UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
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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

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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

Part 256 Evaluation of the Indiana SWMP

EPA has completed its review of Indiana's Coal Combustion Residuals' Solid Waste Management Plan Amendment (CCR SWMP) to determine if the CCR SWMP complies with 40 CFR Part 256 (Part 256) requirements for revising state solid waste management plans.

This document is a side-by-side comparison of the Part 256 requirements for SWMPs (in the left hand column) and what Indiana has provided in its CCR SWMP to show how they meet those requirements (in the right hand column). Indiana submitted its draft CCR SWMP, dated 4/12/16, to EPA on 4/14/16 for a preliminary review. The green text in the right hand column are IDEM's indication of where each requirement was addressed in the draft CCR SWMP. The blue text in the right hand column is EPA's evaluation of what the draft CCR SWMP included to address each Part 256 requirement. The red text in the right hand column represents EPA's comments and recommendations to IDEM. EPA's evaluation of the draft SWMP was provided to IDEM on 6/27/16. Indiana revised its CCR SWMP and submitted a second draft to EPA for review dated 9/29/16. EPA did not provide an updated checklist to IDEM in response to the 9/29/16 draft SWMP.

Indiana posted the 4/14/16 draft CCR SWMP to its web site and requested public comments from April 14, 2016 through June 30, 2016. IDEM held a public hearing on June 16, 2016.

The final, adopted CCR SWMP, dated 2/23/2017, was submitted to EPA for review and approval on 2/23/2017. The purple text in the right hand column reflects how Indiana addressed EPA's comments in the final CCR SWMP.

As described in the final CCR SWMP, IDEM will update Indiana's land disposal facility regulations to ensure consistency with the federal CCR rule by December 2018. Until the rulemaking process is completed, Indiana will implement the CCR rule for landfills through existing laws, regulations and permitting authorities. Indiana will implement the CCR rule for surface impoundments by incorporating the federal requirements by reference under a temporary measure which will be replaced by the updated land disposal facility regulations. Once the land disposal facility regulations are updated, IDEM will seek permitting program approval, as provided by Section 2301 of the Water and Waste Act of 2016. At that time, EPA will conduct a side-by-side comparison of the State's CCR technical requirements with the federal CCR regulations.

256 state plan requirements	Types of info State could provide to meet requirements
Subpart A—Purpose, General Requirements, Definitions	
§ 256.01 Purpose and scope of the guidelines	
(b) These guidelines address the minimum requirements for approval of State plans as set forth in section 4003 of the Act. These are: (1) The plan shall identify, in accordance with section 4006(b), (i) the responsibilities of State, local, and regional authorities in the implementation of the State plan, (ii) the distribution of Federal funds to the authorities responsible for development and implementation of the State plan, and (iii) the means for	This section provides a general overview of the guidelines for the plan. The state doesn't need to provide any information related to this section.

