



## ENVIRONMENTAL LAW & POLICY CENTER

February 5, 2026

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**Re: Public Comments on NLMK Indiana, Title V Renewal No. T127-49451-00036**

Dear Mr. Noveer,

The Environmental Law & Policy Center, Conservation Law Center, Environmental Advocacy Center at Northwestern Pritzker School of Law, Faith in Place, Gary Advocates for Responsible Development, Indiana Conservation Voters, Just Transition Northwest Indiana, National Parks Conservation Association, and Northern Lake County Environmental Partnership (collectively, “Commenters”) respectfully submit the following comments on the above-referenced Draft Title V Part 70 Operating Permit renewal (“Draft Permit”) issued by the Indiana Department of Environmental Management (“IDEM”) to NLMK Indiana (“NLMK”) for its steel mini mill located at 6500 South Boundary Road, Portage, Indiana (“Steel Mill”). We appreciate the opportunity to make these public comments. Please let us know if you have any questions or if you would like to meet to discuss any of these issues.

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.

### **Background**

NLMK is a steel mill that uses electric arc furnace technology to produce 770,000 tons of hot rolled steel for use in the automotive, building and infrastructure, energy, steel packing, tools and machinery, and transport sectors. Sandwiched between the U.S. Steel Midwest Plant and Cleveland-Cliffs Burns Harbor, NLMK is on Lake Michigan at the west arm of the Burns

Waterway Harbor. NLMK’s emissions likely contribute to the nearby Indiana Dunes National Park’s ranking as among the top 10 National Parks with unhealthy air and hazy skies.<sup>1</sup>

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 CAA.<sup>2</sup> 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.<sup>3</sup>

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.<sup>4</sup> 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 Clean Air Act (“CAA”).<sup>5</sup> “Applicable requirements” include any requirements of a federally enforceable state implementation plan (“SIP”), any requirements of preconstruction air permits, and various EPA CAA rules that apply to emission units at the source.<sup>6</sup> Additionally, 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.<sup>7</sup> Title V regulations require that the permitting authority’s rationale for any proposed permit conditions be clear and documented in the permit record.<sup>8</sup> Finally, EPA has explained that the enforceability of Title V permits must be “unambiguous” and must allow IDEM, EPA, and the public to “take appropriate enforcement action”<sup>9</sup> if its terms are exceeded.<sup>10</sup>

As explained below, the Draft Permit fails to satisfy these requirements.

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<sup>1</sup> Daniel Orozco, et al., *Polluted Parks: How Air Pollution and Climate Change Continue to Harm America’s National Parks*, National Parks Conservation Association (NPCA), <https://www.npca.org/reports/air-climate-report>.

<sup>2</sup> 57 Fed. Reg. 32250, 32258 (July 21, 1992).

<sup>3</sup> *Id.* at 32251.

<sup>4</sup> *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](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)).

<sup>5</sup> *Id.*

<sup>6</sup> 40 C.F.R. § 70.2 (definition of “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](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”).

<sup>7</sup> 42 U.S.C. § 7661c(c); 40 C.F.R. § 70.6(c)(1).

<sup>8</sup> 40 C.F.R. § 70.7(a)(5).

<sup>9</sup> *In the Matter of Tesoro Refining and Marketing Co. Martinez, California Facility* (March 15, 2005), [https://www.epa.gov/sites/default/files/2015-08/documents/tesoro\\_decision2004.pdf](https://www.epa.gov/sites/default/files/2015-08/documents/tesoro_decision2004.pdf) (“Tesoro Order”), at 9.

<sup>10</sup> *In the Matter of Orange Recycling and Ethanol Production Facility, Pencor-Masada Oxydol, LLC* (Apr. 8, 2002), [https://www.epa.gov/sites/default/files/2015-08/documents/masada-2\\_decision2001.pdf](https://www.epa.gov/sites/default/files/2015-08/documents/masada-2_decision2001.pdf) (“Pencor-Masada Order”), at 7.

## Comments

### **1. IDEM must revise the Draft Permit to include proper numeric HAP emission limits to ensure that the unit will stay below the HAP major source limit.**

The CAA requires that each Title V permit include “[e]missions limitations and standards, including those operational requirements and limitations that assure compliance with all applicable requirements at the time of permit issuance.”<sup>11</sup> The permit must “specify and reference the origin of and authority for each term or condition, and identify any difference in form as compared to the applicable requirement upon which the term or condition is based.”<sup>12</sup> 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.<sup>13</sup> The CAA regulates hazardous air pollutants (“HAPs”) under CAA section 112, defining a major source of HAPs as those with a potential to emit (“PTE”) of at least 10 tpy of any single HAP or 25 tpy of any combination of HAPs.<sup>14</sup> The CAA defines an area source as “any stationary source of hazardous air pollutants that is not a major source.”<sup>15</sup> EPA has explained that PTE is “the maximum capacity of a stationary source to emit a pollutant under its physical and operational design.”<sup>16</sup> NLMK’s reported uncontrolled potential to emit (“PTE”) of all hazardous air pollutants is 687.28 tpy, including 46.32 tpy of chromium, 146.36 tpy of lead and 469.53 tpy of manganese.<sup>17</sup> However, IDEM has identified this Steel Mill as an area source rather than a major source of hazardous air pollutants (“HAPs”), claiming that “HAP emissions are less than ten (10) tons per year for any single HAP and less than twenty-five (25) tons per year of a combination of HAPs.”<sup>18</sup> Accordingly, IDEM identifies 40 CFR 63, Subpart YYYYYY as applicable to the Melt Shop rather than 40 CFR 63, Subpart FFFFFF.<sup>19</sup> IDEM also claims that the source is taking limits to keep HAPs under Prevention of Significant Deterioration (“PSD”) limits.<sup>20</sup> Commenters note the following problems with the HAP PTE calculations in the TSD and the permitted limits for HAPs in the Draft Permit.

- a. The TSD provides that the Melt Shop HAPs emissions after issuance will not exceed 21.59 tpy and the Total Sourcewide HAPs emissions after issuance will not

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<sup>11</sup> 40 C.F.R. § 70.6(a)(1).

<sup>12</sup> 40 C.F.R. § 70.6(a)(1)(i).

<sup>13</sup> *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>14</sup> 42 U.S.C. § 7412(a)(1).

<sup>15</sup> 42 U.S.C. § 7412(a)(2).

<sup>16</sup> 40 C.F.R. § 52.24(f)(3).

<sup>17</sup> Technical Support Document for Permit Renewal No. T127-49451-00036 (“TSD”) Appendix A at 1, PDF 237.

<sup>18</sup> TSD at 8, PDF at 212.

<sup>19</sup> TSD at 13-14, PDF 217-18.

<sup>20</sup> TSD at 17, PDF 221.

exceed 24.95 tpy but provides no basis for these numbers.<sup>21</sup> IDEM must explain the source or basis for the HAP limits in the TSD calculations.

