August 24, 2026

Wilfredo de la Rosa
Indiana Department of Environmental Management (IDEM)
Office of Air Quality, Indiana Government Center North
100 N Senate Ave, Room 13W
Indianapolis, IN 46204-2251
wdelaros@idem.IN.gov

Re: Public Comments on Cleveland-Cliffs Steel, LLC, Significant Modification to an Administrative Part 70 Operating Permit Renewal No. T089-50215-00316

Dear Mr. de la Rosa,

The Environmental Law & Policy Center, Conservation Law Center, Faith in Place, and Gary Advocates for Responsible Development, Just Transition Northwest Indiana, and Northern Lake County Environmental Partnership (collectively, "Commenters") respectfully submit the following comments on the above-referenced Draft Significant Modification to an Administrative Part 70 Operating Permit Renewal ("Draft Permit") issued by the Indiana Department of Environmental Management ("IDEM") to Cleveland-Cliffs Steel, LLC ("Cleveland-Cliffs"), for its operation of a stationary integrated steel mill and finishing facility ("Indiana Harbor East") at 3210 Watling Street, East Chicago, 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.

Introduction

Cleveland-Cliffs Steel, LLC operates this Steel Mill along with a separate facility at 3001 Dickey Road ("Indiana Harbor West"). These two facilities, on a 3600-acre sprawling complex stretching out along the Lake Michigan shoreline surrounding Indiana Harbor, operate as a single integrated steel mill and finishing facility ("collectively, "Steel Mills"). The Steel Mills have been in operation for over 100 years and were originally owned and operated by different competing companies but were jointly acquired in 2004 by ArcelorMittal and were subsequently acquired by

Cleveland-Cliffs in 2020.[1] Together, with a dozen other contractors, these operations are considered a single major source as defined by 326 IAC 2-7-1(20).

The Steel Mills' emissions—including Indiana Harbor East's emissions as reported in the chart below[2]—likely contribute to the nearby Indiana Dunes National Park's ranking as among the top 10 National Parks with unhealthy air and hazy skies.[3]

Plant ID:1808900316 **Report for 2025**

Location: 3210 Watling St,East Chicago,463121721

NAICS: 324199 All Other Petroleum and Coal Products Manufacturing

Facility Emissions Overview

Pollutant	Pollutant Description	Emissions (Tons)
NH3	Ammonia	13.0762
CO	Carbon Monoxide	22011.2214
7439921	Lead	0.0608
NOX	Nitrogen Oxides	3026.5711
PM-CON	Primary PM Condensible Only (All Less Than 1 Micron)	601.5894
PM10-FIL	Primary PM10, Filterable Portion Only	1818.5172
PM25-FIL	Primary PM2.5, Filterable Portion Only	459.4463
SO2	Sulfur Dioxide	2650.2815
VOC	Volatile Organic Compounds	303.0394

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.[4] 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," which increases source accountability and improves enforcement of CAA requirements.[5]

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[1] *See generally* Global Energy Monitor Wiki, *Cleveland-Cliffs Indiana Harbor steel plant* (undated), https://www.gem.wiki/Cleveland-Cliffs_Indiana_Harbor_steel_plant, at Background Section.
[2] Cleveland-Cliffs Steel LLC – Indiana Harbor East 2025 Emission Statement (June 16, 2026), https://ecm.idem.in.gov/cs/idcplg?IdcService=GET_FILE&dID=83983681&dDocName=83991802&Rendition=web&allowInterrupt=1&noSaveAs=1.
[3] 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.
[4] 57 Fed. Reg. 32250, 32258 (July 21, 1992).
[5] *Id.* at 32251.

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.[6] 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").[7] "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.[8]

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.[9] Monitoring must "yield reliable data from the relevant time period that are representative of the source's compliance with the permit."[10] Recordkeeping provisions may be sufficient to meet the monitoring requirements, but must include "terms, test methods, units, averaging periods, and other statistical conventions *consistent with the applicable requirement*."[11] Title V regulations require that the permitting authority's rationale for any proposed permit conditions be clear and documented in the permit record.[12] 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"[13] if its terms are exceeded.[14]

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

Comments

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

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[6] *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 ("*Sandy Creek Order*"), at 12 (quoting 42 U.S.C. § 7661c(c)).
[7] *Id.*
[8] 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 ("*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").
[9] 42 U.S.C. § 7661c(c); 40 C.F.R. § 70.6(c)(1).
[10] 40 C.F.R. § 70.6(a)(3)(i)(B).
[11] *Id.*
[12] 40 C.F.R. § 70.7(a)(5).
[13] *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 ("*Tesoro Order*"), at 9.
[14] *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.