256 state plan requirements	Types of info State could provide to meet requirements
coordinating regional planning and implementation under the State plan. (2) The plan shall, in accordance with section 4005(c), prohibit the establishment of new open dumps within the State, and contain requirements that all solid waste (including solid waste originating in other States, but not including hazardous waste) shall be (i) utilized for resource recovery or (ii) disposed of in sanitary landfills (within the meaning of section 4004(a)) or otherwise disposed of in an environmentally sound manner. (3) The plan shall provide for the closing or upgrading of all existing open dumps within the State pursuant to the requirements of section 4005. (4) The plan shall provide for the establishment of such State regulatory powers as may be necessary to implement the plan. (5) The plan shall provide that no local government within the State shall be prohibited under State or local law from entering into long-term contracts for the supply of solid waste to resource recovery facilities. (6) The plan shall provide for resource conservation or recovery and for the disposal of solid waste in sanitary landfills or for any combination of practices so as may be necessary to use or dispose of such waste in a manner that is environmentally sound. (c) These guidelines address the requirement of section 4005(c) that a State plan: Shall establish, for any entity which demonstrates that it has considered other public or private alternatives for solid waste management to comply with the prohibition on open dumping and is unable to utilize such alternatives to so comply, a timetable or schedule of compliance for such practice or disposal of solid waste which specifies a schedule of remedial measures, including an enforceable sequence of actions or operations leading to compliance with the prohibition on open dumping of solid waste within a reasonable time (not to exceed five years from the date of publication of the inventory).	
§ 256.02 Scope of the state solid waste management plan.	
(a)(1) The State plan shall address all solid waste in the State that poses potential adverse effects on health or the environment or provides opportunity for resource conservation or resource recovery. The plan shall consider: (i) Hazardous wastes; (ii) Residential, commercial and institutional solid waste; (iii) Wastewater treatment sludge; (iv) Pollution control residuals; (v) Industrial wastes; (vi) Mining wastes; (vii) Agricultural wastes; (viii) Water treatment sludge; and (ix) Septic tank pumpings. (2) The State plan shall consider the following aspects of solid waste management: (i) Resource conservation; (ii) Source separation;	**See Section 3.** Page 2 of the Purpose and Scope Section indicates that the scope of the CCR Part 256 Plan will be the universe of facilities covered by the federal CCR rule. This Coal Combustion Residuals Part 256 Solid Waste Management Plan Amendment (Amendment or Plan) does not make any changes to the previously approved Solid Waste Management Plan (SWMP)'s coverage of other solid waste management units. Page 3 describes Indiana's CCR universe: IDEM identified 14 permitted CCR landfills and used the US EPA's estimate of 74 for the number of CCR surface impoundments (SI). The SI estimate was based on US EPA's 2014 report, because IDEM's solid waste program has not historically permitted these units.

256 state plan requirements	Types of info State could provide to meet requirements
(iii) Collection; (iv) Transportation; (v) Storage; (vi) Transfer; (vii) Processing (including resource recovery); (viii) Treatment; and (ix) Disposal.	Section 3 describes how IDEM will use its existing authorities to complete a comprehensive update to the Indiana solid waste land disposal facility regulations by December 31, 2018 to address all CCR units.
(b) The State Plan shall establish and justify priorities and timing for actions. These priorities shall be based on the current level of solid waste management planning and implementation within the State, the extent of the solid waste management problem, the health, environmental and economic impacts of the problem, and the resources and management approaches available.	**See Priorities Section.** On page 3 it states that IDEM will prioritize CCR disposal facilities with known releases and CCR impoundments subject to closure deadlines that are actively developing and implementing closure plans.
(c) The State plan shall set forth an orderly and manageable process for achieving the objectives of the Act and r the requirements of these guidelines. This process shall describe as specifically as possible the activities to be undertaken, including detailed schedules and milestones.	**The plan as a whole accomplishes this purpose. The Purpose and Scope Section provides a summary of the overall approach.** Pages 2 and 3: IDEM's plan for developing Indiana's CCR program includes several steps: a) EPA's approval of the Plan, b) IDEM using existing regulations for landfills and c) incorporating CCR provisions by reference for SI. Section 3 provides more details and a schedule for developing Indiana's CCR program. IDEM commits to submitting their new regulations to EPA for review/approval after final adoption by the state. The plan submitted on 2/23/2017 also describes IDEM's intent to seek EPA permitting program approval once the new Indiana CCR regulations are in place per Section 2301 of the Water and Waste Act of 2016.
(d) The State plan shall cover a minimum of a five year time period from the date submitted to EPA for approval.	**See Purpose and Scope Section, 2nd paragraph.** Page 2 indicates there are no changes in the coverage periods from the previously approved SWMP.
(e) The State plan shall identify existing State legal authority for solid waste management and shall identify modifications to regulations necessary to meet the requirements of these guidelines.	**This item is covered in detail in Indiana's previously approved solid waste management plans. The Purpose and Scope Section and Sections 2 and 3 address this item for CCR facilities in the Part 256 CCR Plan.** Page 2 – Purpose and Scope Section indicates there are no changes to authority for non-CCR units and confirms that previously approved existing authorities will be used to update solid waste regulations for CCR units. Section 2 identifies interim regulatory strategy and Section 3 describes the timeframe for a final regulatory update strategy. IDEM will use their new CCR landfill website to keep the public updated with regard to the surface impoundments.
§ 256.03 State plan submission, adoption, and revision.	

