Indiana Coal Combustion Residuals Part 256 Solid Waste Management Plan Amendment

Indiana Department of Environmental Management
Office of Land Quality

February 23, 2017

Purpose and Scope of this CCR Part 256 Plan

In consideration of the interests of the Indiana Department of Environmental Management (IDEM), the Coal Combustion Residuals (CCR) regulated community, elected government officials, and the public; IDEM prepared this amendment to Indiana's solid waste management plan and submits it for review and approval by the United States Environmental Protection Agency (EPA). The plan describes IDEM's intent and approach to modify and expand the scope of Indiana's solid waste regulations to address the requirements of the Coal Combustion Residuals Rule in 40 CFR 257, Subpart D (CCR Rule). The plan also describes IDEM's intended approach for following section 2301 of the Water and Waste Act of 2016 in order to establish a permit program under Indiana law for the regulation of coal combustion residuals units that are located in Indiana. As contemplated by section 2301 of the Water and Waste Act of 2016, IDEM's permit program would operate in lieu of Federal regulations or a permit program implemented by the EPA.

This plan does not address requirements of Part 256 solid waste management plans that are addressed in and met by Indiana's previously approved solid waste management plans (dated 1980 and 1991) except to the extent that those requirements are applicable to this amendment. This plan does not propose any changes to the procedures in the previously approved solid waste management plans. The responsible State agency has not changed. There are no changes in the coverage periods from the previously approved plans.

The Indiana Code (IC) and Indiana Administrative Code (IAC) references in this document may be viewed on the Indiana General Assembly website at iga.in.gov .

This plan explains the State's intent to develop the State's CCR permit program through the following steps, which are described in detail in the corresponding sections that follow:

1. IDEM will review requests from electric utilities and independent power producers for approval of compliance schedules for CCR impoundments under 40 CFR 256.26 using the criteria explained in Section 1 of this plan.

2. IDEM will use existing regulations and authorities for CCR landfills and has incorporated the CCR Rule provisions for surface impoundments by reference to Indiana law as an interim and temporary step in regulating CCR facilities until a full update to Indiana's regulations can be completed. The first incorporation by reference was accomplished through an emergency rule that took effect on February 12, 2016. Subsequent rulemaking has extended the effectiveness of these changes until they can eventually be replaced with updated regulations as noted in item 3 below.

3. IDEM will use existing authorities to update Indiana's solid waste land disposal facility regulations. In pertinent part, that update will address the substance of the CCR Rule. IDEM anticipates completing these rules by December 31, 2018. This target date provides time for IDEM to collaborate

with stakeholders in drafting rule language and to complete the required steps for rulemaking described in Section 6.2.

4. IDEM will petition EPA for recognition and approval of Indiana's CCR permit program within 180 days after final adoption of Indiana's CCR regulations by the Indiana Environmental Rules Board. As of the writing of this plan, EPA has not indicated the requirements for requesting approval of a CCR permit program. IDEM intends to submit any additional information that may be required to establish a State program for control of coal combustion residuals under section 4005(d) of the Solid Waste Disposal Act (42 U.S.C. 6945).

This plan will be referred to as the "Indiana Coal Combustion Residuals Part 256 Solid Waste Management Plan Amendment" or "CCR Part 256 Plan." This plan has been adopted following a public process involving key stakeholders. The procedures included a notice and public hearing, in accordance with the requirements of 40 CFR 256.03 and 256.60. Additional information regarding coordination with other programs and public participation is provided in Sections 5 and 6.

Summary of Indiana CCR Universe

Indiana has 14 permitted CCR landfills and an unknown number of historical landfills that predate State permitting requirements. EPA's *Coal Combustion Residuals Impoundment Assessment Report* summary table of July 31, 2014[1] lists 74 Indiana CCR impoundments that were assessed as part of the national effort to assess the management of CCR. The number of historical CCR impoundments not reflected in this table is unknown.

Priorities

IDEM will prioritize CCR disposal facilities with known releases and CCR impoundments subject to closure deadlines that are actively developing and implementing closure plans.

1. Approving Compliance Schedules

IDEM will consider the following factors, along with the relevant statutory and regulatory requirements, described in the Final Rule at 80 Federal Register 21,431-21,433 (April 17, 2015), when determining whether to approve a compliance schedule under 40 CFR 256.26 to extend the compliance dates in the CCR Rule for CCR impoundments:

1. Whether other disposal units can be used. The utility or independent power producer must demonstrate it has considered other public or private alternatives to comply with the CCR Rule and is unable to use such

[1] https://archive.epa.gov/epawaste/nonhaz/industrial/special/fossil/web/html/index-4.html

alternatives. The utility or independent power producer must demonstrate there are no alternative units that meet the Federal requirement, either on-site or off-site, that can be used to dispose of the CCR.