- b. The TSD HAP calculations state that “[t]he total HAP limit for the meltshop is for metallic HAPs only”<sup>22</sup> but even so, the HAP PTE for metals exceeds the total HAP limit for the Melt Shop.<sup>23</sup> Specifically, while the total HAP limit for the Melt Shop in the Permit is 4.93 lbs/hr and 21.59 tpy, adding up the limits and/or PTE for the metals in the Metal Shop provided in the TSD equates to 9.33 lbs/hr (or 40.89 tpy, nearly double the purported “Total HAPs.” In fact, the total of even just the three metals that have purported limits (chromium, lead, and manganese) exceed the “Total HAPs” amount.<sup>24</sup> IDEM must provide the source or basis for the Melt Shop HAP PTE after issuance in lb/hr and tpy and which metals are being included in the so-called HAP totals.
- c. Condition D.1.9 of the Draft Permit purports to limit HAP emissions of lead to 9.94 tpy, chromium to 9.99 tpy, and manganese to 9.17 tpy. It also states that “combined Metallic HAP emissions (chromium, cobalt, lead, nickel, arsenic, cadmium, selenium, manganese, beryllium, mercury, and antimony compounds) from the melt shop operations shall not exceed 21.59 tons per 12-consecutive month period.”<sup>25</sup> It is unclear how these individual and 12-month combined limits are to be achieved, especially since the 12-month combined limit is less than the total of the individual limits. IDEM must provide clarification on whether operating limits or controls are used to reduce HAP emissions and ensure these limits and/or controls are included in the permit as enforceable conditions, and explain how the Draft Permit contains adequate monitoring, recordkeeping, and reporting to assure compliance with them.
- d. Condition D.1.9 of the Draft Permit incorporates the after issuance HAP PTE from the TSD by purportedly imposing limits on chromium, lead, manganese, and combined metallic HAPs. IDEM must explain whether the HAP limits in Condition D.1.9 are a restriction on potential to emit to avoid major source permitting and regulatory requirements.
- e. The HAP limits in Condition D.1.9 of the Draft Permit appear to be arbitrary. For example, the Melt Shop HAP emissions are 2.28 lbs/hr for chromium. This number does not appear to be at all related to PTE, rather the only basis for this number seems to be a back-calculation to remain under the 10 tpy threshold for a major

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<sup>21</sup> TSD Appendix A at 2, PDF 238.

<sup>22</sup> *Id.*

<sup>23</sup> *Id.* Providing HAP estimates of beryllium (0.74 lb/hr; 3.24 tpy), cadmium (1.38 lb/hr; 6.06 tpy), chromium (2.28 lbs/hr; 9.99 tpy), lead (2.27 lbs/hr; 9.94 tpy), manganese (2.094 lbs/hr; 9.17 tpy), mercury (2.11E-03 lb/hr; 9.26E-03 tpy), and nickel (5.67E-01 lb/hr; 2.48 tpy).

<sup>24</sup> *Id.*

<sup>25</sup> Part 70 Operating Permit Renewal No. T127-49451-00036, NLMK Indiana (“Draft Permit”) at 35, Condition D.1.9(b)(3).

source for a single HAP. Instead, these limits should be calculated in the same manner as PTE – by determining the maximum amount of chromium in the dust, what amount of dust is emitted in the air, and whether controls are used to limit this amount. IDEM must explain the source or basis for the HAP limits in Condition D.1.9.

- f. The Draft Permit proposes to update the manganese HAP limit in Condition D.1.9(b)(2) from 9.19 tpy to 9.17 tpy to “maintain the area source status of the source.”<sup>26</sup> While Commenters support any lowering of HAPs limits, IDEM needs to explain whether this reduction will ensure manganese stays below the 10 tpy single HAP major source threshold or whether this reduction is to ensure that the combined HAPs will be below the 25 tpy total HAP major source threshold.
- g. Even if valid, the purported limits on HAP emissions of lead at 9.94 tpy and chromium at 9.99 tpy, do not provide an adequate margin of safety to ensure that the Steel Mill will not exceed the major source threshold for HAPs. The closer the limit is to the major source threshold (120 and 20 lbs/yr, respectively in this case), the more monitoring is required for the source to assure compliance with the limit. IDEM must revise the Draft Permit to either reduce the limit or to include more monitoring sufficient to assure compliance.
- h. Actual reported manganese emissions from NLMK in 2022 were 18,445 lbs<sup>27</sup> or 9.2225 tpy. If you subtract the uncontrolled HAP PTE from combustion of 5.04E-04,<sup>28</sup> it results in 9.222 tpy from the Melt Shop. This is over the Draft Permit Melt Shop limit of 9.17 tpy and the previous 9.19 tpy limit.<sup>29</sup> This suggests that the PTE calculations for manganese (at the very least) are wrong. If NLMK is able to exceed its PTE, then the PTE is not correct and NLMK’s manganese emissions are not truly limited. Additionally, Commenters were unable to find any enforcement action for this violation.
  - i. IDEM must revise the Draft Permit to include an actual limit on manganese and explain what operational or physical restriction is in place to ensure that the PTE is valid.
  - ii. IDEM should also provide whether it has issued NLMK a notice of violation or other enforcement action for this exceedance.

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<sup>26</sup> TSD at 23. *See also* TSD at 25.

<sup>27</sup> U.S. EPA ECHO Air Pollutant Report (last accessed Feb. 4, 2026), available at <https://echo.epa.gov/air-pollutant-report?fid=110000398212>.

<sup>28</sup> TSD Appendix A at 1.

<sup>29</sup> TSD at 23. *See also* TSD at 25.

**2. IDEM must revise the Draft Permit to require monitoring, recordkeeping, and reporting adequate to assure compliance with emission limits.**

