



INDIANA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

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Eric J. Holcomb
Governor

Brian C. Rockensuess
Commissioner

March 28, 2024

VIA EMAIL jloewe@nisource.com

Northern Indiana Public Service Company
Attn: Jeffrey M. Loewe
801 East 86th Avenue
Merrillville, Indiana 46410

Re: Approval of Closure/Post-Closure Plan
NIPSCO Bailly Generating Station
Porter County
SW Program ID 64-014

Dear Mr. Loewe:

Northern Indiana Public Service Company's (NIPSCO) coal combustion residuals (CCR) surface impoundment closure and post-closure plan for the Bailly Generating Station (BGS) CCR Surface Impoundments is approved under 329 IAC 10-9-1(c), which incorporates portions of 40 CFR 257, Subpart D (CCR regulation). The BGS CCR Surface Impoundments consist of Boiler Slag Pond, Primary Settling Pond No. 1, Primary Settling Pond No. 2, and Secondary Settling Pond No. 1. This approval is subject to the terms of this letter, the closure and post-closure plans referenced in this document, and the enclosed requirements. The BGS CCR Surface Impoundments are located at Chesterton in Porter County.

The BGS CCR Surface Impoundments closure approval encompasses approximately 16.5 acres, with Boiler Slag Pond consisting of approximately 1.2 acres, Primary Settling Pond No. 1 consisting of approximately 5.6 acres, Primary Settling Pond No. 2 consisting of 7.2 acres, and Secondary Settling Pond No. 1 consisting of approximately 2.5 acres. The entire 16.5 acres will be closed using the closure by removal of CCR material, the impoundment liner components underneath, including furnace slag, sand, geomembrane, and one foot of clay soil, and any visually remaining CCR or staining associated with CCR below the liner limits. The excavated areas will be backfilled with uncontaminated soil. A final cover system consisting of minimum two feet of uncontaminated soil will be constructed over all areas where CCR material or staining associated with CCR were visually identified during closure activities. Upon completing closure, these ponds will be subject to post-closure requirements.

Please note: BGS has six surface impoundments. This approval addresses four surface impoundments. The remaining two surface impoundments, Secondary Settling Pond No. 2 and forebay, are not CCR ponds, and hence are not included in this approval. NIPSCO must submit a closure plan as required by 329 IAC 10-3-1(9) for



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We appreciate your input!



these two surface impoundments to IDEM Office of Land Quality (OLQ) for approval upon termination of NPDES permit for these surface impoundments.

Public records for your facility are available in IDEM's Virtual File Cabinet (VFC) on the IDEM website. You may directly view the VFC files referenced in this approval by clicking on their [hyperlinked](#) VFC numbers if reading this document on a PC, smartphone, or other digital device. You may also view the referenced VFC documents, along with other documents related to this facility, by going to <http://vfc.idem.in.gov/>, which is VFC's "Document Search" page, and searching on the facility's SW Program ID. Documents related to this approval include: the closure application dated February 3, 2021 (VFC #[83109596](#)), and additional information dated June 16, 2021 (VFC #[83172425](#)), April 7, 2022 (VFC #[83302414](#)), December 28, 2022 (VFC #[83410424](#)), June 30, 2023 (VFC #[83509468](#)), September 19, 2023 (VFC #[83534042](#)) and September 27, 2023 (VFC #[83538665](#)). **Please note:** all document page numbers cited in this registration are the page numbers of the PDF file referenced in VFC, not the original numbering of the document.

This approval does not: convey any property rights of any sort or any exclusive privileges; authorize any injury to any person or private property or invasion of other private rights or any infringement of federal, state, or local laws or regulations; or preempt any duty to comply with other state or local requirements.

If you wish to appeal this decision you must file a request for administrative review with the Office of Environmental Adjudication within the following timeframes:

1. If you received this notice by email, you must file the request within 15 days of the date IDEM sent the email.
2. If you received this notice by U.S. mail, you must file the request within 18 days of the notice postmark date (15 days from the date IDEM mailed the notice, plus three days for mailing time).

The enclosed Notice of Decision and Guide to Appeals Process notifies you of additional important details regarding the appeal process and your rights and responsibilities for filing an adequate and timely appeal.