256 state plan requirements	Types of info State could provide to meet requirements
(a) To be considered for approval, the State plan shall be submitted to EPA within a reasonable time after final promulgation of these guidelines.	No information needs to be submitted.
(b) Prior to submission to EPA, the plan shall be adopted by the State pursuant to State administrative procedures.	**See Purpose and Scope.** Page 3 – Procedure for plan adoption is described.
(c) The plan shall be developed in accord with public participation procedures required by Subpart G of this part.	**See Section 6.1.** Section 6.1 describes the public participation approach used for development of the Plan and addresses the requirements in Subpart G.
(d) The plan shall contain procedures for revision. The State plan shall be revised by the State, after notice and public hearings, when the Administrator, by regulation, or the State determines, that: (1) The State plan is not in compliance with the requirements of these guidelines; (2) Information has become available which demonstrates the inadequacy of the plan; or (3) Such revision is otherwise necessary.	**See Purpose and Scope, 2nd paragraph.** Page 2 – IDEM indicates that this CCR Plan does not propose any changes to the procedures previously approved in the SWMP.
(e) The State plan shall be reviewed by the State and, where necessary, revised and readopted not less frequently than every three years.	**See Purpose and Scope, 4th paragraph.** Page 2 – IDEM indicates that this CCR Plan does not propose any changes to the procedures previously approved in the SWMP.
(f) States which are developing a complete State plan may submit the portion of the plan designed to satisfy the requirements of § 256.26 prior to submission of the complete plan.	**Indiana's Part 256 CCR Plan addresses all of the items needed for plan approval, conditioned on the development and submittal of final regulations for EPA review and approval, as described in Sections 3 and 4.** This Section is not applicable to IDEM's submission because they are not seeking partial approval of a plan. All elements of the amended plan for CCR are provided.
§ 256.04 State plan approval, financial assistance.	
(a) The Administrator shall, within six months after a State plan has been submitted for approval, approve or disapprove the plan. The Administrator shall approve a plan if he determines that: (1) It meets the requirements of these guidelines which address sections 4003(1), (2), (3), and (5), and (2) It contains provisions for revision pursuant to § 256.03.	No information needed from the state.
(b) The Administrator shall review approved plans from time to time, and if he determines that revisions or corrections are necessary to bring such plan into compliance with all of the requirements of these guidelines, including the requirements which address sections 4003(4) and (6) and any new or revised requirement established by amendment to this part, he shall notify the State and provide an opportunity for such revisions and corrections and for an appeal and public hearing. If the plan continues to remain out of compliance, he shall withdraw his approval of such plan.	No information needed from the state
(c) Such withdrawal of approval shall cease to be effective upon the Administrator's determination that the State plan complies with the requirements of these guidelines.	No information needed from the state