- a. Condition D.1.12(a) requires the “melt shop exhaust duct system and baghouse (CE-2) [to] be operated at all times when the melt shop is in operation”<sup>30</sup> as part of its compliance determination requirements. This would imply that operating the melt shop without the baghouse would be a violation. However, Condition D.1.12(b) allows for a baghouse failure to go unreported unless “operations will continue for ten (10) days or more after the failure is observed before the failed units will be repaired or replaced.”<sup>31</sup> Condition D.1.12(b) thus unlawfully permits a violation of another applicable requirement. Operating without a baghouse is incredibly important here where the Melt Shop is responsible for emitting PM/PM10 and the majority of the HAP emissions.
  - i. IDEM must remove Condition D.1.12(b) from the Draft Permit and require normal deviation reporting for an inoperative baghouse.
  - ii. Because all emissions are going through this baghouse, IDEM should require NLMK to operate a bag failure detection system in order to assure compliance with emission limits.
- b. Condition D.1.18(a)(1) requires NLMK to maintain a log of “throughput, natural gas usage, CO and opacity emission records for the melt shop” in order “to document the compliance status with Conditions D.1.1 through D.1.4, D.1.6, and D.1.7.”<sup>32</sup> Throughput—whether calculated by pounds/tons of scrap introduced, pounds/tons of steel produced, or some other metric—is undefined. IDEM should define throughput for this condition.
- c. Condition D.1.18(a)(3) requires NLMK to record “scrap purchases and evidence necessary to show compliance with the scrap management plan. This plan is included as Attachment B and C.” The Scrap Management Plan merely has a rating system which identifies scrap that is “rejectable to excellent” and thus it is unclear what data would show “compliance with” such a scheme. Commenters note with approval that NLMK’s records document rejection of scrap loads based on the broad criteria within the Scrap Management Plan, but the plan should include clear and enforceable rejection criteria or thresholds which it currently lacks. Additionally, the second sentence is confusing as the Scrap Management Plan is Attachment B and the Pollution Prevention Plan (mandated by 40 C.F.R. § 63.10685(a)(1)) is Attachment C. To the extent that these two documents are (or

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<sup>30</sup> Draft Permit at 37.

<sup>31</sup> *Id.*

<sup>32</sup> *Id.* at 40.

should be) related, it is unclear as neither of the plans reference the other nor does the Draft Permit reference the Pollution Prevention Plan at all.

- i. IDEM should require NLMK to update its Scrap Management Plan to include clear rejection criteria and thresholds.
  - ii. IDEM should require NLMK to update its Scrap Management Plan and Pollution Prevention Plan to explain how, and to what extent, the two documents are related and used to satisfy the requirements of 40 C.F.R. § 63.10685(a)(1).
  - iii. IDEM should revise Condition D.1.18(a)(3) to accurately reflect that the Scrap Management Plan is Attachment B and the Pollution Prevention Plan is Attachment C.
  - iv. IDEM should revise the Draft Permit to make clear that NLMK must implement and follow both the Scrap Management Plan and Pollution Prevention Plan.
- d. Condition D.1.18(c) requires NLMK to maintain records of short term and long term production capacity to document compliance with Condition D.1.8. However, there is no corresponding requirement to *report* this data. NLMK has had serious violations of the production limits in Condition D.1.8 in the past.<sup>33</sup> IDEM should revise Condition D.1.19 to also require reporting of the data recorded by Condition D.1.18(c) to assure compliance with the production limits in Condition D.1.8.
- e. Condition D.2.1(a) provides a limit on PM/PM10 emissions from the Slab Reheat Furnace of 16.3 lbs/MMscf of natural gas burned and 4.2 lbs/hr while Condition D.2.1(b) states that these emissions will be limited “by using recirculated high pressure water descalers and water cooling sprays. *Any* particulate matter, in solid or liquid form shall be collected in flumes and transported to the scale pit.”<sup>34</sup> NLMK exceeded these limits during compliance stack testing on September 11, 2025.<sup>35</sup> Stack test results measured PM10 emissions at 37.8 lbs/MMscf and 8.3 lbs/hr, more than double the permitted limit. Clearly, annual stack tests are not sufficient to assure compliance with the limit for this emissions unit.
- i. At the very least, IDEM should revise the Draft Permit to require daily Method 22 observations to ensure that “[a]ny particulate matter” is properly collected and transported to the scale pit.

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<sup>33</sup> Agreed Order, Case Nos. 2019-26623-A and 2020-26863-A (Sept. 27, 2021), available at <https://www.in.gov/idem/oe/cause/AO/26863-A.htm>.

<sup>34</sup> Emphasis added.

<sup>35</sup> See Emissions Exceedance Enforcement Action Letter, dated December 29, 2025, available at [https://ecm.idem.in.gov/cs/idcplg?IdcService=GET\\_FILE&dID=83908350&dDocName=83914749&Rendition=web&allowInterrupt=1&noSaveAs=1](https://ecm.idem.in.gov/cs/idcplg?IdcService=GET_FILE&dID=83908350&dDocName=83914749&Rendition=web&allowInterrupt=1&noSaveAs=1).

- ii. This emissions unit has Selective Catalytic Reduction (“SCR”) to control its NO<sub>x</sub> emissions. A poorly tuned SCR can create ammonium sulfate or other PM which could explain some of the issues with PM at this emissions unit. Extra ammonia slip reacts with other compounds in the gas stream to form additional PM pollution. By monitoring and reducing slip, PM can also be reduced. IDEM should consider adding an ammonia slip limit and monitoring in order to assure PM compliance.
- f. Condition D.1.9 of the Draft Permit purports to establish the 12-month rolling limit on lead of 9.94 tpy (D.1.9(a)), chromium of 9.99 tpy (D.1.9(b)(1)), manganese of 9.17 tpy (D.1.9(b)(2)), and combined metallic HAPs of 21.59 tpy (D.1.9(b)(3)). The inadequacy of these limits has been discussed above in Section 1. However, there is also insufficient testing, monitoring, recordkeeping, and reporting of these emissions to assure compliance that IDEM must correct before issuing any final permit.
- i. Condition D.1.11(a) requires annual stack testing for PM/PM<sub>10</sub> on the Melt Shop operations to demonstrate compliance with Conditions D.1.1 and D.1.7. However, Condition D.1.11(a) also states that “[c]ompliance with the visible emissions limit in Condition D.1.7, as determined using the Continuous Opacity Monitor (COM) at the Melt Shop Baghouse, shall serve to satisfy the annual PM and PM<sub>10</sub> testing requirement for Melt Shop Baghouse Stack (S-2), unless violations have occurred during the past 12 month period.”
    - 1. IDEM needs to explain how the Draft Permit assures compliance with the PM/PM<sub>10</sub> permit limits in Condition D.1.1 of 0.0052 gr/dscf and 58.8 lbs/hr when annual testing is not required.
    - 2. IDEM needs to explain how the Draft Permit assures compliance with the HAP limits in Condition D.1.9 above when the calculations for determining HAP emissions (in Condition D.1.11(g) as discussed below) are dependent upon this annual stack testing of PM/PM<sub>10</sub>.
    - 3. All the Melt Shop Operations emissions units exhaust through the Melt Shop baghouse and its COMs. Condition D.1.19(c) only requires quarterly reporting of excess emissions based on COMs data. IDEM needs to include recordkeeping and reporting requirements for all the COMs data (not constrained to excess emissions) to ensure compliance with the Melt Shop emission unit limits and to allow NLMK, IDEM, and the public to determine that this unit is operating properly.
  - ii. Condition D.1.11(g) requires NLMK to perform “HAP calculations of the melt shop baghouse” annually by analyzing the melt shop baghouse (CE-2) baghouse dust, and if analysis “is performed more than once annually, the

average of the analyses shall be used . . . [to] determine the percentage of Lead, Chromium, Manganese, and Total Metallic HAP (chromium, cobalt, lead, nickel, arsenic, cadmium, selenium, manganese, and antimony compounds) found in the dust.” These results are then “multiplied by the PM/PM10 melt shop baghouse (CE-2) emission rate determined by testing outlined in section D.1.11(a) to calculate the metallic emission rates” monthly.<sup>36</sup> However, Condition D.1.11(a) includes an exception to the annual testing requirement—allowing COM compliance “to satisfy the annual PM and PM10 testing requirement” unless there have been violations.