2. Whether the utility or independent power producer has made a good faith effort to meet the compliance deadline.

3. Whether there are factors beyond the utility or independent power producer's control that have made it unable to meet the compliance deadline.

4. Whether the utility or independent power producer has identified the specific activities that remain to be completed and proposed a clear, enforceable schedule for completing those activities that will bring it into compliance within a reasonable time (not to exceed 5 years from the date of publication of the new Federal criteria).

5. Factors that IDEM will require the utility or independent power producer to address, and that IDEM will consider in determining whether a proposed compliance schedule is reasonable: the technical complexity of the requirements; the activities that remain to be completed; the reasons for the lack of compliance; the hazard potential classification of a diked CCR surface impoundment; other site-specific factors such as geology, geography, weather and engineering considerations; and the potential risks to human health and the environment resulting from extending compliance dates and any steps taken, or other considerations, that mitigate those risks.

6. Whether the utility can document the above claims or an independent investigation can verify the claims.

At a public meeting on February 10, 2016, the Indiana Environmental Rules Board adopted an emergency rule, which became effective on February 12, 2016, that incorporates by reference into 329 IAC 10 the requirements for CCR surface impoundments in 40 CFR 257.50 through 40 CFR 257.106. Since emergency rules expire after 90 days under Indiana law, the Environmental Rules Board adopted the emergency rule again on May 11, 2016, August 10, 2016, and November 9, 2016. On August 10, 2016, the Environmental Rules Board also adopted amendments to 329 IAC 10 to permanently incorporate the requirements for CCR surface impoundments in 40 CFR 257.50 through 40 CFR 257.107. The permanent amendments became effective on December 10, 2016. Incorporation of these requirements enables IDEM to grant compliance schedules under IC 13-14-8-8, and enforce those schedules using State enforcement authorities and processes under IC 13-30.

2. Interim Regulation of CCR Facilities

CCR Landfills

Indiana's solid waste land disposal facility regulations already require a permit for CCR landfills. Even though existing regulations do not meet the minimum criteria in the CCR Rule, most permitted CCR landfills in Indiana were designed with composite liner systems and are already compliant with the CCR Rule in most respects under the terms of the existing permits. Under 329 IAC 10-13-1, IDEM may impose conditions in a permit as may be necessary to protect human health and the environment. Until Indiana's regulations are brought up to date with the minimum requirements of the CCR Rule as discussed in Section 3 of this plan, IDEM will review each existing CCR landfill permit for equivalence to all applicable requirements of the CCR Rule. IDEM will impose permit conditions as necessary to achieve the minimum criteria in the CCR Rule through a permit modification or renewal. Permit provisions that already meet or exceed the minimum requirements of the CCR Rule will remain unchanged. IDEM plans to review each existing CCR landfill permit and issue a modification or renewal as necessary by the end of 2017.

When reviewing an application for a new CCR landfill, IDEM will use the State rules in 329 IAC 10 and the Federal criteria in the CCR Rule to evaluate the application. IDEM will impose permit conditions as necessary to achieve the minimum criteria in the CCR Rule if the permit is granted.

IDEM can enforce CCR landfill permits using State enforcement authorities and processes under IC 13-30. CCR landfills not in compliance with the Federal requirements would be classified as open dumps.

CCR Impoundments

Before February 12, 2016, Indiana's solid waste land disposal facility regulations in 329 IAC 10 excluded CCR impoundments from the requirements of the regulations. This had the effect that a CCR impoundment could not be classified as an open dump under Indiana's regulations. To remedy this issue, IDEM modified the exclusions and incorporated by reference provisions of the CCR Rule which apply to CCR impoundments. This enables Indiana to classify CCR impoundments that are not in compliance with the Federal provisions as open dumps and to use State authorities to enforce these provisions under IC 13-30. The modified exclusions and incorporation by reference will eventually be replaced or supplemented to establish a complete set of Indiana regulations for CCR impoundments, as discussed in Section 3 of this plan.

3. Developing an Indiana CCR Permit Program

IDEM plans to amend Indiana's administrative code provisions for Solid Waste Land Disposal Facilities at 329 IAC 10 to incorporate the CCR Rule standards for the disposal of CCR in landfills and surface impoundments. The revised regulations will be at least as stringent as the following CCR Rule provisions in 40 CFR 257:

- General Provisions in 257.50 through 257.53
- Location Restrictions in 257.60 through 257.64
- Design Criteria in 257.70 through 257.74
- Operating Criteria in 257.80 through 257.84
- Ground Water Monitoring and Corrective Action Standards in 257.90 through 257.98
- Closure and Post-Closure Care Standards in 257.100 through 257.104
- Recordkeeping, Notification, and Posting of Information to the Internet in 257.105 through 257.107.