256 state plan requirements	Types of info State could provide to meet requirements
(d) The Administrator shall approve a State application for financial assistance under subtitle D of the Act, and make grants to such State, if the Administrator determines that the State plan continues to be eligible for approval and is being implemented by the State.	No information needed from the state
(e) Upon withdrawal of approval of a State plan, the Administrator shall withhold Federal financial and technical assistance under subtitle D (other than such technical assistance as may be necessary to assist in obtaining reinstatement of approval) until such time as approval is reinstated. (Procedures for termination of financial assistance and for settlement of disputes are contained in 40 CFR part 30, appendix A, articles 7 and 8.)	No information needed from the state
(f) If a State submits to EPA the portion of the plan by which entities may, pursuant to § 256.26, obtain timetables or schedules of compliance for complying with the open dumping prohibition, the Administrator shall approve such portion of the plan if he determines that: (1) The portion submitted satisfies the requirements of § 256.26; (2) The State has the general legal authority to issue and enforce compliance schedules; and (3) The remainder of the plan is being developed in conformity with these guidelines and will be completed within a reasonable period of time. In giving partial plan approval, the Administrator shall specify in writing the timetable for completion of the final plan as required in paragraph (f)(3) of this section.)	No information needed from the state.
§ 256.05 Annual work program	No information needed from the state
§ 256.06 Definitions	
Subpart B—Identification of Responsibilities; Distribution of Funding	
§ 256.10 Requirements **(a)** In accordance with sections 4003(1) and 4006 and the interim guidelines for identification of regions and agencies for solid waste management (40 CFR part 255), the State plan shall provide for: (1) The identification of the responsibilities of State and substate (regional, local and interstate) authorities in the development and implementation of the State plan; (2) The means of distribution of Federal funds to the authorities responsible for development and implementation of the State plan; and (3) The means for coordinating substate planning and implementation. **(b)** Responsibilities shall be identified for the classification of disposal facilities for the inventory of open dumps. **(c)** Responsibilities shall be identified for development and implementation of the State regulatory program described in subpart C of this part. **(d)** Responsibilities shall be identified for the development and implementation of the State resource conservation and resource recovery program described in subpart D of this part. **(e)** State, substate and private sector responsibilities shall be identified for the planning and implementation of	**See Purpose and Scope, 2nd paragraph.** Page 2: IDEM confirms that the responsible agency has not changed since the original SWMP was approved. Section 5 identifies other state agencies and stakeholders involved with the new CCR portion of the Plan.

256 state plan requirements	Types of info State could provide to meet requirements
solid and hazardous waste management facilities and services. **(f)** Financial assistance under sections 4008(a)(1) and (2) shall be allocated by the State to State and substate authorities carrying out development and implementation of the State plan. Such allocation shall be based on the responsibilities of the respective parties as determined under section 4006(b).	
Subpart C—Solid Waste Disposal Programs	
§ 256.20 Requirements for State legal authority.	
In order to comply with sections 4003 (2) and (3), the State plan shall assure that the State has adequate legal authority to prohibit the establishment of new open dumps and to close or upgrade existing open dumps. The prohibition of the establishment of new open dumps shall take effect no later than six months after the date of promulgation of the criteria or on the date of approval of the State plan, whichever is later.	**See Sections 1 and 2.** Section 1 discusses six factors that IDEM will use to approve a compliance schedule, which will extend the compliance dates for surface impoundments. Section 2 describes IDEM's interim approach to ensure the legal authority to regulate the CCR universe is comparable with the federal standards. For SIs, IDEM adopted an emergency rule, effective February 12, 2016, that incorporated by reference the federal requirements for CCR surface impoundments. This rule enables IDEM to classify surface impoundments, which are not in compliance with the federal rule, as open dumps and then use the State authorities to enforce the provisions. EPA recommends a slight edit in Section 2 to clarify the definition of open dump: At the bottom of page 4: *This enables Indiana to classify CCR impoundments that are not in compliance with ~~these~~ **the federal** provisions as open dumps and to use State authorities to enforce these provisions under IC 13-30.* IDEM incorporated the recommended edit in Section 2 on page 5. Section 2 indicates that CCR landfills (LFs) are currently permitted under the Indiana solid waste program. IDEM has the authority to impose new permit conditions as needed to ensure compliance with the federal rule and their existing enforcement mechanisms can be used to ensure violations are addressed. EPA recommends IDEM describe how they will determine what new permit conditions are needed for the 14 CCR LFs to ensure compliance with the federal CCR rule and when IDEM's review of the existing permits will be completed. Would new permit conditions touch on all of the rule sections identified in section 3, i.e. GWM requirements; location restrictions and demonstrations; closure/post-closure? Has IDEM already reviewed the permits for the 14 LFs or is there a schedule?

