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**VIA ELECTRONIC MAIL**

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**RE: Comments on Renewal of a Part 70 Operating Permit for Powder Processing Technology, LLC in Porter County, Permit No. T127-49772-00021**

## I. Introduction

The Environmental Law & Policy Center ("ELPC"), Conservation Law Center ("CLC") and Just Transition Northwest Indiana respectfully submit the following comments on the above-referenced Part 70 Operating Permit Renewal ("Draft Permit") [1] for Powder Processing Technology, LLC to continue operation of a stationary metal oxide product manufacturing source.

Commenters are non-profit organizations that work to promote a healthier environment for all. Commenters advocate for vigorous enforcement of federal and state environmental laws to protect public health and ensure that businesses do not receive a competitive advantage by polluting the environment.

## II. Comment 1: The Draft Permit fails to provide sufficient testing and monitoring to ensure compliance with underlying emissions limits.

The Clean Air Act ("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."[2] As the relevant permitting authority, IDEM has the responsibility "to ensure that the [T]itle v permit 'set[s] forth' monitoring to assure compliance with all applicable requirements."[3] 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

[1] Part 70 Operating Permit Renewal No. T127-49772-00021, Powder Processing Technology, LLC in Porter County, (July 7, 2026) ("Draft Permit").
[2] 42 U.S.C. § 7661c(c); *see also* 40 C.F.R. § 70.6(c)(1).
[3] *Id*.

with the limit.[4] 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."[5] The Draft Permit, as written, does not have sufficient monitoring or testing requirements to ensure compliance with emissions limits for NOx and PM across multiple emissions units.

*a. The Draft Permit fails to provide sufficiently frequent testing to ensure compliance with NOx limits set forth in section D.1.2.*

Section D.1.2 sets numeric lbs/hr NOx limits for Calciners #10, #6, #11, and #12.[6] Section D.1.8(a) requires the Permittee to test only one of these four units "repeated at least once every five (5) years," rotating so that "[t]esting on a control device shall not be repeated until each control device has been tested."[7] As a result, the Permittee is only required to test one of these four emissions units once every five years, meaning that each of these units would be tested only once every 20 years.

This is wholly inadequate because it is too infrequent to ensure compliance with the underlying NOx limits. It falls short of the regulatory standard to provide "periodic monitoring sufficient to yield reliable data from the relevant time period that are representative of the source's compliance with the permit."[8] Typically, "yearly, monthly, weekly, daily, [or] hourly [testing]—would be satisfactory" but a "one-time startup test" is insufficient "to give assurance that the company is complying with emission limitations."[9] The Draft Permit's rotating scheme functionally implements this one-time test explicitly rejected by the courts because it only requires one control device to be tested once over the course of the entire permit term. Even worse, under this system, three of the four units simply will not be tested over the course of the permit term, thereby making it impossible for IDEM, the Permittee, or the public to determine compliance with the underlying NOx limit for those emissions units. This has played out in practice. The Technical Support Document ("TSD") notes that the last valid NOx demonstration was on February 1, 2023.[10] That test only confirmed that Calciner #12 was functioning properly, but there is no confirmatory data that the other emissions units are compliant with the underlying NOx limits within the last permit term. Testing an emissions unit only once every 20 years is wholly insufficient.

IDEM must ensure the final permit includes sufficient periodic testing of all emissions units to ensure compliance with the individualized numeric NOx limits.

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[4] *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.
[5] *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 (emphasis added).
[6] *See* Draft Permit at Sec. D.1.2 (where the Draft Permit sets the following limits for NOx: Calciner #10 – 1.76lbs/hr, Calciner #6 - 3lbs/hr, Calciner #11 - 3lbs/hr, Calciner #12 – 1lbs/hr.
[7] *Id* at D.1.8(a).
[8] *See* 40 C.F.R. § 70.6(a)(3)(i)(b).
[9] *Appalachian Power Co. v. E.P.A.,* 208 F.3d 1015, 1024-25 (D.C. Cir. 2000).
[10] Draft Permit - TSD at 28.