1. IDEM must explain how the Draft Permit assures compliance with the limits in Condition D.1.9 with the lack of monitoring allowed by Condition D.1.11(a).
  2. IDEM must revise the Draft Permit to assure compliance with HAP limits to ensure NLMK remains an area source for HAPs.
- iii. Condition D.1.14 provides the equations used to demonstrate compliance with the limits in Condition D.1.9. Condition D.1.14 allows NLMK to use certain percentages (0.79% for lead, 0.25% for chromium, 2.53% for manganese, and 3.70% for total metal HAPs), “*or* the value from the most recent valid analysis as determined in D.1.11(g).”<sup>37</sup> Condition D.1.14, therefore, allows NLMK to choose between using the given percentage *or* the most recent test. This contradicts Condition D.1.11(g) which states that these analyses will be performed “at least once per year” and if performed more frequently, “the average of the analyses shall be *used*.”<sup>38</sup> Furthermore, Condition D.1.12(g) directs that the analyzed “percentages will be multiplied by the PM/PM10 melt shop baghouse (CE-2) emission rate *determined by the testing outlined in section D.1.11(a) to calculate the metallic HAP emission rates.*”<sup>39</sup> IDEM needs to revise Condition D.1.14 so that it complies with the requirements of Condition D.1.12(g).
- iv. Condition D.1.18(b) requires recordkeeping of the monthly records of the lead, chromium, manganese, and total HAP emissions as well as the total hours of operation of the melt shop to demonstrate compliance with the limits in Condition D.1.9. IDEM must explain what, if any, records are kept when annual testing is exempted and how this assures compliance with the permitted limits required to keep NLMK an area source of HAPs.

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<sup>36</sup> Condition D.1.11(g).

<sup>37</sup> Emphasis added.

<sup>38</sup> Emphasis added.

<sup>39</sup> Emphasis added.

- v. Condition D.1.19(b) requires “[a] quarterly summary of the information to document the compliance status with Condition D.1.9.”
  - 1. IDEM should revise the Draft Permit to clarify that this quarterly summary must include the records required under Condition D.1.18(b) and specify what other information is required to document compliance with the limits in Condition D.1.9 and how this will assure continuous compliance.
  - 2. IDEM should require that the quarterly summary includes the calculations and emissions factors used to determine the monthly, quarterly, and 12-month compliance amounts.<sup>40</sup>
- g. Condition D.1.18 includes multiple recordkeeping provisions. IDEM should also include provisions requiring NLMK to record:
  - i. whenever the DSE is not working;
  - ii. whenever the baghouse is not working;
  - iii. whenever any monitoring systems are not working; and
  - iv. outages and malfunctions of any type.
- h. Condition D.3.1(a) requires NLMK to “[r]educe uncontrolled paved road and parking lot fugitive dust emissions by at least ninety percent (90%)” by implementing its fugitive dust plan (“FDP”). However, the FDP does not reference this requirement. Additionally, there are no other provisions or information describing how this permit term is to be implemented. To remedy these defects, IDEM should:
  - i. revise the Draft Permit to identify the original amount of fugitive dust emissions that are to be reduced by ninety percent;
  - ii. require NLMK to describe the actions it will take to implement this required reduction in its FDP;
  - iii. describe how this reduction is to be measured; and
  - iv. include some type of monitoring, recordkeeping, and/or reporting provisions in the Draft Permit to assure compliance with this limit.
- i. Condition D.3.1(a) requires a reduction of roadway dust emissions of 90% (as discussed above) and Condition D.3.1(b) requires NLMK to limit the silt on plant roads to 17 lbs/mile of PM less than 75 $\mu$ m in diameter. The FDP explains that to achieve this limit, the dust from the paved roads and parking lots will be swept at

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<sup>40</sup> See Quarterly Monitoring Report and Deviation Reports for 2nd Quarter 2025, available at [https://ecm.idem.in.gov/cs/idcplg?IdcService=GET\\_FILE&dID=83834102&dDocName=83838145&Rendition=web&allowInterrupt=1&noSaveAs=1](https://ecm.idem.in.gov/cs/idcplg?IdcService=GET_FILE&dID=83834102&dDocName=83838145&Rendition=web&allowInterrupt=1&noSaveAs=1), at 86-89.

least every 14 days and two sections of paved roads will be tested quarterly.<sup>41</sup> Additionally, Section 3.0 of the FDP states that “NLMK Indiana will paved [sic] and curb all Plant roadways and parking lots to reduce particulate matter fugitive emissions” and Section 4.0 states that “[t]here will be no unpaved, traveled, open areas at the NLMK Indiana Plant.”<sup>42</sup> However, Section 10 seemingly contradicts these future tense statements by claiming that “the plan will be fully implemented when construction is completed.” These statements make the FDP unclear on whether *all* Plant roadways are *already* paved or whether this is some future event. Additionally, the FDP lacks clarity on whether *all* NLMK Indiana Plant roadways include the area where its subcontractor, SMS Mill Services, LLC, (“SMS”) operates. IDEM must require NLMK to update its FDP to provide clarity on:

- i. whether all roadways are or are not currently paved;
  - ii. if not, when all roadways will be paved;
  - iii. whether “all roadways” includes the area of the plant SMS operates; and
  - iv. provide a facility map detailing the roadways (paved and unpaved), buildings, scrap and slag piles, and delineating NLMK versus SMS area of operations of the facility.
- j. To assure compliance with fugitive dust limits, FDP Sections 5.0 and 6.0 claim that all bulk materials (except for steel scrap), and all slag dumping, cooling, and loading operations will be conducted within an enclosed building. IDEM should require NLMK to:
- i. state whether that includes SMS bulk materials and slag dumping, cooling, and loading operations; and
  - ii. provide a map showing which enclosed building these operations take place and where the scrap piles are located.
- k. 40 C.F.R. § 70.6(a)(3)(iii)(B) requires “[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.” A deviation in this context is any departure from permit requirements.<sup>43</sup> IDEM defines malfunction more narrowly in that it only includes “sudden, unavoidable failure of any air pollution control equipment, process, or combustion or process equipment to operate in a normal and usual manner.”<sup>44</sup> While the Draft Permit includes provisions for timely reporting of malfunctions under 326 IAC 1-6-2<sup>45</sup> and quarterly deviation reporting under 326

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<sup>41</sup> Fugitive Dust Plan at 2.

