriate Enforcement Actions to Address The Permittee’s Unlawful Operation of Unpermitted Emissions Units.**

A significant source modification must be approved by IDEM before the source can begin any construction on any new emissions unit.<sup>2</sup> The Permittee violated that rule by constructing and operating Aggregate Plant No. 3 prior to receiving a valid permit.<sup>3</sup> IDEM acknowledges that it “is

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<sup>1</sup> Draft Permit at 6 (pdf pg. 11).

<sup>2</sup> 326 IAC 2-7-10.5(h)(2).

<sup>3</sup> Technical Support Document for a Part 70 Administrative Operating Permit Renewal (“TSD”) at 10 (pdf pg. 220).

aware that equipment has been constructed and/or operated prior to receipt of the proper permit” and states that it is “reviewing this matter and will take the appropriate action.”<sup>4</sup> IDEM acknowledges that the Aggregate Plant No. 3, which has an uncontrolled potential to emit almost 700 tons per year of particulate matter (“PM”),<sup>5</sup> is “currently being operated.”<sup>6</sup> IDEM must address this violation and issue appropriate civil penalties under 326 IAC 1-8. Constructing and Operating this new emissions unit without a proper permit should be considered a major deviation warranting a higher penalty because the Permittee deviated “from the requirements of the regulation, permit, or statute to the extent that there is substantial noncompliance.”<sup>7</sup>

To determine the penalty amount, IDEM also must determine the violation’s potential for harm by evaluating, among other things, the “degree of adverse effect of noncompliance on statutory or regulatory purposes or procedures for implementing the program, based on . . . sensitivity of the environment and sensitivity of the human population.”<sup>8</sup> South Shore Slag operates as a contractor of U.S. Steel Gary Works, the largest integrated steel mill in the United States and is located in Gary, Indiana, a community that is already overburdened by excess air pollution from the steel mill and other industry. The Permittee completely ignored regulatory requirements and subjected an overburdened community to additional, unpermitted source of PM emissions. IDEM must take proper action to address this violation and must ensure that similar violations do not happen again in the future.

**Comment 2: IDEM Must Revise the Permit to Include Proper Numeric PM Emissions Limit for Aggregate Plant No. 3 to Ensure that the Unit Will Stay Below the PSD Minor Limit.**

Title V permits must contain “such other conditions as are necessary to assure compliance with applicable requirements.”<sup>9</sup> Condition D.4.1(a) establishes a slag throughput limit for the Aggregate Plant No. 3 to ensure the facility remains below the Prevention of Significant Deterioration (“PSD”) threshold for PM and Condition D.4.1(b) establishes numeric PM emissions limits for the unit. Aggregate Plant No. 3 has a wet suppression system to control PM emissions which must be operated to achieve the emissions limits set in Conditions D.4.1(a)-(d).<sup>10</sup> But, the numeric PM emissions limits established by Condition D.4.1(b) are based on the uncontrolled emissions factors and do not account for the wet suppression system.<sup>11</sup> The slag throughput limit established by Condition D.4.1(a) will only keep the unit below the PSD PM threshold if the wet suppression system is operated, which would require the PM emissions to be well below the

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<sup>4</sup> *Id.* at 7 (pdf pg. 217).

<sup>5</sup> *Id.* at 11 (pdf pg. 221).

<sup>6</sup> *Id.* at 10 (pdf pg. 220).

<sup>7</sup> 326 IAC 1-8-3(e).

<sup>8</sup> 326 IAC 1-8-3(c)(2).

<sup>9</sup> 42 U.S.C. § 7661c(a); see also 326 IAC § 2-7-5(1) (Part 70 permit must include “[e]missions limitations and standards, including those operational requirements and limitations that assure compliance with all applicable requirements.”)

<sup>10</sup> Condition D.4.4 at 44 (pdf pg. 49).

<sup>11</sup> TSD App. A at 8 (pdf pg. 246).

uncontrolled numeric emissions limits set in Condition D.4.1(b).<sup>12</sup> The Draft Permit uses a similar framework for the mobile crushing, screening, and conveying equipment and the Aggregate Plant No. 2 units. But the Draft Permit sets numeric PM emissions limits for those units based on the controlled emissions factors, not the uncontrolled emissions factor.<sup>13</sup> Therefore, to ensure compliance with the PSD threshold, IDEM must revise the permit to set numeric PM emissions limits for Aggregate Plant No. 3 based on controlled emissions factors, not uncontrolled emissions factors.