The existing landfill requirements in 329 IAC 10 for CCR landfills are based on compacted soil liner landfill designs. The landfill regulations will require a comprehensive update to address the composite liner landfill design requirements of the CCR Rule. Other aspects of the requirements for landfills, such as the operational requirements and ground water monitoring requirements, are already similar to the CCR Rule and will require fewer updates and changes.

Before the CCR Rule requirements for CCR impoundments were incorporated by reference on February 12, 2016, the existing surface impoundment requirements in 329 IAC 10 were very minimal. CCR impoundments were only regulated at final closure if waste was closed in place. Addressing the CCR Rule requirements for CCR impoundments will involve expanding the scope of Indiana's regulations.

As noted in the April 12, 2016 draft of this plan, IC 13-19-3-3 currently prohibits the Indiana Environmental Rules Board (IERB) from adopting rules to regulate certain uses of coal combustion products. However, as of February 13, 2017, House Enrolled Act 1230 has passed both houses of the Indiana General Assembly and is awaiting signature by the Governor of the State of Indiana. House Enrolled Act 1230 would amend IC 13-19-3-3 to allow the IERB to adopt rules consistent with the CCR Rule. In other words, the amendment would clear the way for rules that are equivalent to the CCR Rule in all respects.

Due to the complexity of the anticipated rules governing CCR, and the length of time necessary to solicit and receive input from stakeholders and complete the administrative and public participation requirements for promulgating regulations, IDEM anticipates having rules adopted and effective by December 31, 2018. IDEM will use the following target dates for intermediate milestones in the rulemaking process:

- First Notice of public comment period – within 180 days of adoption of plan
- Stakeholder engagement and rule drafting – 1st Quarter 2017 to April 2018
- Draft to EPA for comment – April 2018*

- Second Notice of public comment period – May 2018
- Environmental Rules Board preliminary adoption – June 2018
- Environmental Rules Board final adoption – September 2018
- Attorney General and Governor review – October 2018
- Publication in Indiana Register – November 2018
- Rules effective – December 2018

* IDEM proposes to offer EPA the opportunity to review and comment on draft rule language at least 30 days before the draft rules will be presented to the Environmental Rules Board for preliminary adoption.

4. EPA Approval of Indiana's CCR Permit Program

Within 180 days after final adoption, IDEM proposes to submit to EPA the final CCR-related rules discussed in Section 3 as evidence of a permit program for regulation by IDEM of coal combustion residuals units in Indiana. As contemplated by section 2301 of the Water and Waste Act of 2016, after approval by the EPA Administrator, IDEM's permit program will operate in lieu of regulation of coal combustion residuals units in Indiana under Federal regulations or a permit program implemented by the EPA Administrator. As of the writing of this plan, EPA has not indicated the requirements for requesting approval of a CCR permit program. IDEM intends to submit any additional information that may be required to establish a State program for control of coal combustion residuals under section 4005(d) of the Solid Waste Disposal Act (42 U.S.C. 6945).

5. Coordination with Other Programs (See 40 CFR 256.50)

The full scope of coordination with other programs is addressed in Indiana's previously approved solid waste management plans. The following points of coordination are added or are particularly relevant to regulation of CCR facilities:

5.1 Coordination within IDEM

IDEM's Office of Land Quality (OLQ) is staffed with environmental project managers, chemists, engineers, geologists, compliance inspectors, and enforcement case managers that specialize in waste facility design, construction and operations. The OLQ staff coordinates regularly with Office of Air Quality (OAQ) and Office of Water Quality (OWQ) staff on air and water regulations affecting waste facilities such as air permits, fugitive dust, and NPDES permits. IDEM's OLQ administers storm water regulations for landfills which have been incorporated into 329 IAC 10 and coordinates with the OWQ staff on the storm water program as necessary.

5.2 Coordination with the Indiana Department of Natural Resources

CCR surface impoundments and landfills are commonly located near rivers where floodway construction permitting regulations or dam and levee safety regulations administered by the Indiana Department of Natural Resources (IDNR) frequently apply. IDEM's Office of Land Quality routinely coordinates with IDNR staff to make sure permitting and compliance actions by both agencies are compatible and well-coordinated.

5.3 Coordination with Other Agencies and Stakeholders

IDEM routinely coordinates with or notifies other Federal, State and local agencies and regulatory programs regarding solid waste facility location, design, and operation issues, including: local health departments, State and local elected officials, wetlands and floodplains (U.S. Army Corps of Engineers), and zoning (local government planning agencies).

6. Public Participation (See 40 CFR 256.60 through 256.64)

IDEM completed or will complete the public participation steps required under 40 CFR 256.60 through 256.64 as described in the following subsections:

6.1 Public Participation in CCR Part 256 Plan (See 40 CFR 256.60)

256.60(a)(1) List of Affected Parties

IDEM will maintain a list of agencies, government entities, organizations and individuals affected by or interested in the plan, including parties that request to be on the list, the owner or operator of each electric utility or independent power producer, the owner or operator of any CCR landfill or impoundment that is an open dump, and other parties IDEM determines to be affected by or interested in the plan.