<sup>42</sup> *Id.* at 3.

<sup>43</sup> See 40 C.F.R. § 70.6(a)(3)(iii)(A).

<sup>44</sup> 326 IAC 1-2-39.

<sup>45</sup> See Draft Permit at 27, Condition C.17(b).

IAC 2-7-5(3(C),<sup>46</sup> such reports do not ensure the “prompt” reporting of permit deviations as required by 40 C.F.R. § 70.6(a)(3)(iii)(B). IDEM must revise its reporting requirements and malfunctions report to ensure prompt reporting of all deviations—including those that would not meet the definition of malfunction.

### **3. IDEM must revise the Draft Permit to assure compliance with NESHAP and NSPS standards and requirements.**

National Emission Standards for Hazardous Air Pollutants (NESHAP) and New Source Performance Standards (NSPS) are applicable requirements that must be incorporated into permits that have emissions units governed by those requirements. 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>47</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>48</sup>

The Draft Permit, however, merely provides a table of the regulations containing the applicable NESHAP and/or NSPS requirements and attaches the entire NESHAP and/or NSPS, including inapplicable sections. Additionally, IDEM does not provide sufficient information in the Draft Permit and TSD to identify and apply the appropriate NSPS and NESHAP standards. For example:

- a. Condition E.1.2 purports to provide the applicable NSPS standards for an electric arc furnace (“EAF”) under 40 C.F.R. 60, Subpart AAa.<sup>49</sup> However, there is an issue with how it is incorporated.
  - i. Section 60.274a(b) includes three options for monitoring: (1) continuous fan motor ampere and damper monitoring, (2) continuous volumetric flow rate hood monitoring, or (3) continuous flow rate at control device inlet and damper monitoring. This permit does not provide clarity on which method NLMK is using to comply with this monitoring requirement. IDEM should revise the permit so that the specific monitoring requirements at NLMK are clear and enforceable.
- b. Condition E.3.2 purports to provide the applicable NESHAP standards for an EAF under 40 CFR 63, Subpart YYYYYY.<sup>50</sup> However, there are some issues with how it is incorporated.

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<sup>46</sup> See Draft Permit at 29, Condition C.20.

<sup>47</sup> 57 Fed. Reg. 32251 (July 21, 1992).

<sup>48</sup> 40 C.F.R. § 70.6(a)(1)(i).

<sup>49</sup> See Draft Permit at 52.

<sup>50</sup> See Draft Permit at 55-56.

- i. Section 63.10680(c) applies to R&D facilities and therefore seems to be included in error. IDEM should confirm whether this section applies and remove it from the Draft Permit if not applicable.
- ii. Section 63.10685(a)(1) outlines the requirements for a pollution prevention plan. NLMK's Pollution Prevention Plan provides two provisions under which scrap providers are not subject to inspection. In Section II.A.5, certain types of scrap are not subject to inspection because they are expected to be free of contaminants. Section II.A.4 states that "NLMK Indiana shall identify any scrap provider whose scrap (except as described in Paragraph 5 below) is not subject to inspection pursuant to this plan."<sup>51</sup> This sentence provides that there is a second group of scrap providers (the first group is those that provide scrap under paragraph 5), whose scrap is not subject to inspection. This section then states that "NLMK Indiana shall audit or inspect the facilities from which such uninspected scrap is provided on a periodic basis at a rate of not less than 10-25% of such facilities each year."<sup>52</sup>
  - 1. IDEM must require NLMK to provide the basis on which scrap providers are identified as "not subject to inspection pursuant to this plan."
  - 2. IDEM must explain how such blanket provisions to not inspect scrap providers ensures compliance with Section 63.10685(a)(1) specifically, and 40 C.F.R. Subpart YYYYY generally.
- iii. Section 63.10685(b) outlines mercury requirements for motor vehicle scrap. The Draft Permit does not identify Section 63.10685(b) as applicable to the EAF. However, the Pollution Prevention Plan includes provisions to ensure that NLMK only takes scrap from programs participating in the National Vehicle Mercury Switch Recovery Program ("NVMSRP") as allowed by Section 63.10685(b)(2).<sup>53</sup> IDEM should confirm whether this section applies and include it in the Draft Permit if applicable.
- iv. Sections 63.10685(c)(1) and (2) are recordkeeping provisions to document that the Steel Mill is buying from scrap providers or brokers that participate in the NVMSRP. If Section 63.10685(b)(1) applies, Section 63.10685(c)(1) also applies, likewise if Section 63.10685(b)(2) applies, 63.10685(c)(2) also applies, and IDEM must include these provisions in the Draft Permit as applicable requirements as appropriate.

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<sup>51</sup> Pollution Prevention Plan at 3.

<sup>52</sup> *Id.*

<sup>53</sup> Pollution Prevention Plan at 1, 3-5.

- c. Condition E.4.2(a) purports to provide the applicable NESHAP standards for a diesel-fired emergency generator under 40 CFR 63, Subpart ZZZZ.<sup>54</sup> However, there are some issues with how it is incorporated.
  - i. Section 63.6625(e)(3), (f), and (h) outline monitoring, installation, collection, operation, and maintenance requirements that seem to apply to the diesel-fired emergency generator. The Draft Permit, however, does not incorporate these sections. IDEM should confirm whether these provisions apply and include them in the Draft Permit if applicable.
  - ii. Section 63.6640(b) requires reporting of deviations from applicable Table 2d requirements. IDEM should confirm whether this section applies and include it in the Draft Permit if applicable.
  - iii. Tables 7 and 8 seem to apply to the diesel-fired emergency generator as provided in Sections 63.6650(a) and (f) and 63.6665. IDEM should confirm whether these tables apply and include them in the Draft Permit if applicable.
- d. These examples illustrate that the Draft Permit fails to properly incorporate the NSPS and NESHAP requirements. While Commenters appreciate IDEM's tabularization of the applicable NSPS and NESHAP provisions (which provide some additional context to these requirements), this does not solve all the issues identified.
  - i. IDEM needs to ensure that the Draft Permit and TSD emission unit descriptions include sufficient information so that any reader of the permit can identify the applicable requirements of the source.
  - ii. Because IDEM splits the permit into separate sections for NESHAP and NSPS requirements versus other operating requirements, there is no single, comprehensive location to reference for emissions limits/standards and monitoring, testing, recordkeeping, or reporting requirements that apply to each unit. This makes it difficult for the source to even attempt to determine the complete set of operating requirements for an emissions unit, let alone assure compliance with applicable requirements or allow the public to figure out what such compliance requires and whether NLMK is achieving it. This frustrates the ability of the public, regulators, and the permittees to identify the full scope of applicable requirements for the source. Therefore, IDEM should streamline the state operating, NESHAP, and NSPS requirements in the Draft Permit to clarify all the requirements that apply to any one emissions unit (and will also provide clarity on whether a violation of a permit term is also a violation of the NESHAP or NSPS).