a. IDEM adopted new nitrogen oxide ("NOx") reasonable available control technology ("RACT") limitations on October 27, 2025. The NOx RACT limits are applicable requirements that must be incorporated into permits that have emissions units governed by those requirements. This Draft Permit is a Significant Permit Modification to incorporate the newly approved NOx RACT limits into Indiana Harbor East's Title V permit. However, the Draft Permit fails to include adequate monitoring, recordkeeping, and reporting requirements sufficient to assure compliance with these limits at the No. 7 Blast Furnace stoves.

Condition D.2.10 states that "the No. 7 Blast Furnace stoves shall receive ninety percent (90%) or more of its total gas volume from blast furnace gas as fuel on a rolling thirty (30) operating-day basis" pursuant to 326 IAC 10-7-8(e)(2)(A)(i). Condition D.2.16 states that "in order to comply with Condition D.2.10, the Permittee shall track daily fuel use by the methods specified [by] the most recently submitted 'NOX Compliance Demonstration Protocol." However, this NOx Compliance Demonstration Protocol ("the Protocol") states that the Blast Furnace No. 7 stoves (and Boilerhouse No. 5, Boilers 501 through 504), will record daily fuel use, "[t]otalize fuel volumes for each fuel each month" and then "[c]alculate 12-M volume BFG/(NG+BFG)*100%." In short, Indiana Harbor East will calculate the blast furnace gas ("BFG") percentage as a 12-month average rather than a rolling 30 operating-day limit as required by the NOx RACT limit. 326 IAC 10-7-8(e). It is unclear how calculating a 12-month average will assure compliance with a rolling 30 operating-day limit for No. 7 Blast Furnace stoves and neither the Draft Permit nor the TSD explains.

Commenters recently raised similar concerns with Cleveland-Cliffs' tracking of BFG at Boilers 6, 7, and 8 as provided in Indiana Harbor West Draft Permit No. T089-50214-00318.[15] That draft permit only required Cleveland-Cliffs to record daily total fuel use for Boilers 6, 7, and 8, but not to calculate the annual BFG fuel percentage on an annual basis as required to determine applicability of 40 C.F.R. Part 63, Subpart DDDDD.[16] This led to the source being in violation of the NESHAP without the source, public, or regulators noticing.[17]

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[15] *See* Public Comments on Cleveland-Cliffs Steel, LLC, Significant Modification to an Administrative Part 70 Operating Permit Renewal No. T089-50214-00318 (July 6, 2026) at 4-7.

[16] *See* Public Comments on Cleveland-Cliffs Steel, LLC, Significant Modification to an Administrative Part 70 Operating Permit Renewal No. T089-50214-00318 (July 6, 2026) at 4-7; Petition Requesting that the Administrator Object to the Issuance of Title V Permit Nos. T089-46463-00318 and T089-46464-00318 for the Cleveland-Cliffs Indiana Harbor Steel Facilities (June 2, 2025), https://www.epa.gov/system/files/documents/2025-06/cleveland-cliffs-steel-title-v-petition_6-2-2025.pdf ("Indiana Harbor Petition"), at 21-25; *In the Matter of Cleveland-Cliffs Steel LLC, Indiana Harbor* (February 2, 2026), https://www.epa.gov/system/files/documents/2026-02/cleveland-cliffs-order_02-03-2026.pdf ("*Indiana Harbor Order*"), at 17.

[17] *See* Public Comments on Cleveland-Cliffs Steel, LLC, Significant Modification to an Administrative Part 70 Operating Permit Renewal No. T089-50214-00318 (July 6, 2026) at 4-7.

i. To prevent a similar situation here, IDEM should require Indiana Harbor East to calculate and record the BFG use at No. 7 Blast Furnace as a 30-day rolling average to assure compliance with the limit as required by 40 C.F.R. § 70.6(a)(3)(i)(B).

ii. If IDEM does not revise the recordkeeping condition per 40 C.F.R. § 70.6(a)(3)(i)(B), IDEM must explain how recording BFG use as a 12-month average will assure compliance with a 30-day rolling limit.

b. As explained above in Comment 1a, the NOx RACT limits are applicable requirements and Title V permits must both include the new limits and sufficient monitoring to assure compliance with the limit.[18] Even where recordkeeping is a sufficient monitoring method, such recordkeeping must yield reliable data from a time period representative of the source's permitted limit. However, the Draft Permit fails to include adequate monitoring, recordkeeping, and reporting requirements sufficient to assure compliance with the new NOx RACT limits at the No. 5 Boilerhouse, including Boilers 501 through 504.