**Comment 3: IDEM Must Revise the Permit to Include Specific NESHAP Requirements Rather than Only Citing the Applicable Regulations.**

Title V permits should “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.”<sup>14</sup> Further, the permit must “specify and reference the origin and authority for each term and condition, and identify any difference in form as compared to the applicable requirement upon which the term or condition is based.”<sup>15</sup>

Section E of the Draft Permit, which contains the applicable NESHAP requirements, fails to meet these requirements. The Draft Permit states only that the Permittee “shall comply with the following provisions” of 40 CFR Part 63, Subpart ZZZZ<sup>16</sup> and 40 CFR Part 63, Subpart FFFFF<sup>17</sup> and then lists numerous sections from the Code of Federal Regulations (CFR) and the regulation’s title in tables. These citations alone are insufficient to enable the public to understand applicable requirements and do not identify the “origin and authority” for any of the terms and conditions contained in Section E. Further, Section E.2 contains *33 different emissions units*, but the Draft Permit does not identify which of those units are subject to the twelve different regulations cited in Condition E.2.2.<sup>18</sup> There is no way for the public, the source, or regulators to know which cited regulation applies to which of the 33 different emissions units listed. Instead of simply listing the regulations and including the entire subpart, IDEM must revise the Draft Permit to only include the parts of the NESHAP regulations that apply and to specifically identify which unit each regulation applies to so that the permit “enable[s] 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.”<sup>19</sup>

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<sup>12</sup> *Id.*

<sup>13</sup> See Condition D.1.1(b) at 34 (pdf pg. 39) and TSD App. A at 6 (pdf pg. 244); Condition D.3.1(b) at 40 (pdf pg. 45) and TSD App. A at 7 (pdf pg. 245).

<sup>14</sup> 57 Fed. Reg. 32251 (July 21, 1992).

<sup>15</sup> 40 C.F.R. § 70.6(a)(1)(i).

<sup>16</sup> Draft Permit at 46 (pdf pg. 51).

<sup>17</sup> *Id.* at 51 (pdf pg. 56).

<sup>18</sup> *Id.* at 50-51.

<sup>19</sup> 57 Fed. Reg. 32251 (July 21, 1992).

**Comment 4: IDEM Must Revise the Draft Permit and Fugitive Dust Plan to Ensure that the Source Will Achieve Compliance with the Fugitive Dust Emissions Limits.**

A Part 70 permit must include “such other conditions as are necessary to assure compliance with applicable requirements.”<sup>20</sup> Fugitive dust plans must also contain a “description of the proposed control measures and practices that the source will employ to achieve compliance with the emission limitations and data that prove its effectiveness.”<sup>21</sup>

The Draft Permit and fugitive dust plan fail to meet those requirements. The Draft Permit sets PM emissions limits for mobile crushing, screening, and conveying equipment and Aggregate Plant No. 2 and No. 3 to avoid being subject to the PSD requirements. To comply with those PSD Minor Limits, the source must reduce emissions from unpaved roads by either 50% or 75% by implementing the fugitive dust control plan.<sup>22</sup> The fugitive dust plan fails to explain how the Permittee will achieve compliance with those numeric emissions limits. The fugitive dust plan states only that:

Dust on unpaved roads are controlled by applications of water (an acceptable chemical compound may be used in the future) during operating hours, weather permitting. There are no paved roadways in this facility. Applications of dust control material will be done as often as necessary to meet applicable limits.<sup>23</sup>

Stating that application of dust control material “will be done as often as necessary to meet applicable limits” is not sufficient to show how the Permittee will meet the applicable emissions limits set in the Draft Permit and the fugitive dust plan lacks any of the required data to show that the plan will be effective at meeting those limits.