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<sup>54</sup> See Draft Permit at 58.

#### 4. IDEM must include the Preventive Maintenance Plan in the Final Permit.

As the relevant permitting authority, IDEM must “ensure that the [T]itle V permit ‘set[s] forth’ monitoring to assure compliance with all applicable requirements.”<sup>55</sup> “Applicable requirements” include, among other things, any requirements of a federally enforceable state implementation plan (“SIP”) and any preconstruction requirements that are incorporated into the Title V permit.<sup>56</sup>

- a. The Draft Permit fails to include all applicable requirements because it does not include NLMK’s facility-specific Preventive Maintenance Plan (“PMP”).<sup>57</sup> The PMP is an applicable requirement. IDEM must revise the Draft Permit to include the PMP for four reasons:
  - i. NLMK is required to have a PMP under SIP-approved Indiana regulations at 326 IAC 1-6-3 which makes them an applicable requirement as they are “requirements provided for in the applicable implementation plan.”<sup>58</sup> Because the Indiana SIP requires NLMK to have and apply the PMP, IDEM must include it in the Renewal Permit under 40 C.F.R. § 70.6, which requires Title V permits to contain “[a]ll monitoring and analysis procedures or test methods under applicable monitoring and testing requirements.”<sup>59</sup> EPA has already addressed this issue, stating that permitting authorities must ensure that monitoring and other compliance requirements “contained in applicable requirements are properly incorporated into the [T]itle V permit” under 40 C.F.R. § 70.6(a)(3)(i)(A).<sup>60</sup>
  - ii. Specific provisions of the Draft Permit, including Conditions D.1.10, D.2.5, require NLMK to comply with its PMP.<sup>61</sup> Similarly, NESHAP provisions incorporated at Condition E.3.2 require NLMK to follow its PMP.<sup>62</sup> EPA found in the Oak Creek Title V Order that when “compliance with the

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<sup>55</sup> 42 U.S.C. § 7661c(c).

<sup>56</sup> 40 C.F.R. § 70.2 (definition at “applicable requirement” at (1) and (2)); *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”).

<sup>57</sup> Note: the Draft Permit variably refers to the PMP as either the Preventive Maintenance Plan or Preventative Maintenance Plan.

<sup>58</sup> 40 C.F.R. § 70.2 (definition at “applicable requirement” at (1)).

<sup>59</sup> 40 C.F.R. § 70.6(a)(3)(i)(A).

<sup>60</sup> *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](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)).

<sup>61</sup> See Draft Permit at 35, 44, and 46.

<sup>62</sup> 40 C.F.R. 63 Subpart YYYYYY Table 1 requires compliance with § 63.6(e)(1), Compliance with Standards and Maintenance Requirements.

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(1)(1).<sup>63</sup>

- iii. The Permit must incorporate the PMP in order to make the provisions requiring compliance and implementation of the PMP enforceable as Title V requires.<sup>64</sup> Without identifying which emissions units require a PMP and including the specific requirements of these plans in the Permit, Conditions B.10(a), (b), and (c), D.1,10, and D.2.5 are unenforceable, because it is impossible for IDEM, EPA, and the public to determine whether NLMK is complying with the requirements of the PMP, and, if not, to take appropriate enforcement action.
- iv. The PMP is also necessary to determine compliance with other applicable requirements. Specifically, to ensure compliance with the NOx limits for the Hot Strip Mill Operations when the CEMS is inoperative, Condition D.2.9(a) requires NLMK to include in its PMP for the SCR “troubleshooting contingency and corrective actions for when the readings are outside of the normal range.”<sup>65</sup>

## 5. IDEM must include the Compliance Assurance Monitoring Plan in the Final Permit.

As the relevant permitting authority, IDEM must “ensure that the [T]itle V permit ‘set[s] forth’ monitoring to assure compliance with all applicable requirements.”<sup>66</sup> “Applicable requirements” include, among other things, any requirements of a federally enforceable state implementation plan (“SIP”) and any preconstruction requirements that are incorporated into the Title V permit.<sup>67</sup>

- a. Under the Part 70 rules, the Compliance Assurance Monitoring (“CAM”) requirements of 40 C.F.R. § 64 are “applicable requirements” for any units at NLMK that are subject to CAM requirements under 40 C.F.R. § 64.2. CAM requirements apply to any emission unit that (1) is subject to an emission limitation or standard for the pollutant; (2) uses a control device to comply with that emission limitation or standard; and (3) has “potential *pre-control device* emissions” equal

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<sup>63</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/2015-09/documents/dpr\\_response2014.pdf](https://www.epa.gov/sites/default/files/2015-09/documents/dpr_response2014.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](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.”).

<sup>64</sup> 42 U.S.C. § 7661c(a).

<sup>65</sup> Draft Permit at 46, Condition D.2.9(a).

<sup>66</sup> 42 U.S.C. § 7661c(c).

<sup>67</sup> 40 C.F.R. § 70.2 (definition at “applicable requirement” at (1) and (2)); *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”).

to or greater than the major source threshold for the regulated pollutant involved.<sup>68</sup> The information provided in the TSD identifies that CAM applies to the Melt Shop for Single HAP and Total HAP.<sup>69</sup> For emissions units subject to CAM, permittees must design, and get approved, a monitoring program using the criteria outlines in 40 C.F.R. § 64.3 which is commonly called a CAM Plan. The Draft Permit fails to assure compliance with all applicable requirements because it does not include the CAM plan and instead just references an old CAM Plan that is not included.

- i. IDEM should identify the specific HAP(s) that CAM applies to under the “Single HAP” nomenclature.
- ii. The Melt Shop for lead appears to meet the criteria for CAM, but IDEM did not identify it as such in the Draft Permit or TSD.<sup>70</sup> IDEM should revise the Draft Permit to designate the Melt Shop for lead as a CAM applicable emission unit and include its CAM plan.
- iii. IDEM must revise the Draft Permit to include the CAM plan for all CAM applicable pollutant-specific emissions units as an applicable requirement.
- iv. NLMK did not include any CAM information in its application, stating that “[t]here are no operations requiring a Compliance Assurance Monitoring (CAM) form.”<sup>71</sup> IDEM must require NLMK to provide CAM monitoring information for the CAM applicable emissions units.
- v. The TSD states that “[a] CAM plan was submitted as part of a previous permit application and the Compliance Determination and Monitoring Requirements section includes a detailed description of the CAM requirements.”<sup>72</sup> Mere citation to a document in an unknown previous application (sometime over the last 30+ years of operation) is not properly within the permit record and thus fails to provide IDEM’s rationale for any proposed permit conditions be clear and for failure to include the specific CAM requirements discussed above in the permit.
  1. IDEM must include the CAM monitoring information for CAM applicable units in the permit record, and in light of the issues identified above, re-notice the permit for public comment. In fact, the CAM plan should be included in the Draft Permit as an applicable requirement.
  2. The Draft Permit only includes general requirements for CAM including maintenance requirements for monitoring required by

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<sup>68</sup> 40 C.F.R. § 64.2(a) (emphasis added).