Condition D.13.7 states that "[p]ursuant to 326 IAC 10-7-8(e)(1), NOx emissions from No. 5 Boilerhouse, identified as Boilers No. 501 through 504, shall be limited to the following: (a) NOx emissions shall not exceed 0.17 lb/MMBtu from each boiler on a rolling thirty (30) operating-day basis[; and] (b) [e]ach boiler shall receive ninety percent (90%) or more of its total gas volume from blast furnace gas in any twelve (12) consecutive month period with compliance determined at the end of each month." Condition D.13.10 states that "to comply with Condition D.13.7, the Permittee shall monitor fuel usage and track emissions by the methods specified in the most recently submitted" Protocol. The Protocol states that Boilerhouse No. 5, including Boilers 501 through 504 (and Blast Furnace No. 7 stoves), will record daily fuel use, "[t]otalize fuel volumes for each fuel each month" and then "[c]alculate 12-M volume BFG/(NG+BFG)*100%."

This calculation is appropriate for monitoring and recording compliance with Condition D.13.7(b), which requires BFG use to be calculated using a 12 consecutive month period for No. 5 Boilerhouse, including Boilers 501 through 504. The Draft Permit fails, however, to require the source to calculate and record information for compliance with Condition D.13.7(a). The Protocol states that the Boiler 504 NOx CEMS and AP-42 are the source for the emission factors used in calculating the 0.17 lb/MMBtu 30-day rolling average limit for the No. 5 Boilerhouse, including Boilers 501 through 504. However, neither the Protocol, Draft Permit, nor TSD provides clear recordkeeping or reporting requirements for the source to perform and record the calculations and therefore demonstrate compliance with this limit.

[18] 42 U.S.C. § 7661c(c); 40 C.F.R. § 70.6(c)(1).

i. IDEM must require Indiana Harbor East to calculate and record the complete calculations for No. 5 Boilerhouse, including Boilers 501 through 504, to assure compliance with the 0.17 lb/MMBtu limit as required by 40 C.F.R. §§ 70.6(a)(3)(i)(B) and 70.6(c)(1), and 326 IAC 10-7-8(e)(1)(C).

ii. If IDEM does not include a recordkeeping condition per 40 C.F.R. § 70.6(a)(3)(i)(B), IDEM must explain how Indiana Harbor East will assure compliance with the 0.17 lb/MMTBtu limit.

c. 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.[19] 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."[20] While the Draft Permit includes provisions for timely reporting of malfunctions under 326 IAC 1-6-2[21] and quarterly deviation reporting under 326 IAC 2-7-5(3)(C),[22] 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.

2. IDEM must revise Draft Permit terms to clarify its enforceability

EPA has explained that Title V permits must be "unambiguous[ly]" enforceable and must allow IDEM, EPA, and the public to "take appropriate enforcement action"[23] if its terms are exceeded.[24] The following comments raise issues that IDEM must address to ensure enforceability of the permit terms.

a. Attachment L, NOx RACT Compliance Demonstration Protocol for Indiana Harbor is supposed to "specif[y] the fuel monitoring and combustion tracking procedures for managing and estimating the generation of" NOx at Indiana Harbor.[25] The Draft Permit cites the Protocol in several of the new "Nitrogen Oxides (NOx) Compliance Determination Requirements" sections, stating that "the Permittee shall track daily fuel use by the methods specified the most recently submitted"[26] Protocol and that

[19] *See* 40 C.F.R. § 70.6(a)(3)(iii)(A).
[20] 326 IAC 1-2-39. *See also* Draft Permit at 39, Condition C.16(d).
[21] *See* Draft Permit at 38-39, Condition C.16(b).
[22] *See* Draft Permit at 41, Condition C.19.
[23] *Tesoro Order* at 9.
[24] *Pencor-Masada Order* at 7.
[25] Draft Permit at pdf 160.
[26] Condition D.2.16(a), D.9.6(a), D.13.10, Draft Permit at 55, 85, and 94.