Further, Condition D.1.1(c) states that for the mobile crushing, screening, and conveying equipment the “fugitive dust control plan shall be implemented to reduce emissions from unpaved roads by seventy-five (75) percent.”<sup>24</sup> But, Conditions D.3.1(c) and D.4.1(c) state that for Aggregate Plant No. 2 and No. 3, the “fugitive dust control plan shall be implemented to reduce emissions from unpaved roads by fifty (50) percent.”<sup>25</sup> It is completely unclear from the Draft Permit how the Permittee intends to ensure it is reducing fugitive emissions from unpaved roads associated with the emissions units in Section D.1 by 75% while reducing fugitive emissions associated with the emissions units in Section D.3 and D.4 by 50%, or if that is even possible. The Permittee must comply with these emissions limits to avoid being subject to the more stringent PSD requirements, so it is essential that the permit assures compliance with those limits. IDEM

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<sup>20</sup> 42 U.S.C. § 7661c(a); see also 326 IAC § 2-7-5(1) (Part 70 permit must include “[e]missions limitations and standards, including those operational requirements and limitations that assure compliance with all applicable requirements.”)

<sup>21</sup> 326 IAC 6.8-10-4(3)(E).

<sup>22</sup> Draft Permit at 34, 40, 44 (pdf pg. 39, 45, 59).

<sup>23</sup> Fugitive Dust Control Plan Section 4.1.1 at 2 (pdf pg. 70).

<sup>24</sup> Draft Permit at 34 (pdf pg. 39).

<sup>25</sup> *Id.* at 40, 44 (pdf pg. 45, 49).

must revise the Draft Permit and fugitive dust plan to contain a sufficient description of the “proposed control measures and practices that the source will employ to achieve compliance with the emission limitations and data that prove its effectiveness.”<sup>26</sup>

### **Comment 5: IDEM Must Ensure the Emissions Limits 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 must 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 such limits and other applicable standards.<sup>27</sup> However, IDEM has failed to include the requisite standards and conditions in this permit that will ensure the Facility can comply with the applicable requirements in this permit. The permit fails to ensure that the PM, PM<sub>10</sub>, and PM<sub>2.5</sub> limits in Sections D.1 through D.4 are practically enforceable.

#### **a. Conditions D.1.3, D.3.2, and D.4.2**

Conditions D.1.3, D.3.2, and D.4.2 set emissions limits for PM for several emissions units and associated equipment. IDEM lists the following PM limits in the Draft Permit:

**D.1.3** - Pursuant to 326 IAC 6.8-1-2(a) (Particulate Matter Limitations for Lake County), particulate emissions from feeding, screening, crushing, conveying, milling, and magnet operations shall not exceed 0.03 grains per dry standard cubic foot (dscf), each.<sup>28</sup>

**D.3.2** – Pursuant to 326 IAC 6.8-1-2(a) (Particulate Matter Limitations for Lake County), particulate matter emissions from the feeders, crushers, screens, conveyors, magnets, and the non-emergency diesel-fired engine, identified as CAT3412, shall not exceed seven-hundredths (0.07) gram per dry standard cubic meter (g/dscm) (three-hundredths (0.03)) grain per dry standard cubic foot (dscf), each.<sup>29</sup>

**D.4.2** - Pursuant to 326 IAC 6.8-1-2(a) (Particulate Matter Limitations for Lake County), particulate matter emissions from the feeders, crushers, screens, conveyors, and magnets shall not exceed seven-hundredths (0.07) gram per dry standard cubic meter (g/dscm) (three-hundredths (0.03)) grain per dry standard cubic foot (dscf), each.<sup>30</sup>

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<sup>26</sup> 326 IAC 6.8-10-4(3)(E).

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

<sup>28</sup> Draft Permit at 35 (pdf pg. 40).

<sup>29</sup> *Id.* at 41 (pdf pg. 46).

<sup>30</sup> *Id.* at 44 (pdf pg. 49).

Although IDEM lists these numeric limits, the Draft Permit fails to include conditions necessary to demonstrate compliance with them. The Draft Permit states that compliance with the limits will be demonstrated with wet suppression that “shall be applied in a manner and at a frequency sufficient to ensure compliance” with these limits.<sup>31</sup> However, this language is vague, circular, and unenforceable. Moreover, the other conditions in Sections D.1, D.3, and D.4 fail to include any recordkeeping or reporting requirements to address the PM limits for these units. To the extent IDEM intends to rely on Conditions D.1.7 and D.1.8 to address these requirements, they are insufficient because they simply refer back to the Permittee’s obligations under Section C of the Draft Permit and Section C only requires recordkeeping and reporting as required by specific provisions of the Permit.<sup>32</sup> IDEM must include monitoring, recordkeeping, and reporting requirements that apply to and assure compliance with the PM emission limits in Conditions D.1.3, D.3.2, and D.4.2.