256.60(a)(2) Depositories of Relevant Information

IDEM created a CCR website to make relevant information conveniently accessible throughout the state. The draft plan, final adopted plan, responsiveness summary, open dump inventory and other relevant information are posted on the website: www.IN.gov/idem/landquality/ccr.

256.60(a)(3) Responsiveness Summary

IDEM prepared a responsiveness summary which describes matters on which the public was consulted, summarizes the public's views, and sets forth the agency's response to public input.

256.60(b)(1-4) Provide Information and Consult with the Public

IDEM published public notices in major newspapers in the state and on the agency's public notice website. The public notice noted the availability of the plan and responsiveness summary on the CCR website.

This information was also mailed or e-mailed to parties on the list of affected parties and was posted on the CCR website described above.

256.60(c) Public Hearing Regarding CCR Part 256 Plan

IDEM conducted a public hearing on June 16, 2016 to solicit reactions and recommendations from interested or affected parties and to explain the primary provisions of the proposed plan. A responsiveness summary will be posted to the CCR website. The responsiveness summary will also be mailed or e-mailed to the list of affected parties including those that signed up for notices at the hearing.

6.2 Public Participation in Regulatory Development (See 40 CFR 256.62)

IDEM will follow the public participation requirements of the Indiana Code under IC 13-14-9 when developing the rules described in Section 3 of this plan. The public will be provided with two opportunities to submit written comments during public comment periods, and two opportunities to be heard by the Environmental Rules Board at public hearings. IDEM accepts written public comments through mail, facsimile, and e-mail as described in the public notices.

IDEM will publish the first notice describing the basic purpose of the rulemaking and will allow at least 30 days for the public to submit written comments. IDEM will then publish a second notice, which will include draft rule language and the responses to previous comments. Again at least 30 days for the public to submit written comments will be allowed. IDEM is required to respond to any written comments received during the public comment periods. The responses to comments must be included in the materials provided to the Environmental Rules Board prior to the public hearings.

At the first public hearing, the Environmental Rules Board may preliminarily adopt the proposed rules after allowing for the public to provide comment. If the preliminarily adopted rule is substantively different from the proposed rule published in the second notice, a third public comment period will be provided in accordance with IC 13-14-9-4.5. At the second public hearing, the Environmental Rules Board may proceed with final adoption of the rules after allowing for the public to provide comment.

After the final hearing, the Attorney General and then the Governor will have an opportunity to review and approve the rules in accordance with IC 4-22-2-31 through IC 4-22-2-34. If approved, the final rules will be filed with the publisher of the Indiana Register. Effective dates of rules are governed by IC 4-22-2-36. Typically a final rule will become effective 30 days after filing with the publisher.

Although not required, IDEM may also be invited to make presentations on the issues related to the rules, or may choose to conduct special meetings to receive input from the public and key stakeholders and to discuss the issues involved in the rules. Comments received during such presentations or workgroup meetings may be considered in the development of the rules, but are not required to be included in materials presented to the Environmental Rules Board.

6.3 Public Participation in the Permitting of Facilities
(See 40 CFR 256.63)

The public participation process for IDEM permit decisions is specified in the Administrative Orders and Procedures Act at IC 4-21.5 and in the Solid Waste Land Disposal Facilities rules at 329 IAC 10-12-1. A public hearing is required for new facilities applying for an original permit or a major modification to the permit (expansion of the disposal facility). A public hearing may be held at the discretion of the agency in response to public interest for renewals or other minor permit modifications.

6.4 Public Participation in Open Dump Inventory (See 40 CFR 256.64)

IDEM anticipates that only a very small number of CCR facilities will become "open dumps" through the implementation of this plan. Generally speaking, the vast majority of CCR disposal facilities in Indiana were closed or taken out of service before any regulations applied to them; are already operating under an Indiana Solid Waste Land Disposal Facility permit that effectively requires compliance with the CCR Rule; or will be closed in compliance with the Federal CCR Rule and a closure plan approved under 329 IAC 10. Facilities in these situations are not classified as open dumps. IDEM will publish information about CCR facilities in these categories on the CCR website so the public has access to information about CCR facilities in their community.

In the few cases where a regulated CCR facility cannot be closed within the deadlines contained in the Federal CCR Rule, or otherwise does not achieve compliance with a State or Federal waste disposal facility requirement within a prescribed timeframe, IDEM will notify the owner or operator that the CCR facility is classified as an open dump at least 30 days before submitting information about the classification to the Federal Government. Upon approval of a compliance schedule or other information that describes the steps being taken to bring the facility into compliance, IDEM will post that information on the CCR website.

The CCR website will also provide a mechanism for the public to submit information about CCR facilities they believe are missing from the facility inventory. IDEM will review such information to determine appropriate follow up steps, update the information on the website if necessary, and follow up with the person submitting the information to inform them of the steps taken.