If you have any questions, please contact Adam Weinzapfel, the permit manager assigned this facility, by dialing (317) 232-7612 or by e-mail at AWeinzap@idem.IN.gov.

Sincerely,



Thomas Kreke, Chief
Solid Waste Permits Section
Office of Land Quality

Enclosures: Approval Requirements
Notice of Decision
Guidance on How to Appeal IDEM Decision

cc with enclosures Porter County Health Department
Porter County Commissioners
Porter County Solid Waste Management District
Director, Northwest Regional Office
President, Chesterton Town Council

CLOSURE AND POST-CLOSURE PLAN APPROVAL REQUIREMENTS

- A. General Requirements**
- B. Closure Requirements**
- C. Post-Closure Requirements**
- D. Groundwater Monitoring Requirements**
- E. Financial Responsibilities for Closure and Post-Closure**
- F. Compliance Schedule Requirements**

A. GENERAL REQUIREMENTS

- A1. The owner or operator must close and maintain the Bailly Generating Station (BGS) CCR Surface Impoundments as described in the approved plans and specifications in the document titled "Closure Application for CCR Surface Impoundments – Bailly Generating Station," dated February 3, 2021 (VFC #[83109596](#)), the following subsequent submittals, and the requirements of this approval:
- a. Document dated June 16, 2021 (VFC #[83172425](#)), response to completeness review and response to request for additional information (RAI) No. 1 dated April 23, 2021 (VFC #[83145293](#));
 - b. Document dated April 7, 2022 (VFC #[83302414](#)), response to RAI No. 2 dated September 9, 2021 (VFC #[83213270](#));
 - c. Document dated December 28, 2022 (VFC #[83410424](#)), Revised Closure Application & Response to RAI No. 3 dated September 19, 2022 (VFC #[83370237](#));
 - d. Document dated June 30, 2023 (VFC #[83509468](#)), response to RAI No. 4 dated May 25, 2023 (VFC #[83480557](#));
 - e. Document dated September 19, 2023 (VFC #[83534042](#)), NOIR Response Addendum; and,
 - f. Document dated September 27, 2023 (VFC #[83538665](#)), NOIR Response Addendum Update.
- The BGS CCR Surface Impoundments (approximately 16.5 acres) consist of the Boiler Slag Pond (1.2 acres), Primary Settling Pond No. 1 (5.6 acres), Primary Settling Pond No. 2 (7.2 acres), and Secondary Settling Pond No. 1 (2.5 acres).
- A2. The owner or operator must request approval from IDEM before modifying the approved closure and post-closure requirements and procedures.
- A3. The owner or operator must call **(888) 233-7745** (IDEM's emergency response line) as soon as possible after learning of any event that may cause an imminent and substantial endangerment to human health or the environment, such as a reportable spill (327 IAC 2-6.1) or a fire or explosion that requires the response of the local fire department.

The owner or operator must follow up by sending a written report to the Solid Waste Permits Section at the address given in Requirement A4 within five business days after the event. The report must describe the event, and actions taken or planned to correct the event and prevent its recurrence.

- A4. Unless otherwise noted, submittals should be sent to the Solid Waste Permits section at the below email address. Include the facility name and SW Program ID in the email subject line.

SolidWasteSubmittals@idem.IN.gov

If you have questions contact the Solid Waste Permits section at (317) 232-4473, or the Permit Manager assigned to your facility.

- A5. Records of all monitoring information and activities which are required to be submitted by this approval or specified in the closure or post-closure plan, must contain information listed in 329 IAC 10-1-4(a). Records must be maintained as specified in 40 CFR 257.105 and 329 IAC 10-1-4(b) and (c).
- A6. Reports must be signed as specified in 329 IAC 10-11-3(b).