**b. Conditions D.1.1, D.1.2, D.3.1, and D.4.1**

Conditions D.1.1, D.1.2, D.3.1, and D.4.1 set forth numeric PM emissions limits, as well as throughput and fugitive dust requirements, for the mobile crushing, screening, and conveying equipment and Aggregate Plant No. 2 and No. 3, respectively.<sup>33</sup> The Draft Permit specifies that these conditions allow the Facility to evade the otherwise applicable requirements for PSD controls and Emission Offsets for PM emissions at these units. When limits are used to evade otherwise applicable requirements, the Title V permit must include sufficient terms that restrict the source from exceeding the applicable emission thresholds and accompanying testing, monitoring, recordkeeping, and reporting requirements to ensure compliance with and enforcement of those limits by regulators and citizens.<sup>34</sup> The Draft Permit fails to meet these requirements. The compliance provisions accompanying these PM limits are insufficient because they contain the same vague, circular, and unenforceable requirements as discussed above: wet suppression “applied in a manner and at a frequency sufficient to ensure compliance” with the emission limits and daily visible emissions notations of “normal or abnormal” emissions.<sup>35</sup> And neither IDEM nor the Draft Permit explain how these provisions correlate to compliance with the numeric PM emission limits in Conditions D.1.1, D.1.2, D.3.1, and D.4.1.

Likewise, the Record Keeping Requirements in Conditions D.1.7, D.3.6, and D.4.6 are insufficient. These Conditions only require records of slag inputs and the visible emission notations.<sup>36</sup> The Draft Permit does not require the Facility to keep record of or otherwise report

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<sup>31</sup> *Id.* at 35 (Condition D.1.5), 41 (Condition D.3.4), and 44 (Condition D.4.4) (pdf pgs. 40, 46, 49)

<sup>32</sup> Compare *id.* at 35-26, Conditions D.1.7 and D.1.8 (cross referencing the requirements of Section C) and 38-32, Section C (requiring reporting only of specific information required elsewhere in the permit plus general certifications of compliance without reporting of the information underlying those determinations).

<sup>33</sup> *Id.* at 33-35, 39-41, and 43-44 (pdf pgs. 38-40, 44-46, 48-49).

<sup>34</sup> Yuhuang Order at 14; Pencor-Masada Order at 7.

<sup>35</sup> Draft Permit at 35, Condition D.1.6, 41, Condition D.3.5, and 44, Condition D.4.5 (pdf pgs. 40, 49); *see also* Comment 3.a., *supra*.

<sup>36</sup> *Id.* at 35, 42, and 45 (pdf pgs. 40, 47, 50).

any “monitoring” related to the numeric PM emission limits, and Conditions D.3.6, and D.4.6 do not even mention compliance with the numeric PM emissions limits set in Conditions D.3.1(b) and D.4.1(b).<sup>37</sup> In the TSD, IDEM simply recites these monitoring requirements but does not explain how slag inputs and visible emission monitoring will assure compliance with these numeric PM limits.<sup>38</sup> Without necessary recording and reporting, it is impossible for IDEM, EPA, or the public to determine whether the Facility is complying with the numeric PM emission limits in Conditions D.3.1 and D.4.1 and take enforcement action as necessary. Accordingly, IDEM must revise the Draft Permit to include monitoring, recordkeeping, and reporting requirements sufficient to assure compliance with the numeric PM emission limits in Conditions D.1.1, D.1.2, D.3.1, and D.4.1.