<sup>69</sup> TSD at 12 and 13.

<sup>70</sup> See TSD at 12.

<sup>71</sup> Streamlined Air Permit Renewal Application dated August 15, 2025 at 1.

<sup>72</sup> TSD at 13.

CAM, how a permittee should respond to an excursion or failure to achieve compliance under CAM, and CAM recordkeeping and reporting requirements.<sup>73</sup> IDEM must revise the Draft Permit to identify the specific monitoring, recordkeeping, and reporting required by CAM for the Melt Shop for Single HAP and Total HAP (and any specific HAPs IDEM should identify as explained above).

## 6. IDEM must include a Compliance Schedule in the Draft Permit.

Federal regulations require each Title V permit to include a provision stating that “[t]he permittee must comply with all conditions of the Part 70 permit. Any permit noncompliance constitutes a violation of the Act and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application.”<sup>74</sup> Short of terminating a permit or denying a renewal application, IDEM must at least ensure that noncompliant facilities have a documented plan to remedy that noncompliance as a part of the permitting process. Under 40 C.F.R. § 70.6(c)(3), “[a]ll part 70 permits shall contain . . . [a] schedule of compliance consistent with 70.5(c)(8)(iii)(C). And 40 C.F.R. § 70.5(c)(8)(iii)(C) requires “[a] schedule of compliance for sources that are not in compliance with all applicable requirements at the time of permit issuance.” This must include “a schedule of remedial measures, including an enforceable sequence of actions with milestones, leading to compliance with any applicable requirements for which the source will be in noncompliance at the time of permit issuance.”<sup>75</sup> The compliance schedule must “be at least as stringent as that contained in any judicial consent decree or administrative order to which the source is subject”<sup>76</sup> as well as “supplemental to . . . the applicable requirements on which it is based.”<sup>77</sup>

- a. NLMK applied for a Title V permit renewal on August 15, 2025. NLMK conducted compliance testing on September 11, 2025 which resulted in PM10 emission measurements of 37.8 lbs/MMscf and 8.3 lbs/hr, nearly double that allowed by the permitted limits.<sup>78</sup> This is an unresolved high priority violation.<sup>79</sup> IDEM issued an Emissions Exceedance Enforcement Action Letter on December 29, 2025.<sup>80</sup> The Draft Permit was noticed on January 6, 2025. NLMK is not currently in compliance with applicable requirements, and thus any final permit requires a schedule of compliance. IDEM must revise the Draft Permit to include

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<sup>73</sup> See Draft Permit at 23-25, and 29, Conditions C.11(c) and (d), C.15(II)(a), (b) and (h), and C.20.

<sup>74</sup> 40 C.F.R. § 70.6(a)(6)(i).

<sup>75</sup> 40 C.F.R. § 70.5(c)(8)(iii)(C); see also 42 U.S.C. § 7661c(a); 326 IAC 2-7-4(c)(9)(B)(iii).

<sup>76</sup> 40 C.F.R. § 70.5(c)(8)(iii)(C).

<sup>77</sup> *Id.*

<sup>78</sup> Emissions Exceedance Enforcement Action Letter dated December 29, 2025, available at [https://ecm.idem.in.gov/cs/idcplg?IdcService=GET\\_FILE&dID=83908350&dDocName=83914749&Rendition=web&allowInterrupt=1&noSaveAs=1](https://ecm.idem.in.gov/cs/idcplg?IdcService=GET_FILE&dID=83908350&dDocName=83914749&Rendition=web&allowInterrupt=1&noSaveAs=1).

<sup>79</sup> See U.S. EPA ECHO Detailed Facility Report (last accessed Feb. 2, 2026), at <https://echo.epa.gov/detailed-facility-report?fid=110000398212>.

<sup>80</sup> Emissions Exceedance Enforcement Action Letter dated December 29, 2025.

a schedule of compliance for “any applicable requirements for which [NLMK] will be in noncompliance at the time of permit issuance.”

## 7. IDEM should revise Draft Permit terms to clarify its enforceability.

EPA has explained that the enforceability of Title V permits must be “unambiguous” and must allow IDEM, EPA, and the public to “take appropriate enforcement action”<sup>81</sup> if its terms are exceeded.<sup>82</sup>

- a. Condition A.5(13) identifies “[r]eplacement or repair of electrostatic precipitators, bags in baghouses and filters in other air filtration equipment” as an insignificant activity.<sup>83</sup> IDEM must identify which emissions units have electrostatic precipitators and/or other air filtration equipment installed as this is not elsewhere provided in the Draft Permit or TSD.
- b. Condition D.1.12(b) provides instructions for a multi-compartment baghouse failure. However, neither the Draft Permit nor TSD states whether there *are* any multi-compartment baghouses. IDEM must provide information on which of these control devices are multi-compartment baghouses, or if there are none, remove that inapplicable provision from the Draft Permit.
- c. Condition D.1.1(a) states that “[t]he DSE and canopy hoods shall be ducted to the melt shop baghouse rated at least 1.0 million actual cubic feet per minute (MM acfm), demonstrating 100% capture.” IDEM should revise this requirement to ensure that each provision (i.e., the DSE and canopy hoods ducted to the baghouse *and* the baghouse rated at least 1.0 MM acfm) are separately enforceable.
- d. Condition D.1.6(b) requires that NLMK “charge only clean scrap, consistent with the scrap management program.” However, it is unclear whether a violation occurs if NLMK (or a subcontractor) melts dirty scrap. The scrap management program rates the scrap based on “cleanliness” but does not actually provide rejection criteria. IDEM should revise Condition D.1.6(b) to ensure that it is enforceable by:
  1. requiring NLMK to implement the scrap management program;
  2. requiring NLMK to melt only clean scrap; and
  3. requiring NLMK to update its scrap management program to include clear rejection criteria, rather than just a rating system.
- e. Condition D.1.7(a) states that “[v]isible emissions from any building opening as a result of EAF operation shall be limited to 3% opacity based on a six-minute average” but Condition D.1.7(b) states that “[v]isible emissions shall not be allowed

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<sup>81</sup> *Tesoro Order* at 9.

<sup>82</sup> *Pencor-Masada Order* at 7.

<sup>83</sup> Draft Permit at 9; *see also* TSD at 4, PDF 208.

(3% opacity) from any roof building opening as a result of the EAF dust handling system based on a six-minute average.” Accordingly, Condition D.1.7(b)’s meaning is unclear.