"[c]ompliance shall be demonstrated by following the methods specified" in the Protocol.[27] However, it is unclear whether the lists and charts included in the Protocol are additional requirements or whether they merely summarize information and requirements included elsewhere in the Draft Permit.

i. IDEM must clarify whether the criteria, operating limits, fuel used, methodology, emission limits, emission factors, source references, general duty requirements, CEMS use, and testing data protocols listed in the Protocol are separate requirements from those provided elsewhere in the Draft Permit.

ii. IDEM must clarify whether the criteria, operating limits, fuel used, methodology, emission limits, emission factors, source references, general duty requirements, CEMS use, and testing data protocols listed in the Protocol are federally enforceable.

iii. IDEM should require each Protocol provision to include source or citation information so that the information can be easily cross-checked against permit requirements and/or state and federal law and regulations.

b. Attachment L, NOx RACT Compliance Demonstration Protocol for Indiana Harbor, provides that the operating limits for No. 5 Boilerhouse, including Boilers 501 through 504, and No. 7 Blast Furnace Stoves is "Fuel BFG > 90% by Volume per 12-Operating months." As discussed above on monitoring in Comment 1a, this is not correct. The limit for the No. 7 Blast Furnace stoves is a "rolling thirty (30) operating-day" limit. These types of discrepancies impair the enforceability of these terms and conditions in the Draft Permit.[28]

i. IDEM must identify any discrepancies between the lists and charts in the Protocol and the other conditions of the Draft Permit and, for each discrepancy either:

1. correct the discrepancy, and/or

2. identify which term or provision will take precedence.

c. Attachment L, NOx RACT Compliance Demonstration Protocol for Indiana Harbor, states that "[m]issing or invalid data will be corrected in reports following methods of data replacement and substitution in line with federal monitoring and reporting standards for greenhouse gases."[29] This statement is vague, without any references or standards, and is unenforceable. To ensure enforceability, IDEM must require Cleveland-Cliffs to revise the Protocol to include specific actions that

[27] Conditions D.2.16(b), D.3.8, D.6.8, D.7.6, and D.9.6(b), Draft Permit at 55, 62, 74, 79, and 85.
[28] *Tesoro Order* at 9.
[29] Draft Permit at pdf 164.

Cleveland-Cliffs will take to correct missing or invalid data and cite the appropriate federal and/or state law and regulation.

3. IDEM must include the preventive maintenance plan and NESHAP operation and maintenance plan and operation, maintenance, and 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."[30] "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.[31]

a. The Draft Permit fails to include all applicable requirements because it does not include Cleveland-Cliff's facility-specific preventive maintenance plan ("PMP") nor the operation and maintenance (O&M) plan and operation, maintenance, and monitoring (OM&M) plan required under the applicable NESHAP rules (collectively, "Plans"). While IDEM emphasizes the "living" nature of the Plans and its ability to inspect them, neither of those facts override the statutory and regulatory requirements (and related EPA orders) stating that they are the types of plans that must be included in Title V permits.[32] The Plans are applicable requirements. IDEM must revise the Draft Permit to include the PMP (or the O&M plan where that is a stand in for the PMP), and OM&M plan for four reasons:

i. First, the Plans are required by the Indiana SIP and federal NESHAPs. Cleveland-Cliffs is required to have a PMP under SIP-approved Indiana regulations at 326 IAC 1-6-3 which makes them an applicable requirement.[33] Because the Indiana SIP requires Cleveland-Cliffs 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."[34] Likewise, the O&M and OM&M plans are applicable requirements because they are required under the federal NESHAP program, making them a "requirement under section 112 of the Act."[35] In developing those rules, EPA specifically determined that development and implementation of facility-specific O&M and OM&M

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[30] 42 U.S.C. § 7661c(c).
[31] 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").
[32] *See generally* 42 U.S.C. §§ 7661c(a)-(c); 40 C.F.R. §§ 70.6(a)(1), (3)(i)(A) and (B); *Oak Creek Order* at 26; *Columbia University Order* at 27.
[33] 40 C.F.R. § 70.2 (definition at "applicable requirement" at (1)).
[34] 40 C.F.R. § 70.6(a)(3)(i)(A).
[35] 40 C.F.R. § 70.2 (definition at "applicable requirement" at (4)).