*b. The Draft Permit fails to provide sufficiently frequent testing to ensure that PSD is inapplicable.*

The same issue discussed in the previous section applies to the PM control measures required by the Draft Permit to avoid PSD applicability. Section D.1.6(c) notes that "[i]n order to assure that the requirements of 326 IAC 2-2 (PSD) and 326 IAC 6-3-2 do not apply… integral control devices for particulate control shall be in operation and control emissions from the associated emission units at all times these emission units are in operation."[11] Under this section, emissions units A-Dryer, B-Dryer, and SRF Dryer have distinct control devices.[12] Testing requirements[13] for these emissions units are identical to those described in the previous section of this comment. Therefore, these requirements are insufficient under the same rationale. In this instance, each control device would be tested only once every 15 years. The Permittee is relying on these control devices to ensure the facility is emitting below PSD limits and is compliant. Therefore, it is crucial that sufficient testing is implemented.

IDEM must ensure the final permit includes sufficient periodic testing for each emissions unit to ensure the control devices are achieving the requisite emissions control efficiency to avoid PSD applicability.

*c. The Draft Permit fails to provide any testing whatsoever for multiple emissions units with numeric NOx limits.*

Section D.1.2 sets numeric NOx limits for #7 Calciner, C-Kiln, Lab Calciner 1, Lab Elevator Kiln 1, Lab Elevator Kiln 2, and the Lab Shuttle Kiln.[14] Despite containing numeric emissions limits, the Draft Permit contains *no* corresponding testing requirements for the associated control devices at these emissions units. The permit must contain "testing, monitoring, reporting, and recordkeeping requirements sufficient to assure compliance."[15] The Draft Permit does set a control requirement that the UltraCat Hot Gas Filtration Systems "be in operation and control emissions from the… emission units at all times."[16] However, there is no corresponding testing requirement associated with these six emissions units to ensure that the control technology is achieving the underlying numeric NOx limits at these emissions units. Furthermore, there is no recordkeeping or monitoring requirement to ensure that the control device is in fact operating at all times. To the extent that the Permittee is relying on proxy calculations to project emissions via AP-42 factors, this is insufficient. EPA specifically notes that "[u]se of these factors as source-specific permit limits and/or as emission regulation compliance determinations is **NOT** recommended by EPA."[17]

The potential emissions from these units are not trivial. Calciner #7 alone has an uncontrolled PTE of 20 tons/yr and the combined units amount to 75.38 tons/yr.[18] Emissions are likely

[11] Draft Permit at D.1.6(c).
[12] *See id*.
[13] *See id* at D.1.8(b).
[14] *See id* at D.1.2 (where the Draft Permit sets the following limits for NOx: Calciner #7 - .75 lbs/hr, C-Kiln 0.56 lbs/hr, Lab Calciner 1 - 0.46, lbs/hr, Lab Elevator Kiln 1 - 0.64 lbs /hr, Lab Elevator Kiln 2 -0.64 lbs/hr, Lab Shuttle Kiln - 1.75 lbs/hr.
[15] 40 C.F.R. § 70.6(c)(1).
[16] Draft Permit at D.1.7.
[17] U.S. Envtl. Prot. Agency, What is An AP-42 Emission Factor? (Sept. 2024), at 2 available at https://www.epa.gov/system/files/documents/2024-01/introduction_2024.pdf (emphasis in original).
[18] Draft Permit, Appendix A at 3.

somewhere in between the uncontrolled and controlled emissions projections because there is no recordkeeping to confirm that the control device is always operational. Furthermore, the use of a non site-specific emissions factor is unreasonable where there is an emissions unit with significantly variable emissions. That is the case here. Calciner #7 has an output range of 125 lbs/hr – 200 lbs/hr depending on whether the product is nitrate-based or not.[19]

IDEM must ensure the final permit includes robust and periodic testing and monitoring requirements to ensure that the control devices for each emissions unit meet NOx limits.

