UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 7
11201 Renner Boulevard
Lenexa, Kansas 66219

OCT 1 9 2015

CERTIFIED MAIL
RETURN RECEIPT REQUESTED
Article Number: 7014 1200 0000 6125 9024

Mr. Bill Bider
Director of Bureau of Waste Management
Kansas Department of Health and Environment
Curtis State Office Building
1000 SW Jackson
Topeka, Kansas 66612

RE: State of Kansas Coal Combustion Residuals Part 256 Plan

Dear Mr. Bider:

On October 7, 2015, the State of Kansas submitted to the U.S. Environmental Protection Agency (EPA) its adopted State of Kansas Coal Combustion Residuals Part 256 Plan, also known as, Solid Waste Management Plan (SWMP) dated September 29, 2015. By this letter, the EPA conditionally approves the Kansas SWMP under Section 4007 of the Resource Conservation and Recovery Act of 1976, as amended (RCRA), 42 USC 6947. The EPA has conditionally determined that the Kansas 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 SWMP. The EPA's assessment can be found at www2.epa.gov/coalash/us-state-kansas-solid-waste-management-plan-approval. This assessment demonstrates that Kansas' plan meets the requirements of Part 256. Based on that side by side comparison, the EPA has concluded that Kansas addressed the necessary components of part 256 in their SWMP. The EPA did not perform a side by side comparison of Kansas' technical requirements for CCR units with those found in 40 CFR Part 257, subpart D, because Kansas has indicated to the EPA that it intends to adopt all of the federal requirements in 40 CFR Part 257, subpart D, by reference. Consequently, the EPA's approval is conditional upon Kansas successfully completing their legislative process to incorporate the Part 257, subpart D requirements into their state regulations. In the interim, Kansas has included a short term plan for the management of CCR wastes that provides critical support for the EPA's conclusion that Kansas' plan meets the necessary requirements under Part 256 for a conditional approval. Kansas will revise all existing permits to incorporate the Part 257, subpart D requirements, or impose such requirements in permits for any new units. In the long term, as noted, they intend to adopt all of the Part 257, subpart D requirements by reference through state legislation. The EPA looks forward to continuing our cooperative dialogue as Kansas moves forward with this process.

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In sum, the material submitted by the State of Kansas provides assurance that the State SWMP meets all of the requirements for approval under the EPA's regulations. This includes the requirements that the plan will prohibit the establishment of new open dumps within the State and provide for the closing or upgrading of all existing open dumps within the State. See 40 CFR 256.01(b); 256.20, and 256.23. Also, the State plan provides for the establishment of compliance schedules pursuant to section 4005(a) of RCRA for entities engaged in open dumpling that can make certain demonstrations. See 42 USC 6945(a); 40 CFR 256.26. As of today, Kansas is authorized to establish compliance schedules, consistent with RCRA, for entities engaged in open dumping that have made the necessary demonstrations. The RCRA prohibition of open dumping does not extend to open dumping that occurs at facilities under such compliance schedules.

I have reviewed the Kansas SWMP submitted on October 7, 2015. Consistent with the provisions of Sections 4003 and 4007 of RCRA, I hereby conditionally approve the document State of Kansas Coal Combustion Residuals Part 256 Plan pending state legislation.

Sincerely,

Becky Weber
Director
Air and Waste Management Division

cc: Mary Jackson, ORCR
Susan Mooney, R5 EPA