plans were necessary to assure compliance with the rule requirements.[36] EPA also directed that the facility-specific Subpart CCC O&M plan be included in the source's Title V permit.[37] EPA has further stated 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).[38]

ii. Second, specific provisions of the Draft Permit, including Conditions B.10(a) and (b), and the underlying NESHAP and NSPS provisions at F.3.2, F.4.2, F.5.2, F.6.2, F.7.2, F.8.2, F.9.2, and the NOx RACT Compliance Demonstration Protocol, require Cleveland-Cliffs to have, implement, and comply with the Plans.[39] Specific NESHAP provisions incorporated at Condition F.4.2 and F.8.2 require Cleveland-Cliffs to follow those units' O&M plan, which Condition B.10(d) states "is deemed to satisfy the PMP requirements of 326 IAC 1-6-3 for that unit."[40] Likewise, NESHAP provisions incorporated at Condition F.6.2 require the Steel Mill to "prepare and implement" an OM&M plan.[41] In fact, the underlying NESHAP requirement of Condition F.6.2 requires Indiana Harbor East to "submit the plan to the applicable permitting authority for review and approval as part of the application for a 40 CFR part 70 . . . permit."[42] EPA found in the *Oak Creek* Title V Order that when "compliance with the approved [plan] is

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[36] 40 C.F.R. §§ 63.7100(d), 63.7800(b), 63.7833(b)(1), and 63.1160(b).
[37] *Id.* at § 63.1160(b).
[38] *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 ("*Deer Park Order"*), at 18 (citing 40 C.F.R. § 70.6(a)(3)(i)(A, B), (c)(1).
[39] Condition F.3.2 are the applicable standards under 40 C.F.R. 60, Subpart IIII. § 60.4211(g)(3) requires the source to "keep a maintenance plan and records of conducted maintenance." Additionally, Condition F.5.2 are the applicable standards under 40 C.F.R. 63, Subpart ZZZZ. §§ 63.6625(e)(2) and 63.6655(e)(2) require operators to either follow the manufacturer's written instructions or develop their own maintenance plan and to keep records of that maintenance. Condition F.9.2 are the applicable standards under 40 C.F.R. 60, Subpart JJJJ. § 60.4243(b) requires the source to "keep a maintenance plan and records of conducted maintenance." The Combustion Efficiency Control Section for the 80" Hot Strip Mill, including Walking Beam Furnaces No. 4, No. 5, & No. 6 requires the "Burners [to be] tuned as part of facility preventative maintenance plan." NOx RACT Compliance Demonstration Protocol at pdf 161. The General Requirements section states that "the facility is subject to a general Preventative Maintenance Plan (PMP) requirement under 326 IAC 1-6-3 and incorporated into the Title V permit under Section B.10. PMP inspections and repair requirements have been developed based on original equipment manufacturer direction." NOx RACT Compliance Demonstration Protocol at pdf 164.
[40] Draft Permit at 24. Condition F.8.2 are the applicable standards under 40 C.F.R. 63, Subpart FFFFF. Multiple sections of this Subpart require the source to establish, keep, and operate according to its operation and maintenance plan including § 63.7790(b)(1); 63.77800(b); 63.7824(a); 63.7830(a); 63.7831(f); and 63.7833(b). Additionally, Condition F.7.2 are the applicable standards under 40 C.F.R. 63, Subpart DDDDD. § 63.7505(d) requires operators to develop a site-specific monitoring plan which includes "[o]ngoing operation and maintenance procedures." *See also* § 63.7500(a)(3).
[41] 40 C.F.R. §§ 63.7100(d).
[42] *Id.*

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).[43]

iii. Third, the Permit must incorporate the Plans in order to make the provisions requiring compliance and implementation of the Plans enforceable as Title V requires.[44] Without identifying which emissions units require the Plans and including the specific Plan requirements in the Permit, Conditions B.10(a), (b), and (c), F.3.2, F.4.2, F.5.2, F.6.2, F.7.2, F.8.2, F.9.2, and the NOx RACT Compliance Demonstration Protocol are unenforceable, because it is impossible for IDEM, EPA, and the public to determine whether Cleveland-Cliffs is complying with the requirements of the Plans, and, if not, to take appropriate enforcement action.

iv. Fourth, the Plans must be included in the Permit because they are necessary to determine compliance with other applicable requirements. Compliance with the PMP provisions is part of the requirements of Condition B.10. Likewise, the underlying NESHAP requirement of Condition F.4.2 states that a source's compliance with the Subpart CCC general duty to minimize emissions will be determined in part by "review of operation and maintenance procedures [and] review of operation and maintenance records."[45] Additionally, facility operators violate Subpart CCC if they fail to take corrective action according to the procedures "specified in the maintenance plan."[46] Likewise, the OM&M plan required by Subpart AAAAA must include corrective actions and is used to determine compliance.[47] Thus, under 40 C.F.R. § 70.6(a)(3)(i)(B), the Plans are required monitoring provisions necessary to assure compliance with applicable requirements.[48]

4. IDEM must revise the Draft Permit to assure compliance with NESHAP and NSPS requirements

National Emission Standards for Hazardous Air Pollutants (NESHAP) and New Source Performance Standards (NSPS) are applicable requirements that must be incorporated into permits

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[43] *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 ("*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 ("*Columbia University Order*"), at 27 (noting where a facility is subject to a plan, the permit must "properly incorporate that plan.").