B. CLOSURE REQUIREMENTS

- B1. The owner or operator must follow the approved closure and post-closure plans and specifications for the BGS Surface Impoundments as described in the approved plans and specifications in the document titled "Closure Application for CCR Surface Impoundments – Bailly Generating Station," dated February 3, 2021 (VFC #[83109596](#)), the following subsequent submittals, and the requirements of this approval:
- a. Response to completeness review and RAI No. 1 dated June 16, 2021 (VFC #[83172425](#));
 - b. Response to RAI No. 2 dated April 7, 2022 (VFC #[83302414](#));
 - c. Revised Closure Application & Response to RAI No. 3 dated December 28, 2022 (VFC #[83410424](#));
 - d. Response to RAI No. 4 dated June 30, 2023 (VFC #[83509468](#))
 - e. NOIR Response Addendum dated September 19, 2023 (VFC #[83534042](#)); and,
 - f. NOIR Response Addendum Update dated September 27, 2023 (VFC #[83538665](#)).
- B2. The BGS CCR Surface Impoundments are approved to close by the closure by removal method¹ with removal of CCR material, the impoundment liner components underneath, including furnace slag, sand, geomembrane, and one foot of clay soil, and any visually remaining CCR or staining associated with CCR below the liner limits. All excavated material must be managed or disposed of properly according to the approved plans and local, state, and federal regulations. The BGS Surface Impoundments consist of the following ponds:

- Boiler Slag Pond
- Primary Settling Pond No. 1
- Primary Settling Pond No. 2
- Secondary Settling Pond No. 1

¹ as used in this approval, "removal" does not mean closure as contemplated by 40 CFR 257.102 (c). "Removal" as used herein is intended to have its commonly understood, everyday meaning, and is not intended as a term of art.

- B3. The owner or operator must notify IDEM in writing at least 15 days before initiating each of the following closure activities for the BGS CCR Surface Impoundments:
- a. Excavation of the CCR materials, the bottom liner components including furnace slag, sand, geomembrane, and one foot of clay soil, and any visually remaining CCR or staining associated with CCR below the liner limits
 - b. Backfilling the excavated area
 - c. Construction of two-foot soil cover
- B4. The owner or operator must follow the schedule included in the revised closure application dated December 28, 2022 (VFC #[83410424](#), p. 42 of 629) to complete the preparation activities and final closure of the BGS CCR Surface Impoundments.
- B5. The owner or operator must manage surface water as described in the approved plans and meet the following requirements:
- a. Maintain surface water controls to prevent off-site deposition of waste and sediments. Remove sediment deposits from infiltration trenches as necessary to manage storm water as designed.
 - b. Construct temporary run-off structures as needed in areas that are unable to drain to the infiltration trenches.
 - c. Construct erosion and surface water control structures as follows:
 - (1) As specified in stormwater runoff infiltration trenches analysis submitted with revised closure application date December 28, 2022 (VFC #[83410424](#), Appendix C, pp. 130-231 of 629).
 - (2) As depicted on the following drawings submitted with the document dated June 30, 2023 (VFC #[83509468](#), pp. 121, 125, 127 of 629):
 - (A) Drawing B-1071 titled "Final Grading Plan – Infiltration Trench"
 - (B) Drawing B-1075 titled "Infiltration Trench and E&SC Details"
 - (C) Drawing B-1077 titled "Erosion and Sediment Control Plan"

- B6. The owner or operator must properly dispose of water that has been in contact with waste, in accordance with all applicable local, state, and federal laws (329 IAC 10-28-16 and IC 13-30-2-1), including applicable NPDES permit or intermediate discharge limits provided by IDEM Office of Water Quality (OWQ) NPDES Permits Section.
- B7. The owner or operator must perform inspections of the BGS CCR Surface Impoundments until completion of the final closure as described in 40 CFR 257.83 (Inspection Requirement for CCR Surface Impoundments) and as required by this approval.
- B8. The owner or operator must adopt measures that will effectively minimize coal combustion residuals from becoming airborne, including waste that generates fugitive dust (40 CFR 257.80) (Air Criteria) and fugitive particulate matter, in a way that does not violate the rule for fugitive dust (326 IAC 6-4) or fugitive particulate matter (326 IAC 6-5), including 326 IAC 6-5-4(g) for solid waste handling control measures (329 IAC 10-8.2-2). The owner or operator must implement dust control measures as specified in the facility's Coal Combustion Residue Fugitive Dust Control Plan submitted with document dated April 7, 2022 (VFC #83302414, pp. 6-14 of 15), and the project specific dust control plan according to Compliance Schedule Requirement F2, and take any additional steps necessary to prevent violations of fugitive dust rules and 40 CFR 257.80.
- B9. The owner or operator must follow the confirmation procedure for the removal of CCR material, the impoundment liner components underneath, and any visually remaining CCR or staining associated with CCR below the liner limits as described in the document dated December 28, 2022 (VFC #83410424, pp. 39 and 284 of 629).