Point of Contact for More Information

IDEM looks forward to partnering with EPA and Indiana stakeholders in the implementation of this plan. If you have questions or comments, please contact Jeff Sewell at jsewell@idem.in.gov, call toll free at (800) 451-6027, or call direct at (317) 234-1000.

Adoption

This Indiana Coal Combustion Residuals Part 256 Solid Waste Management Plan Amendment is hereby adopted in accordance with IC 13-21-1-1.

Bruno L. Pigott, Commissioner
Indiana Department of Environmental Management

2/23/17
Date

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Attachment 1 – CCR Emergency Rule

TITLE 329 SOLID WASTE MANAGEMENT DIVISION

Emergency Rule
LSA Document #16-XXX(E)

DIGEST

Temporarily amends 329 IAC 10-3-1, and 329 IAC 10-9-1 to incorporate by reference the federal requirements for the operation and closure of a coal combustion residuals impoundment. Effective _____.

SECTION 1. **(a) This SECTION supersedes 329 IAC 10-3-1(8).**

(b) Except for coal combustion residuals impoundments subject to 40 CFR 257, Subpart D, disposal of coal ash transported by water into an ash pond that has received a water pollution control facility construction permit under 327 IAC 3.

SECTION 2. **(a) This SECTION supersedes 329 IAC 10-3-1(9).**

(b) Except for coal combustion residuals impoundments subject to 40 CFR 257, Subpart D, the operation of surface impoundments; however, the final disposal of solid waste in surface impoundments at the end of their operation is subject to approval by the commissioner, except as excluded under SECTION 1(b) of this document and 329 IAC 10-3-1(10). The commissioner's approval is based on management practices that are protective of human health and the environment.

SECTION 3. **(a) This SECTION supplements 329 IAC 10-9-1.**

(b) The owner and operator of a coal combustion residuals impoundment subject to 40 CFR 257, Subpart D, shall comply with the requirements for surface impoundments in accordance with 40 CFR 257.50* through 40 CFR 257.106*, except the phrase "not to exceed a height of 6 inches above the slope of the dike" is deleted from the following sections:

(1) 40 CFR 257.73(a)(4).
(2) 40 CFR 257.73(d)(1)(iv).
(3) 40 CFR 257.74(a)(4).
(4) 40 CFR 257.74(d)(1)(iv).

(c) For a coal combustion residuals impoundment subject to 40 CFR 257, Subpart D, final disposal of solid waste in the impoundment at the end of the operation of the impoundment is subject to approval by the commissioner, based on the requirements for coal combustion residuals impoundments in 40 CFR 257.50* through 40 CFR 257.106* and on other management practices that are protective of human health and the environment.

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***These documents are incorporated by reference. Copies may be obtained from the Government Printing Office, 732 North Capitol Street NW, Washington, D.C. 20402, viewed at www.gpo.gov, or are available for review at the Indiana Department of Environmental Management, Office of Legal Counsel, Indiana Government Center North, Thirteenth Floor, 100 North Senate Avenue, Indianapolis, Indiana 46204.**

SECTION 4. **A variance request from the requirements of this document shall be made in accordance with IC 13-14-8-8.**

Bold = new language
Strikeout = existing language deleted in this rulemaking

TITLE 329 SOLID WASTE MANAGEMENT DIVISION

DRAFT RULE
LSA Document #16-217

DIGEST

Amends 329 IAC 10-3-1 and 329 IAC 10-9-1 to incorporate by reference the federal requirements found at 40 CFR 257, Subpart D, for the operation and closure of a coal combustion residuals (CCR) impoundment. Effective 30 days after filing with the Publisher.

HISTORY

Findings and Determination of the Commissioner Pursuant to IC 13-14-9-8: June 1, 2016, Indiana Register (DIN: 20160601-IR-329160217FDA).

Notice of First Hearing: June 1, 2016, Indiana Register (DIN: 20160601-IR-329160217PHA).

Date of First Hearing: August 10, 2016.

329 IAC 10-3-1; 329 IAC 10-9-1

DRAFT RULE

SECTION 1. 329 IAC 10-3-1 IS AMENDED TO READ AS FOLLOWS:

329 IAC 10-3-1 Exclusions; general
Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-19-3-1
Affected: IC 13-14; IC 13-19-3; IC 13-20; IC 36-9-30

Sec. 1. The following solid waste management activities are not subject to the provisions of this article:

(1) Disposal of only uncontaminated rocks, bricks, concrete, road demolition waste materials, or dirt.

(2) Land application activities regulated ~~under rules of the water pollution control board at~~ 327 IAC 6.1 and 327 IAC 7.1.