**Comment 6: IDEM Must Revise the Draft Permit to Include Monitoring, Recordkeeping, and Reporting Requirements Sufficient to assure Compliance with Opacity and PM Limits Rather than Rely on Vague Visible Emissions Monitoring.**

As laid out above, each Title V permit must include “monitoring, compliance certification, and reporting requirements to assure compliance with the permit terms and conditions.”<sup>39</sup> Furthermore, any emission limit in a Title V permit must be enforceable as both a legal and practical matter – i.e., the permit must clearly specify how emissions will be measured or determined for purposes of demonstrating compliance with the limit.<sup>40</sup>

Conditions D1.1 through D.1.3, D.3.1 through D.3.2, and D.4.1 through D.4.2 contain numeric PM limits, as well as throughput, fugitive dust control, and NOx limits, for the mobile crushing, screening, and conveying equipment and Aggregate Plants No. 2 and No. 3 respectively.<sup>41</sup> Conditions D.1.6, D.3.5, and D.4.5 set forth the only “Compliance Monitoring Requirements” for these units.<sup>42</sup> These monitoring provisions allow for South Shore Slag to use visible emissions notations to verify whether emissions are “normal or abnormal” at the aforementioned units.<sup>43</sup> However, as discussed in the comments above, this vague requirement is not relevant or useful in monitoring compliance with numerical opacity standards. Likewise, visible emission notations for “normal or abnormal” emissions are not a substitute for numeric PM/PM<sub>10</sub>/PM<sub>2.5</sub> emission limits monitoring.

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<sup>37</sup> *Id.* at 42 (only addressing Conditions D.3.1(a) and (e)) and 45 (addressing only Conditions D.4.1(a)) (pdf pgs. 47, 50). As discussed above, IDEM cannot rely on references to the general recordkeeping and reporting of Section C as evidence of adequate recordkeeping and reporting because they do not require reporting of information not otherwise required by the Permit. *See Comment 3.a, supra.*

<sup>38</sup> TSD at 25-26 (pdf pgs. 235-36).

<sup>39</sup> 42 U.S.C. § 7661c(c); *see also* 40 C.F.R. § 70.6(c)(1).

<sup>40</sup> *See, e.g., In the Matter of Hu Honua bioenergy Facility, Pepeekeo, HI* (Feb. 7, 2014), [https://www.epa.gov/sites/default/files/2015-08/documents/hu\\_honua\\_decision2011.pdf](https://www.epa.gov/sites/default/files/2015-08/documents/hu_honua_decision2011.pdf) (“Hu Honua Order”), at 10.

<sup>41</sup> Draft Permit at 34-35, 40-41, and 43-44 (pdf pgs. 39-40, 45-56, 48-49).

<sup>42</sup> *Id.*

<sup>43</sup> *Id.*

IDEM should consider other monitoring options that would provide more accurate monitoring information, including:

- Method 22 testing
- Method 9 testing
- Monitoring another parameter – for instance, in NSPS OOO, the regular monitoring for systems using wet suppression relies upon inspections of nozzles on a regular basis to ensure wet suppression is being applied consistently and evenly.

In sum, IDEM must revise the Draft Permit so that it contains objective and meaningful compliance monitoring methods.<sup>44</sup>

#### **Comment 7: IDEM Must Include Required Plans in the Permit.**

The Draft Permit includes several plans that IDEM is required to implement or comply with by the terms of the Permit, but aside from the Fugitive Dust Control Plan contained in Attachment A,<sup>45</sup> the plans themselves are not contained in the Permit. As EPA has explained, when “compliance with the approved [plan] is required” by the specific terms of a permit, the content of the plan is information necessary to impose an applicable requirement and “the plan must be included in the permit” under 40 C.F.R. § 70.6(a)(1).<sup>46</sup> In addition, to the extent the plans are required under the Indiana SIP, they are also applicable requirements that must be included in the Permit.<sup>47</sup> Accordingly, IDEM must revise the Draft Permit to include the following plans either as text in the Permit or attachments to it:

- A. Preventive Maintenance Plan (“PMP”) in Condition B.10: This General Condition requires implementation of the PMPs, as well as preparation and maintenance of the PMPs within 90 days of the later of permit issuance or initial start-up.<sup>48</sup> As the slag operations have been operating for at least 20 years, the PMPs should be in place.<sup>49</sup> The Permittee is also required to have a PMP under the Indiana SIP.<sup>50</sup> In addition, the Permit states that these PMPs can be used to satisfy the federal applicable requirements of 40 CFR Part 60/63 for an Operation, Maintenance, and Monitoring plan. Accordingly, the

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<sup>44</sup> 42. U.S.C. § 7661c(c); *see also* 40 C.F.R. § 70.6(c)(1).

