

Jefferson County Foundation, Inc.

June 21, 2023

Joseph R Kesler, PE
Engineer
WV Department of Environmental Protection
Division Of Air Quality
601 57th Street SE
Charleston, WV 25304
Via Email to joseph.r.kessler@wv.gov

RE: Comments on the Proposed Air Permit to Construct Under the Clean Air Act (R14-0040) for CMC Steel West Virginia (Facility ID 003-00286) in Berkeley County

Dear Joseph Kessler,

I am writing on behalf of the Jefferson County Foundation (“JCF”)¹ to provide comments on the proposal by the WV Department of Environmental Protection (“WVDEP”) to issue Permit to Construct R14-0040 (“Permit”) to CMC Steel West Virginia, Facility ID 003-00286 (“CMC”) for a steel micro-mill (“Source” or “Facility”) in Berkeley, West Virginia. Given the potential impact of this Source’s emissions on the health and environment of the Eastern Panhandle of West Virginia, JCF wants to ensure that any final CMC Permit complies with requirements of the Clean Air Act (“CAA”) and the West Virginia CAA State Implementation Plan (“SIP”).

As WVDEP explained in the Notice of Intent to Approve (“Notice”), this proposed Source can emit pollutants in significant amounts, and thus any final Permit issued to CMC must comply with the Prevention of Significant Deterioration (“PSD”) requirements of WV Legislative Rule 45 CSR 14, including application of Best available Control Technology (“BACT”) and analysis of the impact of the emissions on air quality increments and soil, vegetation and visibility in the area.² JCF has reviewed the information provided with the Notice, including the Proposed Permit, WVDEP’s Preliminary Determination/Fact Sheet, CMC’s Application, the Air Dispersion Modeling Report, and the IPR File Index. We have also compared the proposed Permit for this Facility to the air permit for a similar CMC mini-mill in Sayreville, New Jersey.³ We want to ensure that any WVDEP approval minimizes the emissions

¹ Jefferson County Foundation is a 501(c)(3) non-profit organization that works strategically to address long-term issues facing the Eastern Panhandle of West Virginia. JCF supports and promotes effective and accountable government, sustainable development, environmental injustice, and the protection of health, heritage, and the environment in the Eastern Panhandle.

² WVDEP Notice of Intent to Approve (“Notice”) at 1.

³ See Air Pollution Control Operating Permit for CMC Steel New Jersey (“CMC NJ Permit”), available at https://njems.nj.gov/DataMiner/Report/FileDownloader?filenameURI=//dep-image/NJEMSIMG/PDF/OUT/43674_BOP210001_30352023.pdf. Note that we attempted to review the air permit for the CMC Mesa facility referenced in the Application and Fact Sheet, but it does not appear to be provided in the

impact of another large polluting source in the Eastern Panhandle and provides the public with an adequate understanding of the Source's emissions. Accordingly, we raise the following concerns to be addressed before any final Permit is issued for this Source:

- 1) The Permit should require adequate monitoring and reporting of the Source's significant air emissions in a way that will allow WVDEP, EPA, and the public to confirm that that the Facility is complying with its permits.
- 2) The Permit must require adequate and specific control of fugitive dust.
- 3) WVDEP should clarify how and when the Agency will address any water run-off from wet suppression techniques required by the permit.

I. The Permit Should Require Continuous Monitoring of Air Emissions and Reporting of Resulting Data to WVDEP.

While we are encouraged that the Permit requires CMC to install continuous emissions monitoring systems ("CEMS") to monitor emissions of carbon monoxide ("CO") and oxides of nitrogen ("NOx") from the Electric Arc Furnace, it is not clear why CEMS are not also required for other pollutants emitted from the facility in significant amounts and why CMC is not required to report the CEMS data to the Department. First, the Permit allows the Facility to emit significant amounts of volatile organic compounds ("VOCs"), sulfur dioxide ("SO₂"), and carbon dioxide ("CO₂") as the primary component of the Facility's greenhouse gases emissions. As currently written, the Permit requires only occasional stack testing for these pollutants and then otherwise assumes the Facility is meeting its BACT limits if those tests confirm basic emission control parameters for these pollutants.⁴ However, occasional stack testing every 1-3 years does not ensure the Facility's actual day-to-day compliance with the BACT emission limits contained in the Permit. We note that the similar CMC steel mini-mill in New Jersey requires CEMS for VOC emissions,⁵ and that CMC's Application noted requirements for SO₂ CEMS at a number of comparable facilities.⁶ In addition, a Nucor Steel mini-mill in Indiana is required to use CEMS to monitor CO₂ emissions.⁷ Accordingly, we believe any final Permit issued to this Source should require CEMS to monitor the Source's compliance with the VOC, SO₂, and CO₂ emission limits, as well as CO and NO_x.

available record and the Arizona Department of Environmental Quality does not have a publicly available database of permits.

⁴ Permit at 3.3.1 and 4.3.5.

⁵ CMC NJ Permit at Ref. #28.

⁶ CMC Application at PDF pg. 313, B-6 (SO₂ CEMS at Nucor Steel Brandenburg), and PDF pg. 282, B-8 (SO₂ CEMS at STEEL MILL)

⁷ See Indiana Department of Environmental Management, Significant Permit Modification to Part 70 Renewal No. T107-30293-00038 for Nucor Steel (Crawfordsville, IN), at page 61-62, D.O.2 and D.O.3 (requiring CO₂e and CO₂ CEMS), available at <https://permits.air.idem.in.gov/37019p.pdf>.