256 state plan requirements	Types of info State could provide to meet requirements
	On page 5 IDEM indicates it will review each existing LF permit against the applicable requirements of the CCR rules by the end of 2017. EPA recommends adding a clarifying statement that CCR landfills that are not in compliance with the federal requirements would be considered open dumps. On page 5 IDEM added the clarifying statement. For CCR impoundments, IDEM's emergency rule adopted the CCR SI provisions in 257 by reference, allowing IDEM to use their state solid waste authorities to enforce the requirements. EPA recommends including a link to IC-13-30, which are the state enforcement authorities and a link to the current CCR landfill regulations under 329 IAC-13-1, if possible. On page 2 IDEM inserted the link to the Indiana General Assembly website. From the iga.in.gov website, both, the Indiana Code and the Indiana Administrative Code are accessible. EPA also recommends including the link to the emergency rule and or including it as an Appendix to the Plan. On page 4 IDEM indicates that the emergency rule became a permanent amendment effective December 10, 2016. The requirements of this rule allows IDEM to grant and enforce compliance schedules under the Indiana Code. IDEM included the rule language as an Attachment to the CCR SWMP. IDEM's proposed scheduled calls for updating their solid waste rules by December 2018. Target dates are described in Section 3 of the Plan. In response to public comment, IDEM committed (in their response to comment document) to monitor any changes/updates to the federal rule and incorporate those changes as necessary.
§ 256.21 Requirements for State regulatory powers.	
In order to comply with section 4003(4), the State plan shall provide for the establishment of State regulatory powers. These powers: (a) Shall be adequate to enforce solid waste disposal standards which are equivalent to or more stringent than the criteria for classification of solid waste disposal facilities (40 CFR part 257). Such authority shall be as definitive as possible and clearly establish the means for compliance.	See Purpose and Scope. The Purpose and Scope Section indicates that this CCR Plan does not propose any changes to the procedures previously approved in the SWMP. See comments under 256.20.

256 state plan requirements	Types of info State could provide to meet requirements
(b) Shall include surveillance capabilities necessary to detect adverse environmental effects from solid waste disposal facilities. Such capabilities shall include access for inspection and monitoring by regulatory officials and the authority to establish operator monitoring and reporting requirements. (c) Shall make use of a permit program which ensures that the establishment of new open dumps is prohibited. (d) Shall have administrative and judicial enforcement capabilities, including enforceable orders, fines or other administrative procedures, as necessary to ensure compliance.	Section 3 describes the plan and includes target dates for updating Indiana's CCR regulations. IDEM identified two areas of the federal rule that present a challenge for Indiana's rule. The first being the requirement for the owner/operator of the CCR disposal unit to create and maintain an independent, publicly available website to hold monitoring and other reports. Instead of this requirement, IDEM requires the owner/operator of the disposal units to submit all required reports and documents to the state. The second area of concern is that IDEM is limited in its ability to regulate beneficial use of CCR. IDEM is exploring ways to see how the beneficial use definitions can be addressed in their rulemaking. While IDEM does not need to create a state requirement that requires the owner/operator to create and maintain a public website, IDEM does need to describe how the state will ensure compliance with this federal requirement. EPA assumes this can be done using the same authority IDEM is using now to ensure compliance before the state's regulations are updated. IDEM's recordkeeping rules and comprehensive CCR website would not replace the federal requirement. Facilities that don't maintain the public website would be out of compliance and considered open dumps. In Section 3, on page 5 IDEM indicates that they will amend the Indiana administrative code provisions regarding Recordkeeping, Notification and Posting of Information to the Internet to enable enforcement of the provisions found in 257.105 through 257.107. EPA requests clarification of the phrase "to the extent allowed by Indiana law" that is used on pages 2 and 5 related to the revisions to Indiana's rules to make them at least as stringent as the federal CCR rules. Is this referring to the challenge identified in the draft plan related to beneficial use? EPA recommends that instead of using this general, broad phrase, that IDEM specifically reference the beneficial use concern in the statement regarding revisions. EPA is interested in working with IDEM to consider alternatives to incorporating the definition of beneficial use in IN's rules. The critical issue is that IDEM is able to demonstrate that the revised rules will regulate the same activities that EPA considers to be (and regulates) as disposal. EPA's CCR rule does not regulate beneficial use, so for the purposes of the SWMP, the revised IN regulations do not need to regulate beneficial use. Page 2- the phrase has been deleted.