(3) Confined feeding control activities regulated under ~~rules of the water pollution control board at 327 IAC 16~~ **327 IAC 19.**

(4) Wastewater discharge activities regulated under rules of the water pollution control board at 327 IAC 5.

(5) Solid waste management activities regulated under 329 IAC 11.

(6) Disposal of uncontaminated and untreated natural growth solid waste, including tree limbs, stumps, leaves, and grass clippings.

(7) Disposal of saw dust derived from processing untreated natural wood.

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(8) **Except as provided in 329 IAC 10-9-1, coal combustion residuals impoundments subject to 40 CFR 257, Subpart D,** disposal of coal ash, transported by water, into an ash pond which has received a water pollution control facility construction permit ~~under rules of the water pollution control board at~~ 327 IAC 3.

(9) **Except as provided in 329 IAC 10-9-1, coal combustion residuals impoundments subject to 40 CFR 257, Subpart D,** the operation of surface impoundments; however, the final disposal of solid waste in ~~such facilities~~ **surface impoundments** at the end of their operation is subject to approval by the commissioner except as excluded under subdivisions (8) and (10). The commissioner's approval is based on management practices that are protective of human health and the environment.

(10) Disposal of coal ash at a site receiving a total of less than one hundred (100) cubic yards per year from generators who each produce less than one hundred (100) cubic yards per year.

(11) The uses and disposal of coal waste as exempted under IC 13-19-3-3.

(12) Activities concerning wastes containing polychlorinated biphenyls (PCBs) regulated under 329 IAC 4.1, except those regulated as alternative daily cover under 329 IAC 10-20-14.1.

(13) Storage, transportation, and processing of used oil as regulated under 329 IAC 13.

(14) The legitimate use of slag under IC 13-19-3-8.

(15) The legitimate use of foundry sand under IC 13-19-3-7.

(16) Any other use of solid waste approved by the commissioner based on the commissioner's determination that the use is a legitimate use that does not pose a threat to public health or the environment.

(Solid Waste Management Division; 329 IAC 10-3-1; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1795; filed Mar 19, 1998, 11:07 a.m.: 21 IR 2749; filed Aug 2, 1999, 11:50 a.m.: 22 IR 3771; readopted filed Jan 10, 2001, 3:25 p.m.: 24 IR 1535; filed Feb 9, 2004, 4:51 p.m.: 27 IR 1797, eff Apr 1, 2004)

SECTION 2. 329 IAC 10-9-1 IS AMENDED TO READ AS FOLLOWS:

329 IAC 10-9-1 Types of facilities

Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-19-3-1
Affected: IC 13-30-2; IC 36-9-30

Sec. 1. **(a)** The following categories will be used for the purpose of defining site requirements and permissible wastes to be received for all solid waste land disposal facilities:

(1) Municipal solid waste landfill (MSWLF).

(2) Construction/demolition site.

(3) Restricted waste site as follows:

(A) Restricted waste site Type I.

(B) Restricted waste site Type II.

(C) Restricted waste site Type III.

(D) Restricted waste site Type IV.

(4) Nonmunicipal solid waste landfill.

(b) The owner and operator of a coal combustion residuals impoundment subject to 40

CFR 257, Subpart D, shall comply with the requirements for surface impoundments in accordance with 40 CFR 257.50* through 40 CFR 257.106*, except the phrase "not to exceed a height of 6 inches above the slope of the dike" is deleted from the following sections:

(1) 40 CFR 257.73(a)(4).
(2) 40 CFR 257.73(d)(1)(iv).
(3) 40 CFR 257.74(a)(4).
(4) 40 CFR 257.74(d)(1)(iv).

(c) For a coal combustion residuals impoundment subject to 40 CFR 257, Subpart D, final disposal of solid waste in the impoundment at the end of the operation of the impoundment is subject to approval by the commissioner, based on the requirements for coal combustion residuals impoundments in 40 CFR 257.50* through 40 CFR 257.106* and on other management practices that are protective of human health and the environment.

***These documents are incorporated by reference. Copies may be viewed online from the Government Publishing Office at www.gpo.gov, or are available for review at the Indiana Department of Environmental Management, Office of Legal Counsel, Indiana Government Center North, Thirteenth Floor, 100 North Senate Avenue, Indianapolis, Indiana 46204.** *(Solid Waste Management Division; 329 IAC 10-9-1; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1805; filed Aug 2, 1999, 11:50 a.m.: 22 IR 3787; readopted filed Jan 10, 2001, 3:25 p.m.: 24 IR 1535; readopted filed May 14, 2007, 1:53 p.m.: 20070523-IR-329070138BFA; readopted filed Jul 29, 2013, 9:20 a.m.: 20130828-IR-329130179BFA)*

Attachment 3 – Text of House Enrolled Act 1230

HOUSE ENROLLED ACT No. 1230

AN ACT to amend the Indiana Code concerning environmental law.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 13-11-2-30.8 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 30.8. "Coal combustion residuals", for purposes of IC 13-19-3-3, has the meaning set forth in IC 13-19-3-3(a).**