To verify waste excavation, the facility must provide surveys and photographs of the general area for the following surfaces:

- The bottom of CCR material excavation;
- The bottom of impoundment liner excavation, upon removal of all liner components including furnace slag, sand, and geomembrane;
- The bottom of one foot of clay soil excavation; and
- The bottom of areas below the liner limits after removal of any visually remaining CCR or staining associated with CCR. The final excavation surface will be photographed on a minimum 25-ft grid as described in the document dated December 28, 2022 (VFC #83410424, pp. 39 and 284 of 629).

- B10. The owner or operator must follow the facility's approved grading plan and construct the final cover for the BGS CCR surface impoundments in compliance with the following specifications:
- a. As specified in the approved final grading plan on the drawing B-1071 titled "Final Grading Plan – Infiltration Trench," and submitted with the document dated June 30, 2023 (VFC #[83509468](#), p. 121 of 629).
 - b. As shown in Detail 5 of the drawing B-1076 titled "General Details," and submitted with the document dated June 30, 2023 (VFC #[83509468](#), p. 126 of 629).
 - c. The final cover system must consist of the following, starting from top to the bottom of excavation grade:
 - Six inches of uncontaminated topsoil
 - 18 inches of compacted uncontaminated soil cover consisting of GC, SM, SC and/or ML-CL, CL soil in accordance with the Unified Soil Classification System (USCS) with a permeability no greater than 1×10^{-5} centimeter/second
 - Subgrade structural fill with uncontaminated soil
 - d. Grade and stabilize the final cover as specified in 329 IAC 10-28-14.
- B11. The owner or operator must test and install final cover components as specified in the Construction Quality Assurance (CQA) Plan submitted with revised closure application date December 28, 2022 (VFC #[83410424](#), Appendix D, pp. 232-304 of 629). The owner or operator must conduct, monitor, and inspect activities, such as field demonstrations, field observations, and paint filter tests, and use transportation trucks with tail gate locks, seal, and heavy-duty tarps as specified in the application and the spill prevention plan according to Compliance Schedule Requirement F2 to ensure the excavated materials are properly conditioned prior to transportation to prevent leakage during transportation of the conditioned materials.
- B12. The owner or operator must submit a final closure certification, and verification of environmental restrictive covenant (ERC) and deed notation to IDEM no later than 90 days after the completion of construction of the final cover system and establishment of vegetation. The final closure certification must comply with the following:
- a. Meet the requirements of 40 CFR 257.102(f)(3), (g), (h), and (i), and 329 IAC 10, as applicable.
 - b. Certify the final closure is constructed according to the approved closure plan and the CQA plan.

- c. A registered professional engineer must certify the closure construction complies with the approved plans and specifications.
- d. The final closure certification must include the following:
 - (1) The boundaries of the certified area,
 - (2) The results of all tests conducted during construction,
 - (3) Documentation of all storm water management features that have been constructed or installed to the extent possible as designed,
 - (4) Any deviation/changes from the approved closure plan must be noted and explained in the report, if any, and
 - (5) Surveys and photographic verification for the following:
 - The bottom of CCR material excavation,
 - The bottom of impoundment liner excavation, upon removal of furnace slag, sand and geomembrane,
 - The bottom of one foot of clay soil excavation,
 - The bottom of the areas below the liner limits after the removal of any visually remaining CCR or staining associated with CCR,
 - The subgrade elevations, and
 - The final cover elevations.

C. POST-CLOSURE REQUIREMENTS

- C1. The owner or operator must perform a minimum of 30 years of post-closure monitoring and maintenance including the activities specified in the facility's post-closure plan dated December 22, 2022 and submitted with revised closure application dated December 28, 2022 (VFC #83410424, Appendix H, pp. 614-623 of 629), and the following requirements for the BGS CCR Surface Impoundments:
 - a. Performance standards and post-closure duties, as specified in requirements of 40 CFR 257.104 and 329 IAC 10, as applicable.
 - b. The 30-year post-closure period will begin when all of the BGS CCR surface impoundments are certified closed and IDEM accepts the certification.
 - c. Monitor and maintain the closed areas of the BGS CCR Surface Impoundments until the 30-year post-closure period begins.