256 state plan requirements	Types of info State could provide to meet requirements
	On page 6, IDEM indicates House Enrolled Act 1230 recently passed the Indiana legislature. The Act allows the Indiana Environmental Rules Board to adopt rules consistent with the federal CCR rule. This addresses the beneficial use challenge identified in the draft CCR SWMP. House Enrolled Act 1230 is included as an attachment to the CCR SWMP.
§ 256.23 Requirements for closing or upgrading open dumps.	
In meeting the requirement of section 4003(3) for closing or upgrading open dumps: (a) The State plan shall provide for the classification of existing solid waste disposal facilities according to the criteria. This classification shall be submitted to EPA, and facilities classified as open dumps shall be published in the inventory of open dumps. (b) The State plan shall provide for an orderly time-phasing of the disposal facility classifications described in paragraph (a) of this section. The determination of priorities for the classification of disposal facilities shall be based upon: (1) The potential health and environmental impact of the solid waste disposal facility; (2) The availability of State regulatory and enforcement powers; and (3) The availability of Federal and State resources for this purpose. (c) For each facility classified as an open dump the State shall take steps to close or upgrade the facility. Evidence of that action shall be incorporated by reference into the annual work program and be made publicly available. When the State's actions concerning open dumps are modified, the changes shall be referenced in subsequent annual work programs. (d) In providing for the closure of open dumps the State shall take steps necessary to eliminate health hazards and minimize potential health hazards. These steps shall include requirements for long-term monitoring or contingency plans where necessary.	**See Sections 2 and 3.** Section 3 describes the areas of EPA's rules that will be incorporated into 329 IAC 10 as well as the process they will use to seek EPA review/comment on their new rules during the adoption process. Section 2 indicates the SI requirements in EPA's rules have been adopted by reference as an interim measure. Any additional CCR landfill requirements will be imposed using permit conditions. See comments under 256.20 and 256.21.
§ 256.26 Requirement for schedules leading to compliance with the prohibition of open dumping.	
In implementing the section 4005(c) prohibition on open dumping, the State plan shall provide that any entity which demonstrates that it has considered other public or private alternatives to comply with the prohibition on open dumping and is unable to utilize such alternatives to so comply, may obtain a timetable or schedule for compliance which specifies a schedule of remedial measures, and an enforceable sequence of actions, leading to compliance within a reasonable time (not to exceed 5 years from the date of publication of the inventory).	**See Section 1.** Section 1 identifies the factors IDEM would consider before approving any compliance schedules. These factors align with those listed in the preamble to 257. IDEM added language to this section on page 3, referencing the relevant discussions in the Federal Register notice for the federal CCR rule. IDEM also inserted language on page 4 in factor 5 regarding consideration of the hazard potential classification of SIs.
Subpart D – Resource Conservation and Resource Recovery Programs	
§ 256.30	**See Purpose and Scope, 2nd paragraph.** The Purpose and Scope Section confirms no changes to original SWMP.
Subpart E—Facility Planning and Implementation	
§ 256.40	**See Purpose and Scope, 2nd paragraph.**