SECTION 2. IC 13-19-3-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. **(a) As used in this section, "coal combustion residuals" means fly ash, bottom ash, boiler slag, and flue gas desulfurization materials generated from burning coal for the purpose of generating electricity by electric utilities and independent power producers.**

(b) Except as provided in subsection (c), the board may not adopt rules under section 1 of this chapter to regulate the following:

(1) The disposal of waste indigenous to the coal mining process and coal combustion products (as defined by ASTM E-2201-02a), including fly ash, bottom ash, boiler slag, fluidized bed combustion ash, or flue gas desulfurization material produced from the combustion of coal or the cleaning of stack gases on coal combustion units if the material:

(A) is not included in the definition of hazardous waste or is exempt from regulation as a hazardous waste under 42 U.S.C. 6921; and

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(B) is disposed of at a facility regulated under IC 14-34.

(2) The use of coal combustion products (as defined by ASTM E-2201-02a), including fly ash, bottom ash, boiler slag, fluidized bed combustion ash, or flue gas desulfurization material produced from the combustion of coal or the cleaning of stack gases on coal combustion units, if the use includes one (1) of the following uses:

(A) The extraction or recovery of materials and compounds contained within coal combustion products.

(B) Bottom ash as an antiskid material.

(C) Raw material for manufacturing another product.

(D) Mine subsidence, mine fire control, and mine sealing.

(E) Structural fill when combined with cement, sand, or water to produce a controlled strength fill material.

(F) A base in road construction.

(G) Cover for coal processing waste disposal locations to inhibit infiltration at surface and underground mines subject to IC 14-34, so long as a demonstration is made in concurrence with the department of natural resources that the materials and methods to be employed are appropriate for the intended use.

(H) Providing buffering or enhancing structural integrity for refuse piles at surface and underground mines subject to IC 14-34, so long as a demonstration is made in concurrence with the department of natural resources that the materials and methods to be employed are appropriate for the intended use.

(I) Agricultural applications, when applied using appropriate agronomic amounts to improve crop or vegetative production.

(c) The board may adopt rules under section 1(1) of this chapter that are consistent with the regulations of the United States Environmental Protection Agency concerning standards for the disposal of coal combustion residuals in landfills and surface impoundments, as set forth in 40 CFR 257.50 et seq.

SECTION 3. **An emergency is declared for this act.**

HEA 1230

Attachment 4 – Draft 256 checklist for CCR solid waste plan revisions

The EPA provided this checklist to help states prepare Part 256 state plans. Green bold text in the right-hand column indicates where each item is addressed in the Indiana CCR Part 256 Plan.

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 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).	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. General note for all sections: if a state is submitting a revised plan, the state will need to either: • Attach the original approved plan, provide references to the relevant sections and indicate what, if anything has or is changing, or • If a physical copy of the final approved plan is not available, the state must provide references or links to the existing information (e.g., legal authorities, regulatory powers, etc). and indicate what, if anything, has or is changing in this revision.
§ 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:	A revised plan would specify they are adding CCRs and the disposal systems addressed in the rule to the original scope of their approved plan. They will need to clearly describe the universe they are covering in the submittal.

256 state plan requirements	Types of info State could provide to meet requirements
(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; (iii) Collection; (iv) Transportation; (v) Storage; (vi) Transfer; (vii) Processing (including resource recovery); (viii) Treatment; and (ix) Disposal.	**See Section 3.**
(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.	A revised plan would specify priorities and timing of actions within the scope of CCR universe only (i.e., focus on CCR disposal facilities with known releases). The state can either be specific about priorities or identify the criteria they will use to prioritize actions. **See Priorities Section.**
(c) The State plan shall set forth an orderly and manageable process for achieving the objectives of the Act and meeting the requirements of these guidelines. This process shall describe as specifically as possible the activities to be undertaken, including detailed schedules and milestones.	A revised plan would only need to specify the process related to CCRs. **The plan as a whole accomplishes this purpose. The Purpose and Scope Section provides a summary of the overall approach.**
(d) The State plan shall cover a minimum of a five year time period from the date submitted to EPA for approval.	A revised plan would indicate there are no changes in time period from original plan or explain change (see general note, above). **See Purpose and Scope Section, 2nd paragraph.**
(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.	Revised plan should indicate if legal authorities outlined in original plan apply to CCRs or if a different authority is used. Revised plan should address any necessary modifications to regulations for universe of CCR disposal facilities. **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.**
§ 256.03 State plan submission, adoption, and revision.	
(a) To be considered for approval, the State plan shall be	No information needs to be submitted.