*d. The Draft Permit fails to provide any testing whatsoever for multiple emissions units with numeric PM limits.*

The same issue discussed in the previous section applies to emissions units D-Dryer, F-Dryer, C-Kiln, Lab Shuttle Kiln, E-Dryer, North Tunnel Kiln, or South Tunnel Kiln. Section D.1.4 sets numeric PM limits for these seven units.[20] While other emissions units have at least some pressure drop monitoring to gauge PM emissions,[21] these emissions units do not have any monitoring or testing technique to ensure compliance with the underlying numeric PM limits. As explained in the previous section of this comment, this is wholly insufficient monitoring that does not ensure compliance with the numeric limits set forth in the permit requirements.

IDEM must ensure the final permit includes robust and periodic testing and monitoring requirements to ensure that the control devices for each emissions unit meet PM limits.

## III. Comment 2: The Draft Permit's characterization of "deviation" prevents the Permittee from properly reporting compliance.

Two separate pressure drop monitoring provisions in the Draft Permit state that "[a] pressure reading that is outside the [normal] range is not a deviation from this permit."[22] The Draft Permit states that only a "[f]ailure to take response steps shall be considered a deviation from this permit."[23] Deviation is defined as "an exceedance of a permit limitation or a failure to comply with a requirement of the permit."[24]

Sections D.1.9 and D.1.10 of the Draft Permit specify a normal pressure drop range of "1 to 6 inches."[25] This is a crucial permit term written to implement underlying applicable requirements. In other words, the pressure drop monitoring is the mechanism by which the Permittee determines whether the control device is functioning properly, which in and of itself is an applicable

[19] Draft Permit at A.2(f).
[20] *See* Draft Permit at D.1.4 (where the following limits for PM are set: D-Dryer - 1.62 lbs/hr, F-Dryer 1.62 lbs/hr, C-Kiln - 0.88 lbs/hr, Lab Shuttle Kiln - 1.39 lbs/hr, E-Dryer - 1.15 lbs/hr, North Tunnel Kiln - 0.88 lbs/hr, South Tunnel Kiln - 0.88 lbs/hr).
[21] *See* Draft Permit at D.1.9.
[22] *Id* at D.1.9 and D.1.10.
[23] *Id*.
[24] 40 C.F.R. § 63.6675 (emphasis added).
[25] Draft Permit at D.1.9 and D.1.10.

requirement.[26] Furthermore, a properly functioning control device is essential to meeting the underlying PM emissions limits, which is in and of itself a separate applicable requirement.[27] Therefore, by definition, a reading outside this normal range is a deviation because it fails to meet the condition to implement applicable requirements.

Commentors' do not contend that every deviation from this normal range is a violation of the permit. However, by explicitly excluding a reading outside the range from the definition of deviation, IDEM has (1) incorrectly characterized the term "deviation" as defined in the permit and (2) illegally exempted the Permittee from reporting such deviations in its reporting and annual compliance certification. The permit must contain "[p]rompt reporting of deviations from permit requirements, including those attributable to upset conditions as defined in the permit, the probable cause of such deviations, and any corrective actions or preventive measures taken."[28] Under this regulatory standard, deviations from the range must be reported because pressure drop monitoring is the sole monitoring method and therefore the only basis to show that underlying PM limits in section D.1.4 are not met. Furthermore, the Permittee must report "whether compliance… was continuous or intermittent" in a compliance certification.[29] The Draft Permit does not provide requisite information for the Permittee to determine the continuity of compliance because the only piece of information that could be reported is the fact that response steps were not taken. This clearly leaves a massive gap for every situation in which there was a deviation from the range that was later remedied. As written, the Permittee could report continuous compliance for the entire year even if the pressure drop was outside the normal range every day.

IDEM must redefine a reading outside the normal range as a "deviation" and require that such deviations be promptly reported and recorded in compliance certifications.