- C2. To be released from post-closure monitoring, the owner or operator must submit a post-closure certification statement signed by both the owner/operator and a registered professional engineer stating that the post-closure care requirements have been met and the surface impoundments are stabilized. The post-closure certification is considered adequate unless, within 90 days of receipt of the post-closure certification, IDEM either notifies the owner/operator the certification is inadequate or issues a notice of deficiency that post-closure care is not complete, including actions necessary to correct the deficiencies.
- C3. The owner or operator must comply with facility's ERC and/or deed restriction subsequent to the completion of post-closure care certification. The owner or operator is responsible for the following:
- a. Correcting and controlling any nuisance conditions occurring at the facility (329 IAC 10-31-5);
 - b. Eliminating any threat to human health or the environment (329 IAC 10-31-6); and
 - c. Performing any remedial action at the facility, if necessary (329 IAC 10-31-7).

D. GROUND WATER MONITORING REQUIREMENTS

- D1. The owner or operator must comply with 329 IAC 10-9-1(c) and 40 CFR 257 Subpart D (Groundwater Monitoring and Corrective Action).
- D2. The owner or operator must conduct groundwater monitoring throughout the closure and the 30-year post-closure care period of the unit (40 CFR 257.104(c)). IDEM will extend the post-closure care period if the facility is under assessment monitoring until the facility returns to detection monitoring (40 CFR 257.104(c)(2)).

MONITORING DEVICES

- D3. The facility's groundwater monitoring system (System) includes the following groundwater monitoring wells: GAMW-01, GAMW-01B, GAMW-02, GAMW-03, GAMW-04, GAMW-06, GAMW-07, GAMW-08, GAMW-08B, GAMW-10, GAMW-11, GAMW-11B, GAMW-11C, GAMW-12R, GAMW-13, GAMW-14, GAMW-16, GAMW-17, GAMW-17B, GAMW-18, GAMW-19, GAMW-20, GAMW-21, GAMW-22, GAMW-22B, GAMW-23, GAMW-23B, GAMW-24, GAMW-25, GAMW-25B, GAMW-26, and MW-105. Background groundwater monitoring wells are GAMW-25 and GAMW-25B.

The System includes the following piezometers: MW-102, MW-103, MW-104, MW-114, and MW-115. The owner or operator will use the piezometers for the collection of static water level elevations at least semiannually when accessible during the months specified in Requirement D14 and report the results following Requirements D15, D23, and D24.

Requirement F5 specifies the submission of a device-installation plan for GAMW-24, GAMW-25, GAMW-25B, and an additional groundwater monitoring well, GAMW-26, downgradient of the Boiler Slag Pond between GAMW-13 and MW-112.

At least 60 days before installing new monitoring devices, the owner or operator must submit a device-installation plan for IDEM approval. The plan must provide the following:

- a. A map showing the location of each device with respect to the facility's entire System and a current potentiometric surface.
- b. A demonstration that each device will yield representative groundwater samples at an appropriate location and depth within the same aquifer or aquifers as the facility's existing System and will meet the installation requirements of 40 CFR 257.91(e).
- c. Drilling methods and procedures that follow 329 IAC 10-21-4; well construction materials and details, including protocol for collecting, describing, and analyzing consolidated or unconsolidated materials (329 IAC 10-24-3(3)).
- d. An example of a borehole log that includes information specified under 329 IAC 10-24-3(2).
- e. Environmental qualifications of all field personnel.
- f. Provisions to include the installation records in the facility operating record (40 CFR 257.91(e)(1)).

The owner or operator must submit all field documentation to IDEM within 60 days after completing all related field work.

- D4. The owner or operator must label all groundwater monitoring wells and piezometers with a permanent and unique identification. When reporting well and piezometer information, the owner or operator must include the identification for each well or piezometer.
- D5. The owner or operator must secure the access ways to all groundwater monitoring wells and piezometers to prevent unauthorized access and maintain the access ways, so they are passable year-round with the exception of flooding conditions.