256 state plan requirements	Types of info State could provide to meet requirements
submitted to EPA within a reasonable time after final promulgation of these guidelines.	
(b) Prior to submission to EPA, the plan shall be adopted by the State pursuant to State administrative procedures.	A revised plan should indicate how the revision was approved and if the procedures were the same or different from what was used for the original plan (see general note above). The state should use their current plan approval procedures and participation process. **See Purpose and Scope.**
(c) The plan shall be developed in accord with public participation procedures required by Subpart G of this part.	A revised plan should confirm that the public participation procedures were implemented. **See Section 6.1.**
(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.	A revised plan should indicate either that there are no changes to the procedures outlined in the original plan or explain any changes (see general note above). **See Purpose and Scope, 2nd paragraph.**
(e) The State plan shall be reviewed by the State and, where necessary, revised and readopted not less frequently than every three years.	A revised plan should indicate either that there are no changes to the procedures outlined in the original plan or explain any changes (see general note above). **See Purpose and Scope, 4th paragraph.**
(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.	A revised plan can initially focus on the compliance schedule per the requirements in 256.26 prior to submitting the rest of the information needed for plan approval. **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.**
§ 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	No information needed from the state

256 state plan requirements	Types of info State could provide to meet requirements
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.	
(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
(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	A revised plan would need to address the requirements under (a)(1), (a)(3), (b), (c), and (e). The state would need to confirm that the responsible state agencies haven't changed since the original plan was approved or describe changes (see general note above). **See Purpose and Scope, 2nd paragraph.**

256 state plan requirements	Types of info State could provide to meet requirements
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 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.	A revised plan would need to describe how the state's legal authority to prohibit open dumps would apply to CCR disposal facilities (see general note above). **See Sections 1 and 2.**
§ 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. (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.	A revised plan would need to indicate whether the original state regulatory powers would apply to CCR disposal facilities or if there are different powers involved (see general note above). **See Purpose and Scope.**
§ 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;	A revised plan would describe the specific approach the state would use for classifying, closing, or upgrading CCR disposal units that are open dumps. EPA's CCR rules can be referenced when discussing the approach the state would take to upgrade and/or close the open dumps. Sufficient information must be provided in order for EPA to evaluate the state's approach (i.e., the state could submit a side-by-side comparison of the state's regulatory requirements (or proposed requirements) with the federal requirements). **See Sections 2 and 3.**

256 state plan requirements	Types of info State could provide to meet requirements
(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.	
§ 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).	A revised plan would address the approach a state would follow if requested by a utility to extend any of the compliance dates in the federal rule within the first 5 years after promulgation. With an approved plan, a state will be able to extend dates, but must consider the following: • Whether other disposal units can be used • Whether the facility has made a good faith effort to meet compliance deadline • Whether there are factors beyond the facility's control that have made it unable to meet the compliance deadlines • Documentation from the facility supporting their claims and/or the results of an independent investigation • The technical complexity of the requirements, the activities that remain to be completed, the reasons for the lack of compliance, and other site-specific factors such as geology, geography, weather, and engineering considerations. Any approval of a compliance schedule would need to identify the specific activities that remain to be completed, along with clear and enforceable deadlines for each. See p 21,431-21,433 of the final rule preamble for further guidance. **See Section 1.**
Subpart D – Resource Conservation and Resource Recovery Programs	
§ 256.30	This section is not relevant to the CCR rule. The revised plan would confirm that they are not submitting any changes to this section of the original plan. **See Purpose and Scope, 2nd paragraph.**
Subpart E—Facility Planning and Implementation	
§ 256.40	This section is not relevant to the CCR rule. The revised plan would confirm that they are not submitting any changes to this section of the original plan.

256 state plan requirements	Types of info State could provide to meet requirements
	See Purpose and Scope, 2nd paragraph.
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. (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	A revised plan would need to address how the coordination with other programs would be adjusted due to the addition of CCR disposal facilities and the new regulatory requirements to the plan. Sections (d), (g), (h), (i), (k), (l) would most likely not be relevant to the CCR requirements. **See Section 5.**

256 state plan requirements	Types of info State could provide to meet requirements
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: (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;	A revised plan would need to address how the public was involved in development of CCR-specific revised plan and how the state addressed public comments. **See Section 6.1.**

256 state plan requirements	Types of info State could provide to meet requirements
(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.	
§ 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 under § 256.60(a)(1) and place the fact sheet in the State information depositories maintained under § 256.60(a)(2).	A revised plan would need to confirm that the approach described in the original plan would apply to CCR regulatory development (or present new approach) (see general note above). **See Section 6.2.**
§ 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.	A revised plan would need to confirm original approach would apply to CCR regulatory development (or present new approach) (see general note above). **See Section 6.3.**

256 state plan requirements	Types of info State could provide to meet requirements
(b) This hearing shall be held in accord with 40 CFR 25.5.	
§ 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.	A revised plan would need to confirm original approach would apply to CCR regulatory development (or present new approach) (see general note above). **See Section 6.4.**