- i. IDEM should explain the effect of the different wording in these two visible emission provisions.
  - ii. IDEM must explain whether Condition D.1.7(b) means that:
    1. Visible emissions are not allowed
    2. Visible emissions equal to 3% opacity are not allowed
    3. Visible emissions over 3% are not allowed
  - iii. IDEM should revise Condition D.1.7(b) for clarity regarding which of the circumstances above would result in noncompliance and to ensure enforceability.
- f. Condition D.1.15(b) requires NLMK to record “[i]n the event that a breakdown of a continuous opacity monitoring system occurs.” The term “breakdown” is ambiguous as to whether it includes each minute the COMs does not make a recording and/or any time the COMs is not otherwise functioning. IDEM should clarify or define “breakdown” and ensure that all such possibilities are included by requiring NLMK to record whenever the COMs do not provide a valid reading.
- g. IDEM’s use of so-called “Administrative Part 70 Operating Permits” compromises enforceability. NLMK Indiana and its contractor, SMS Mill Services, “are considered one major source.”<sup>84</sup> While this permitting action is for NLMK, the primary operation, the sister permitting action for NLMK’s contractor, SMS Mill Services, LLC (“SMS”), purports to be a renewal of an “Administrative Part 70 Operating Permit.”<sup>85</sup> Commenters agree with IDEM that NLMK and its subcontractor SMS should be considered one major source for air permitting purposes under Indiana law. We also understand, based on IDEM’s response to prior comments regarding the use of “administrative” permits, that the Department uses this term when a subcontractor “is a source that is ‘co-located’” with the facility that receives a Part 70 permit without the “Administrative” moniker,<sup>86</sup> such as the “Part 70 Operating Permit Renewal” currently proposed here for NLMK. In that prior response, IDEM explained that “separate administrative permit documents for contractors provide a clearer picture of what each source does in the steel-making process and provides a better framework to ensure that each contractor is fully

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<sup>84</sup> 326 IAC 2-7-1(20).

<sup>85</sup> See Draft Part 70 Operating Permit Renewal No. T127-49507-00104, SMS Mill Services, LLC, available at <https://permits.air.idem.in.gov/49507d.pdf>.

<sup>86</sup> Addendum to the Technical Support Document (“ATSD”) for an Administrative Part 70 Operating Permit Renewal, Oil Technology Inc. contractor of Cleveland-Cliffs Burns Harbor, LLC (“Oil Technology ATSD”), at 3, available at <https://permits.air.idem.in.gov/49003p.pdf>, at PDF 32.

apprised of their specific applicable requirements during operations.”<sup>87</sup> IDEM made clear that terms of the “administrative” Part 70 permit are applicable requirements that apply to and are enforceable against each subcontractor.<sup>88</sup> Regardless of how IDEM has explained the use of the term “administrative” in responding to comments, both the Indiana and federal Part 70 permitting rules use the term “administrative” to define amendments to permits that authorize minor changes that do not impact operating or compliance requirements, such as typographical errors or changes in addresses and names. Accordingly, the use of “administrative” in the subcontractor’s permit title and “solely for administrative purposes” in the permit terms creates ambiguity about the nature of the Draft Permit and how it applies to NLMK. To correct this lack of clarity, IDEM should:

- i. revise its permitting nomenclature to align with its stated purpose for using these permits to define the CAA obligations for subcontractors at a single major source, such as “Part 70 Subcontractor Operating Permit Renewal”;
- ii. revise the language in Condition A.2 and the accompanying TSD explanation to delete the term “solely for administrative purposes”;
- iii. clarify the obligations falling on NLMK vs. SMS by including a statement like: “Separate Part 70 Operating Permit Renewals will be issued to NLMK and SMS Mill Services, LLC to clearly set forth the applicable requirements and other permit obligations that apply to and are enforceable against each part of this source (and relevant subcontractor) during its operations”; and
- iv. ensure that the area of operation for each source is clearly delineated in each primary operation and subcontractor permit by requiring NLMK and SMS (and others) to include maps, figures, and/or process diagrams so that there is no ambiguity in which facility areas and/or what equipment each company is responsible for.

## **8. IDEM should clarify or correct likely clerical errors in the Draft Permit.**

IDEM should correct, or else explain, the following likely clerical errors:

- a. TSD should cite 326 IAC 2-7-1(20) as defining “major source” rather than 326 IAC 2-7-1(22).<sup>89</sup>
- b. Conditions D.1.17(a), (e), and (f) all cite to an exception “provided in Condition D.1.13(d).”<sup>90</sup> There is no Condition D.1.13(d), and IDEM should correct the Draft Permit to clarify whether there are any exceptions to these conditions and what they are.

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<sup>87</sup> Oil Technology ATSD.

<sup>88</sup> *Id.*

<sup>89</sup> TSD at 1, PDF 205.

<sup>90</sup> Draft Permit at 39-40.

- c. Source definition descriptions between NLMK and its subcontractor SMS Mill Services, LLC are inconsistent across the two permits. NLMK Draft Permit 127-49451-00036 identifies NLMK as the primary operation (dba Beta Steel Corp) and identifies SMS Mill Services, LLC as the contractor (dba TMS International, LLC and dba Olympic Mill Services). SMS Draft Permit 127-49507-00104 identifies NLMK as the primary operation (formerly known as Beta Steel Corporation) and identifies SMS Mill Services, LLC as the contractor (formerly known as Scrap Metal Services, LLC). Commenters note that Beta Steel Corp renamed to NLMK Indiana in 2010.<sup>91</sup> Additionally, SMS took over the operation from TMS International, LLC in 2024<sup>92</sup> and changed its name from Scrap Metal Services, LLC to SMS Mill Services through an Administrative Amendment on August 27, 2025.<sup>93</sup> IDEM should ensure the source definition descriptions are consistent and accurate in both permits' TSDs.

### **Summary and Conclusion**

Without the above changes, it is unclear whether the Draft Permit assures compliance with Title V regulations and is appropriately permitted as an area source of HAPs. Because of the extensive revisions required for the Draft Permit and the importance of ensuring that NLMK remains an area source for HAPs, IDEM should reissue the revised Draft Permit for public comment.

Thank you for considering these comments. Please feel free to reach out with any questions or if you need additional information.

Sincerely,

/s/ Kerri Gefeke

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<sup>91</sup> NLMK Application (dated August 15, 2025) at 3, PDF 6.

<sup>92</sup> TMS International, LLC Permit No. 127-47866-00104, Administrative Amendment to Part 70 Administrative Operating Permit Renewal No. T127-42119-00104 (June 24, 2024), at PDF 3.

<sup>93</sup> TMS International, LLC Permit No. 127-42119-00104, Administrative Amendment to Part 70 Administrative Operating Permit Renewal No. T127-42119-00104 (Aug. 27, 2025), at PDF 3.

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