[44] 42 U.S.C. § 7661c(a).

[45] 40 C.F.R. 63.1159(c).

[46] 40 C.F.R. 63.1160(b)(1)(vi).

[47] 40 C.F.R. §§ 63.7100(d).

[48] 40 C.F.R. § 70.6(a)(3)(i)(B).

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."[49] 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."[50] As discussed below, the Draft Permit does not satisfy these requirements.

a. Commenters appreciate IDEM's tabularization of the applicable NSPS and NESHAP provisions (which provide some additional context to these requirements) in the Draft Permit. However, additional changes are needed to appropriately reflect the federal requirements applicable to each emission unit at the Steel Mill. IDEM's practice of attaching the entire text of all regulations for each NESHAP and/or NSPS, including inapplicable sections, can create confusion and makes the permit files unnecessarily long. IDEM should only include the applicable provisions of the NESHAP and/or NSPS in the permit.

b. 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 Cleveland-Cliffs 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 each emissions unit (which will also provide clarity on whether a violation of a permit term is also a violation of the NESHAP or NSPS).

5. IDEM should clarify or correct likely clerical errors in the Draft Permit

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

a. The Draft Permit fails to incorporate 326 IAC 10-7-8(e)(1)(C) requiring operation and maintenance in accordance with manufacturer's specifications and good combustion practices for No. 5 Boilerhouse, including Boilers 501 through 504. IDEM must incorporate 326 IAC 10-7-8(e)(1)(C) as it did for the other emissions units.

b. Condition D.13.10 states that "the Permittee shall monitor fuel usage and track emissions" to comply with Condition D.13.7, pursuant to 326 IAC 10-7-8(e)(1)(C).

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[49] 57 Fed Reg. 32250, 32251 (July 21, 1992).
[50] 40 C.F.R. § 70.6(a)(1)(i).

This condition should cite that it is pursuant to 326 IAC 10-7-8(e)(1)(A) and (B). IDEM should revise Condition D.13.10 accordingly.

c. Draft Permit Condition D.9.4 has two sub-bullet (a)'s.[51] IDEM should revise the Draft Permit for clarity.

Summary and Conclusion

As discussed above, the Draft Permit fails to assure compliance with Title V regulations and IDEM should revise the Draft Permit accordingly by:

- requiring Indiana Harbor East to calculate and record the BFG use at No. 7 Blast Furnace as a 30-day rolling average;
- requiring Indiana Harbor East to calculate and record the complete calculations for No. 5 Boilerhouse, including Boilers 501 through 504, to assure compliance with the 0.17 lb/MMBtu limit;
- revising its reporting requirements and malfunctions report to ensure prompt reporting of all deviations, including those that would not meet the definition of malfunction;
- clarifying whether the criteria, operating limits, fuel used, methodology, emission limits, emission factors, source references, general duty requirements, CEMS use, and testing data protocols listed in the Protocol are separate requirements from those provided elsewhere in the Draft Permit;
- clarifying whether the criteria, operating limits, fuel used, methodology, emission limits, emission factors, source references, general duty requirements, CEMS use, and testing data protocols listed in the Protocol are federally enforceable;
- requiring each Protocol provision to include its source or cite to the relevant permit requirements and/or state and federal law and regulations;
- identifying any discrepancies between the lists and charts in the Protocol and the other conditions of the Draft Permit and correcting any discrepancies and/or identifying which term or provision will take precedence;
- requiring Cleveland-Cliffs to revise the Protocol to include specific actions that Cleveland-Cliffs will take to correct missing or invalid data and cite the appropriate federal and/or state law and regulation;
- including applicable PMPs, O&M plans, and OM&M plans;
- only including the applicable provisions of the NESHAP and/or NSPS in the permit; and

[51] Draft Permit at 84.

- streamlining the state operating, NESHAP, and NSPS requirements in the Draft Permit to clarify all the requirements that apply to each emissions unit.

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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