



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

REPLY TO THE ATTENTION OF:

MAR 07 2017

Mr. Bruno L. Pigott
Commissioner
Indiana Department of Environmental Management
100 North Senate Avenue
Indianapolis, Indiana 46204

Dear Commissioner Pigott:

On February 23, 2017, Indiana submitted to the U.S. Environmental Protection Agency its adopted Indiana Coal Combustion Residuals (CCR) Part 256 Solid Waste Management Plan (SWMP) Amendment, dated February 23, 2017. By this letter, EPA conditionally approves Indiana's CCR Part 256 SWMP under Section 4007 of the Resource Conservation and Recovery Act of 1976, as amended (RCRA), 42 USC § 6947. The EPA has determined that, provided the conditions outlined below have been met, the Indiana CCR Part 256 SWMP meets the requirements contained in the EPA's regulations for SWMP approval in 40 CFR Part 256.

The EPA performed a side by side comparison of the statutes, regulations and policies that are referenced in the Indiana CCR Part 256 SWMP. The EPA's assessment is enclosed and can be found at <https://www.epa.gov/coalash/us-state-indiana-coal-combustion-residuals-solid-waste-management-plan-amendment-approval>. These combined authorities are consistent with the requirements found at 40 CFR Part 256. However, EPA did not perform a side by side comparison of Indiana's technical requirements for CCR units with those found in 40 CFR Part 257, Subpart D, because Indiana has indicated in the CCR Part 256 SWMP that it intends to update its land disposal facility regulations to ensure consistency with the federal CCR rule by December 2018. Consequently, EPA's final approval is conditional upon Indiana updating its land disposal regulations to be consistent with the technical requirements at 40 CFR 257, Subpart D. Until this rulemaking is completed, Indiana plans to implement the federal CCR rule for landfills through existing laws, regulations and permitting authorities and will implement the federal CCR rule for surface impoundments by incorporating the federal requirements by reference under a temporary measure.

In summary, the material submitted by Indiana, and the interim measures outlined above, demonstrates that the Indiana CCR Part 256 SWMP meets the requirements for a conditional approval under EPA's regulations. This includes requirements that the plan will prohibit the establishment of new open dumps within the State and provide for the closing or upgrading of all

existing open dumps within the State. See 40 CFR § 256.01(b); § 256.20 and § 256.23. Also, the State plan provides for the establishment of compliance schedules pursuant to section 4005(a) of RCRA for entities engaged in open dumping that can make certain demonstrations. See 42 USC § 6945(a); 40 CFR § 256.26.

As of today, Indiana is authorized to establish compliance schedules pursuant to these provisions, for entities engaged in open dumping that have made the necessary demonstrations under federal law, as laid out on pp. 3-4 of Indiana's CCR SWMP. In order for any compliance schedules previously issued under State law to become effective under federal law, Indiana will need to reconsider and re-issue the compliance schedules, along with any modifications necessary to ensure that the final compliance schedules are consistent with federal requirements and the SWMP approved in today's determination.

Based on the Indiana CCR Part 256 SWMP submitted on February 23, 2017, and consistent with the provisions of Sections 4003 and 4007 of RCRA, I hereby conditionally approve the document Indiana Coal Combustion Residuals Part 256 Solid Waste Management Plan Amendment, pending the issuance of final State regulations that are consistent with the federal requirements.

Sincerely,



Ignacio L. Arrázola
Acting Director
Land and Chemicals Division