## IV. Comment 3: The Draft Permit fails to include any opacity monitoring.

Section C.2 states that "[p]ursuant to 326 IAC 5-1-2 (Opacity Limitations) . . . opacity shall meet the following, unless otherwise stated in this permit:

(a) Opacity shall not exceed an average of forty percent (40%) in any one (1) six (6) minute averaging period as determined in 326 IAC 5-1-4.
(b) Opacity shall not exceed sixty percent (60%) for more than a cumulative total of fifteen (15) minutes (sixty (60) readings as measured according to 40 CFR 60, Appendix A, Method 9 or fifteen (15) one (1) minute nonoverlapping integrated averages for a continuous opacity monitor) in a six (6) hour period."[30]

[26] *See* Draft Permit at D.1.6.
[27] *See id* at D.1.4.
[28] 40 CFR 70.6(a)(3)(iii)(B).
[29] 40 CFR 70.6(c)(5)(iii)(C).
[30] Draft Permit at C.2.

Despite these opacity limit requirements, the Draft Permit fails to include any corresponding opacity monitoring provisions. The Draft Permit contains no Method 9 observation requirement, no other form of visible emissions monitoring, no continuous opacity monitoring, and no recordkeeping tied to opacity. Again, the permit must contain "testing, monitoring, reporting, and recordkeeping requirements sufficient to assure compliance."[31] To the extent that IDEM is relying on pressure drops to monitor opacity limits, that is insufficient. EPA has made clear that monitoring "inherently involves establishing or demonstrating a relationship between the measured values and compliance with the applicable emissions limit and using those data to assure compliance."[32] Pressure drop values do not directly correlate to opacity. It is simply a parametric monitoring technique that provides information on the performance of the pollution control device.[33] EPA has declined to allow monitoring with techniques which are uncorrelated to the underlying metric to be measured (opacity here).[34] Lastly, Section C.2 even notes that Method 9 observations are the minimum monitoring technique required to meet the standard.[35] IDEM cannot ignore this baseline requirement.

IDEM must ensure the final permit includes robust opacity monitoring techniques to ensure compliance with the underlying limits in Section C.2.

## V. Conclusion

**Commentors' respectfully request the following:**

- That IDEM ensures the final permit includes sufficient periodic testing of all emissions units to ensure compliance with the individualized numeric NOx limits.
- That IDEM ensures the final permit includes sufficient periodic testing for each emissions unit to ensure the control devices are achieving the requisite emissions control efficiency to avoid PSD applicability.
- That IDEM ensures the final permit includes robust and periodic testing and monitoring requirements to ensure that the control devices for each emissions unit meet NOx limits.
- That IDEM ensures the final permit includes robust and periodic testing and monitoring requirements to ensure that the control devices for each emissions unit meet PM limits.

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[31] 40 C.F.R. § 70.6(c)(1).
[32] *In re Buckingham Lumber Co.*, Order on Petition No. VIII-2002-1 (Nov. 1, 2002), https://19january2021snapshot.epa.gov/sites/static/files/2015-08/documents/buckingham_decision2002.pdf, at 5 ("Buckingham Order"); *see also* 40 C.F.R. § 64.1.
[33] *See Basic Information About Air Emissions Monitoring*, U.S. Env't Prot. Agency, https://www.epa.gov/air-emissions-monitoring-knowledge-base/basic-information-about-air-emissions-monitoring (last updated July 2, 2026).
[34] *Compare Buckingham Order* at fn. 4 (where EPA notes that a thermocouple and pyrometer cannot monitor for opacity) *with* the Draft Permit which only requires pressure drop monitoring and does not even claim that it operates as the monitoring technique to assure compliance with opacity limits.
[35] *See* Draft Permit at C.2.

- That IDEM redefines a reading outside the normal range as a "deviation" and requires that such deviations be promptly reported and recorded in compliance certifications.
- That IDEM ensures the final permit includes robust opacity monitoring techniques to ensure compliance with the underlying limits in C.2.

Respectfully submitted,

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