256 state plan requirements	Types of info State could provide to meet requirements
	The Purpose and Scope Section confirms no changes to original SWMP.
Subpart F – Coordination with Other Programs	
§ 256.50 Requirements. Section 4003(1) requires the State solid waste management plan to identify means for coordinating regional planning and implementation under the State plan. Section 1006 requires the Administrator to integrate all provisions of this Act (including approval of State plans) with other Acts that grant regulatory authority to the Administrator in order to prevent duplication of administrative and enforcement efforts. In order to meet these requirements: (a) The State solid waste management plan shall be developed in coordination with Federal, State, and substate programs for air quality, water quality, water supply, waste water treatment, pesticides, ocean protection, toxic substances control, noise control, and radiation control. (b) The State plan shall provide for coordination with programs under section 208 of the Clean Water Act, as amended (33 U.S.C. 1288). In identifying agencies for solid waste management planning and implementation, the State shall review the solid waste management activities being conducted by water quality planning and management agencies designated under section 208 of the Clean Water Act. Where feasible, identification of such agencies should be considered during the identification of responsibilities under subpart B of this part. Where solid waste management and water quality agencies are separate entities, necessary coordination procedures shall be established. (c) The State plan shall provide for coordination with the National Pollutant Discharge Elimination System (NPDES) established under section 402 of the Clean Water Act, as amended (33 U.S.C. 1342). The issuance of State facility permits and actions taken to close or upgrade open dumps shall be timed, where practicable, to coordinate closely with the issuance of a new or revised NPDES permit for such facility. (d) The State plan shall provide for coordination with activities for municipal sewage sludge disposal and utilization conducted under the authority of section 405 of the Clean Water Act, as amended (33 U.S.C. 1345), and with the program for construction grants for publicly owned treatment works under section 201 of the Clean Water Act, as amended (33 U.S.C. 1281). (e) The State plan shall provide for coordination with State pretreatment activities under section 307 of the Clean Water Act, as amended (33 U.S.C. 1317). (f) The State plan shall provide for coordination with agencies conducting assessments of the impact of surface impoundments on underground sources of drinking water under the authority of section 1442(a)(8)(C) of the Safe Drinking Water Act (42 U.S.C. 300j–1). (g) The State plan shall provide for coordination with State underground injection control programs (40 CFR Parts 122, 123, 124, and 146) carried out under the authority of the Safe Drinking Water Act (42 U.S.C. 300f *et seq.*) and with the designation of sole source aquifers under section 1424 of that Act.	See Section 5 Section 5 identifies additional State agencies and other stakeholders, which IDEM will coordinate with in implementing their new CCR regulatory program. The full scope of coordination is addressed in the previously approved SWMP.

256 state plan requirements	Types of info State could provide to meet requirements
(h) The State plan shall provide for coordination with State implementation plans developed under the Clean Air Act (42 U.S.C. 7401 *et seq.*; incineration and open burning limitations; and, State implementation plan requirements impacting resource recovery systems). (i) The State plan shall provide for coordination with the Army Corps of Engineers permit program (or authorized State program) under section 404 of the Clean Water Act, as amended (33 U.S.C. 1344) for dredge and fill activities in waters of the United States. (j) The State plan shall provide for coordination with the Office of Endangered Species, Department of the Interior, to ensure that solid waste management activities, especially the siting of disposal facilities, do not jeopardize the continued existence of an endangered or threated species nor result in the destruction or adverse modification of a critical habitat. (k) The State plan shall provide for coordination, where practicable, with programs under: (1) The Toxic Substances Control Act (15 U.S.C. 2601 *et seq.*; disposal of chemical substances and mixtures). (2) The Federal Insecticide, Fungicide and Rodenticide Act (7 U.S.C. 1362 et seq.; disposal and storage of pesticides and pesticide containers). (3) The Marine Protection, Research and Sanctuaries Act (33 U.S.C. 1420 *et seq.*; disposal in ocean waters). (l) The State plan shall provide for coordination, where practicable, with programs of other Federal agencies, including: (1) Department of the Interior. (i) Fish and Wildlife Service (wetlands), (ii) Bureau of Mines and Office of Surface Mining (mining waste disposal and use of sludge in reclamation), (iii) U.S. Geological Survey (wetlands, floodplains, ground water); (2) Department of Commerce, National Oceanic and Atmospheric Administration (coastal zone management plans); (3) Water Resources Council (floodplains, surface and ground waters); (4) Department of Agriculture, including Soil Conservation Service (land spreading solid waste on food chain croplands); (5) Federal Aviation Administration (locating disposal facilities on or near airport property); (6) Department of Housing and Urban Development (701 comprehensive planning program, flood plains mapping); (7) Department of Defense (development and implementation of State and substate plans with regard to resource recovery and solid waste disposal programs at various installations); (8) Department of Energy (State energy conservation plans under the Energy Policy and Conservation Act (42 U.S.C. 6321)); and (9) Other programs. (m) The State plan shall provide for coordination, where practicable, with solid waste management plans in neighboring States and with plans for Indian reservations in the State.	
Subpart G—Public Participation	
§ 256.60 Requirements for public participation in State and substate plans.	
(a) State and substate planning agencies shall:	See Section 6.1.