<sup>45</sup> *Id.* at Attachment A (pdf pg. 66).

<sup>46</sup> 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](https://www.epa.gov/sites/default/files/2015-08/documents/oak_creek_decision2007.pdf), 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](https://www.epa.gov/sites/default/files/2015-08/documents/columbia_university_decision2000.pdf), at 27 (noting where a facility is subject to a plan, the permit must “properly incorporate that plan”).

<sup>47</sup> 40 C.F.R. §§ 70.2 (definition of applicable requirement at (1)) and 70.6(a)(1) (permits must include terms to comply with applicable requirements).

<sup>48</sup> Draft Permit at 13, Conditions B.10(a) and (b) (pdf pg. 18).

<sup>49</sup> TSD at 2 (pdf pg. 212) (noting that the current permit issued in October 2020 was the third renewal, where each permit has a 5- year term).

<sup>50</sup> 55 Fed. Reg. 18604 (May 3, 1990) (SIP approval).

PMPs required in Condition B.10 must be contained in the Permit because it is an applicable requirement, can be used to satisfy the applicable requirements of the federal rules in Parts 60 and 63, and is also necessary to determine compliance with Condition B.10(a) and (b).

- B. Preventive Maintenance Plan in Condition D.1.4: This Condition states that a PMP “is required for these facilities and any control devices,” i.e., the mobile crushing, screening, and conveying equipment.<sup>51</sup> Since the PMP is an applicable requirement and is also required to determine compliance with Condition D.1.5, it must be contained in the Permit.
- C. Preventive Maintenance Plan in Condition D.2.3: This Condition states that a PMP “is required for this facility, i.e., parts washer identified as PW1.”<sup>52</sup> Since the PMP is an applicable requirement and is also required to determine compliance with Condition D.2.3, it must be contained in the Permit.
- D. Preventive Maintenance Plan in Condition D.3.3: This Condition states that a PMP “is required for these facilities,” i.e., Aggregate Plant No. 2.<sup>53</sup> Since the PMP is an applicable requirement and is also required to determine compliance with Condition D.3.3, it must be contained in the Permit.
- E. Preventive Maintenance Plan in Condition D.4.3: This Condition states that a PMP “is required for these facilities,” i.e., Aggregate Plant No. 3.<sup>54</sup> Since the PMP is an applicable requirement and is also required to determine compliance with Condition D.4.3, it must be contained in the Permit.
- F. Continuous Compliance Plan (“CCP”) in Condition C.11: This Condition states that under SIP-approved state law, the “Permittee shall perform inspection, monitoring and record keeping in accordance with the...applicable procedures in the CCP.”<sup>55</sup> The permit also states that “failure to submit a CCP” and “maintain all information required by the CCP” is a violation of SIP-approved state law.<sup>56</sup> Since the CCP is an applicable requirement and is also required to determine compliance with Condition C.11, it must be contained in the Permit.

#### **Comment 8: IDEM’s Lack of Justification to Issue an Administrative Permit.**

This permitting action is purported to be a renewal of an Administrative Part 70 Operation Permit. 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. Neither Indiana’s State Implementation Plan (“SIP”) nor any other Indiana regulations appear to authorize

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<sup>51</sup> Draft Permit at 35 (pdf pg. 40).

<sup>52</sup> *Id.* at 38 (pdf pg. 43).

<sup>53</sup> *Id.* at 41 (pdf pg. 46).

<sup>54</sup> *Id.* at 44 (pdf pg. 49).

<sup>55</sup> *Id.* at 24-25, Condition C.11(a) (pdf pg. 29-30); 71 Fed. Reg. 14383 (March 22, 2006) (SIP approval).

<sup>56</sup> Draft Permit at 25, Condition C.11(c) (pdf pg. 30); 71 Fed. Reg. 14383 (March 22, 2006) (SIP approval).