In addition, any final Permit for this facility should require CMC to report to WVDEP the actual emissions data for each pollutant with required CEMS. The Permit term requiring CEMS for CO and NO_x currently states that “Data recorded by the CEMS shall be kept for a period not less than three (3) years and shall be made available to the Director or his/her representative *upon request*.” Permit at 4.2.4 (emphasis added). The Permit’s Additional Reporting Requirements require CMC to submit reports of “all required monitoring” each year and to provide a yearly “certification of compliance” for all permit requirements, in which CMC would report any periods of noncompliance with related information regarding notification, corrective action, and subsequent compliance. Permit at 4.5.1. We are concerned that the specific direction in Permit term 4.2.4 that CMC keep CEMS data for 3 years and provide it to WVDEP “upon request” could be read to mean that CMC is not actually required to report to WVDEP the Facility’s CEMS data on a yearly basis under Permit term 4.5.1, but instead is only required to report any period of noncompliance. Given that CEMS are designed, installed, and operated specifically to provide for continuous monitoring of emissions information, CMC should be required to provide that emissions data to WVDEP yearly under Permit term 4.2.4. Moreover, such reporting should be made in a publicly accessible form, so that the Department, EPA, and the public can confirm CMC is complying with the BACT emission limits in its Permit. Accordingly, before providing CMC with final authorization to construct this pollution source, WVDEP should revise the Permit to clearly state that any data from a required CEMS is to be reported to WVDEP yearly in a publicly accessible format.

II. The Permit Must Require Adequate Control of Fugitive Dust.

The West Virginia State SIP requires that “no person shall cause, suffer, allow or permit any source of fugitive particulate matter to operate that is not equipped with a fugitive particulate matter control system...[which] shall be operated and maintained in such a manner as to minimize the emission of fugitive particulate matter.” WV Code § 45-2-5. As explained in the Fact Sheet, up to 812,000 tons of scrap metal will be delivered to the Source each year via train and rail. While most scrap handling is supposed to occur inside the Endless Charging System (“ECS”) Building, that building is open on one side and the Source is also allowed to convey scrap to and store scrap in outdoor piles near the ECS.⁸ However, WVDEP proposed no specific control methods for preventing fugitive dust from those piles, simply asserting – without any support – that such material “is not considered to have a high dust potential.” Fact Sheet at 5. WVDEP must either show that fugitive dust will not be emitted from the delivery, storage, and movement of such scrap (including the trains and trucks transporting them) or revise the Permit to add specific terms to limit these emissions, with accompanying monitoring, reporting, and recordkeeping requirements.

Likewise, the Proposed Permit fails to control fugitive dust from slag processing at the Source. WVDEP explains that while slag from the steel production process will be tapped out and cooled within the meltshop building, the slag will then be transported to an outdoor storage pile to await later processing and eventually moved from those storage piles to the slag

⁸ Fact Sheet at 5.

processing plant.⁹ WVDEP acknowledges that slag processing at the Source has the potential for the “fugitive escape of particulate matter” and states that “CMC shall...ensure that the slag is maintained with a moisture level sufficient to mitigate” the fugitive PM. Fact Sheet at 10 and 11. However, WVDEP has not identified any specific method for or parameters of such control. While the Permit requires that the slag “be maintained at a minimum moisture level that is sufficient to mitigate the fugitive escape of particulate matter,” it is not clear how this requirement will be monitored and reported, much less enforced, as a practical matter. Permit at 4.1.3(c)(3). For example, the Permit does not specify a specific moisture content at which fugitive dust is minimized, nor does it require CMC to monitor or keep records of the moisture content of the slag piles.

To comply with the requirements of WV Code § 45-2-5, WVDEP should improve the provisions for fugitive dust in the Permit to require specific parameters for when control steps must be taken, including accompanying provisions requiring monitoring, recordkeeping, and reporting of CMC’s compliance with them.

III. WVDEP must address water run-off produced from wet suppression techniques required by the permit.

The proposed Permit requires application of water at numerous locations around the Facility to control dust and other fugitive emissions. For example:

- Table 1.0 at footnotes 2 and 5 recognizes water spraying as a required pollution prevention technology/procedure;
- Term 4.1.3.c. includes application of water to the slag as an operating requirement;
- Term 4.1.3 e.(3) requires flushing of haulroads and mobile work areas with water; and
- Term 4.1.3 e.(4) requires CMC to maintain a water truck on site to apply water as necessary to minimize fugitive dust.¹⁰

We are concerned that WVDEP’s proposed authorization to construct this Facility does not address what CMC should do to minimize any run-off of such water – with its entrapped pollution – into nearby soil and water bodies. While we understand that CAA permits do not usually address such water concerns, we want to make sure that potential polluted run-off at the Facility is addressed prior to any authorization to construct this Source with required water suppression. Accordingly, we ask that WVDEP clarify how and when the Department will address any water run-off from wet suppression techniques required by the Permit prior to its issuance.

⁹ Fact Sheet at 9 and 10.

¹⁰ Permit at 6, 17, 18, and 18.

We look forward to your response to these comments in issuing any final Permit for this CMC Micro-mill. Thank you for your work to protect air quality and the environment.

Kind regards,

A handwritten signature in black ink, appearing to read "Billie P. Garde". The signature is fluid and cursive, with the first name "Billie" being more prominent.

Billie Garde
Board Member

cc: Cristina Fernandez, Air Division Director, EPA Region 3, at
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