256 state plan requirements	Types of info State could provide to meet requirements
(1) Maintain a current list of agencies, organizations, and individuals affected by or interested in the plan, which shall include any parties that request to be on the list, the owner or operator of each facility classified as an open dump and any other parties which the State determines to be affected by or interested in the plan; (2) Provide depositories of relevant information in one or more convenient locations; and (3) Prepare a responsiveness summary, in accord with 40 CFR 25.8, where required by this subpart or by an approved public participation work plan, which describes matters on which the public was consulted, summarizes the public's views, and sets forth the agency's response to the public input. (b) State and substate planning agencies shall provide information and consult with the public on plan development and implementation. Provision of information and consultation shall occur both early in the planning process (including the preparation and distribution of a summary of the proposed plan) and on major policy decisions made during the course of plan development, revision and implementation. To meet this requirement, planning agencies shall: (1) Publicize information in news media having broad audiences in the geographic area; (2) Place information in depositories maintained under paragraph (a)(2) of this section; (3) Send information directly to agencies, organizations and individuals on the list maintained under paragraph (a)(1) of this section; and (4) Prepare and make available to the public a responsiveness summary in accord with 40 CFR 25.8. (c) State and substate planning agencies shall conduct public hearings (and public meetings, where the agency determines there is sufficient interest) in accord with 40 CFR 25.5 and 25.6. The purpose of the hearings and meetings is to solicit reactions and recommendations from interested or affected parties and to explain major issues within the proposed plan. Following the public hearings, a responsiveness summary shall be prepared and made available to the public in accord with 40 CFR 25.8.	Section 6 describes public participation for the CCR 256 Plan development, regulations development, permitting, and open dump inventory. IDEM has created a public website for information on the CCRs, providing all relevant information on IDEM's draft Plan, public comment period, public hearing, and includes the compliance websites for all coal fired utilities. See website www.IN.gov/idem/landquality/ccr IDEM will also use their new CCR website to keep the public updated with regard to the surface impoundments and future updates related to CCRs.
§ 256.61 Requirements for public participation in the annual State workplan.	
	No information needed from the state
§ 256.62 Requirements for public participation in State regulatory development.	
(a) The State shall conduct public hearings (and public meetings where the State determines there is sufficient interest) on State legislation and regulations, in accord with the State administrative procedures act, to solicit reactions and recommendations. Following the public hearings, a responsiveness summary shall be prepared and made available to the public in accord with 40 CFR 25.8. (b) In advance of the hearings and meetings required by paragraph (a) of this section, the State shall prepare a fact sheet on proposed regulations or legislation, mail the fact sheet to agencies, organizations and individuals on the list maintained	See section 6.2 See comment for 256.60

256 state plan requirements	Types of info State could provide to meet requirements
under § 256.60(a)(1) and place the fact sheet in the State information depositories maintained under § 256.60(a)(2).	
§ 256.63 Requirements for public participation in the permitting of facilities.	
(a) Before approving a permit application (or renewal of a permit) for a resource recovery or solid waste disposal facility the State shall hold a public hearing to solicit public reaction and recommendations on the proposed permit application if the State determines there is a significant degree of public interest in the proposed permit. (b) This hearing shall be held in accord with 40 CFR 25.5.	See Section 6.3 See comment for 256.60
§ 256.64 Requirements for public participation in the open dump inventory.	
(a) The State shall provide an opportunity for public participation prior to submission of any classification of a facility as an open dump to the Federal Government. The State shall accomplish this by providing notice as specified in § 256.64(b) or by using other State administrative procedures which provide equivalent public participation. (b) The State may satisfy the requirement of § 256.64(a) by providing written notice of the availability of the results of its classifications to all parties on the list required under § 256.60(a)(1) at least 30 days before initial submission of these classifications to the Federal Government. For those parties on the list required under § 256.60(a)(1) who are owners or operators of facilities classified as open dumps, such notice shall indicate that the facility has been so classified.	See section 6.4 See comment for 256.60