IDE M to issue these permits.<sup>57</sup> IDE M's practice of separately permitting U.S. Steel Gary Works and its various contractors as "administrative only" and Part 70 permits is inconsistent, unclear, and fails to satisfy the requirements of Title V. IDE M must explain its rationale and authority for issuing a "Part 70 permit" to U.S. Steel Gary Works (Source ID 089-00121) while only issuing "administrative" permits to the various contractors "solely for administrative purpose."<sup>58</sup> This is especially true where the Title V permit recently issued to Gary Works, No. T089-46943-00121, addresses only the applicable requirements for operation of the steel mill and not the applicable requirements for its various contractors, such as this slag Facility.<sup>59</sup>

IDE M has responded to similar comments stating that "Title V permits, in general, are 'administrative' in nature . . . [and] are a vehicle to incorporate *all* applicable requirements of a source (or sources) that are federally enforceable."<sup>60</sup> If that were the case, why does IDE M not label all Part 70 permits as Administrative? What is IDE M trying to imply by using the term "Administrative Permits" only for contractors operating at U.S. Steel Gary Works? Further, Commenters disagree with IDE M's contention that a Title V permit is "administrative." A source cannot operate without a Title V permit<sup>61</sup> and the Title V permit contains its own enforcement provisions,<sup>62</sup> making it clear that it is not simply administrative. Finally, if South Shore Slag and all other contractors located at U.S. Steel Gary Works are treated as "one major source" under 326 IAC 2-7-1(20),<sup>63</sup> why aren't the sources permitted as one? Does separate permitting allow the sources to avoid greater scrutiny or lower emissions limits? Specifically, can Gary Works and its contractors avoid reaching New Source Review, PSD, and/or Emission Offset thresholds because new sources can be built and/or modifications made across separate "administrative" permits rather than be reflected in a single Title V permit? Commenters request that IDE M answer these questions before issuing the permit renewal.

#### **Comment 9: The Draft Permit Must Include a Statement of Basis.**

Clean Air Act regulations (40 CFR § 70.7(a)(5)) require IDE M to "provide a statement that sets forth the legal and factual basis for the Draft Permit conditions (including references to the applicable statutory or regulatory provisions)." Normally referred to as a Statement of Basis, it must be provided to the public during the comment period, and is a separate document from the

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<sup>57</sup> 326 IAC 2, Rule 7. See Clean Air Act Final Approval of Operating Permit Program Revisions; Indiana, 67 Fed. Reg. 34844 (May 16, 2002).

<sup>58</sup> TSD at 1.

<sup>59</sup> See generally, U.S. Steel - Gary Works Part 70 Operating Permit Renewal, No. T089-46943-00121 (May 7, 2025), <https://permits.air.idem.in.gov/46943f.pdf> (for example, identifies emission units and associated requirements for various slag activities owned and operated by U.S. Steel, but not any emission units and requirements for the slag crushing, screening, and conveying done by South Shore Slag, LLC).

<sup>60</sup> Addendum to the Technical Support Document (ATSD) for a Part 70 Administrative Operating Permit Renewal No. 089-48490-00174 at 3 (pdf pg. 46).

<sup>61</sup> 326 IAC 2-7-3.

<sup>62</sup> 326 IAC 2-7-7(a) ("All terms and conditions in a Part 70 permit, including any provisions designed to limit a source's potential to emit, are enforceable by the U.S. EPA and citizens under the CAA.")

<sup>63</sup> Draft Permit at 6 (pdf pg. 11).

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.”<sup>64</sup> 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.”<sup>65</sup> 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.”<sup>66</sup>

The Draft Permit does not contain any designated “Statement of Basis.” To the extent IDEM believes that the 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).”<sup>67</sup> The TSD does not include multiple required elements of the Statement of Basis, including permitting and compliance history. Likewise, the section on “Existing Approvals” addresses recent permitting history but does not provide a complete history identifying all underlying permits that could contain applicable requirements for this Facility.<sup>68</sup> IDEM must provide a Statement of Basis that addresses all required elements for public review and comment before issuing the Final Permit.

## 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,

/s/ Elise Zaniker

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<sup>64</sup> 40 C.F.R. 70.7(h)(2); Letter from U.S. EPA Region V to Ohio EPA, (Dec. 20, 2001) at 1 [hereinafter the “USEPA Region V Letter”] <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 (Sept. 22, 2005).

<sup>65</sup> USEPA Region V Letter at 2.

<sup>66</sup> *Id.* at 3.

<sup>67</sup> 326 IAC 2-7-8(d)(1).

<sup>68</sup> *Id.* at 1-2.

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