- D6. The owner or operator must maintain all groundwater monitoring wells and piezometers as follows:
- Complete necessary repairs, other than replacement (see Requirement D8), within 10 days after discovery or another time frame approved by IDEM.
 - Keep the wells and piezometers securely capped and locked when not in use.
 - Repair all cracks in and around the casings and well pads that may affect the integrity of the wells.
 - Control vegetation height.
 - Redevelop the wells as needed.
- D7. When abandoning a groundwater monitoring well or piezometer that is part of the facility's approved System listed in Requirement D3, the owner or operator must:
- Submit a written proposal for approval explaining the reasons for and detailing the method of abandonment.
 - Use methods that comply with Indiana Department of Natural Resources (IDNR) regulation 312 IAC 13-10-2.
 - Notify the IDEM Geology Section by phone, email, or letter at least 10 days before the date the abandonment work will occur.
 - Provide written notification of abandonment to IDEM and IDNR within 30 days after plugging is complete. (IDNR (312 IAC 13-10-2(f)) requires written notice.); and
 - Include the abandonment records in the facility operating record (40 CFR 257.91(e)(1)).
- D8. The owner or operator must notify IDEM by phone, email, or letter within 10 days after discovering that a groundwater monitoring well or piezometer has been destroyed or is not functioning properly. The owner or operator must repair the well or piezometer if possible. If the well or piezometer cannot be repaired, then within 30 days after discovery, the owner or operator must submit a proposal for abandonment or replacement.

PLANS

- D9. The permittee must follow the Sampling and Analysis Plan (SAP) in Appendix E of the *Closure Application for CCR Impoundments* dated February 3, 2021 (VFC #[83109596](#)), until IDEM approval of a stand-alone SAP that meets the minimum requirements listed in 40 CFR 257.93(a) through (e), and (i). Requirement F1 specifies the submission of a stand-alone SAP.
- D10. The owner or operator must follow the Quality Assurance Project Plan (QAPjP) in Appendix F of the *Closure Application for CCR Impoundments* dated February 3, 2021 (VFC #[83109596](#)), until IDEM approval of a stand-alone QAPjP that meets the requirements listed in 40 CFR 257.93(a) and (b). Requirement F2 specifies the submission of a stand-alone QAPjP.

- D11. The owner or operator must follow the Statistical Evaluation Plan (StEP) in Section 4 of the SAP, until IDEM approval of a stand-alone StEP that meets the minimum requirements listed in 40 CFR 257.93(f) through (h). Requirement F3 specifies the submission of a stand-alone StEP.
- D12. If IDEM requests a revision to an SAP, QAPjP, or StEP, the owner or operator must submit the revised plan(s) for approval. The owner or operator must submit by email the plan(s) as a PDF to IDEM as required in Requirement A4 for document submittals within 60 days after receiving the request. The date IDEM receives the email will be the receipt date for the response. The submittal must include the facility name and a brief description typed in the email's subject. Upon IDEM request, the owner or operator must submit one unbound paper copy in addition to the PDF. The owner or operator must not implement the revised plan(s) before receiving approval.
- D13. If the owner or operator makes design changes to the existing System listed in Requirement D3, the owner or operator must submit a revised SAP, and if applicable, a revised QAPjP or StEP for approval. The owner or operator must submit by email the plan as a PDF to IDEM as required in Requirement A4 for document submittals within 60 days after completing all field activities associated with the design changes. The date IDEM receives the email will be the receipt date for the response. The submittal must include the facility name and a brief description typed in the email's subject. Upon IDEM request, the owner or operator must submit one unbound paper copy in addition to the PDF. The owner or operator must not implement the revised plan(s) before receiving approval.

MONITORING PROGRAMS

- D14. The owner or operator must sample the facility's System listed in Requirement D3 semiannually during April and October of each year. Each sample must be analyzed following the Detection Monitoring Program (40 CFR 257.94) for the following Appendix III constituents:
- a. Total Boron
 - b. Total Calcium
 - c. Chloride
 - d. Fluoride
 - e. Field pH
 - f. Sulfate
 - g. Total Dissolved Solids

The owner or operator may demonstrate an alternative frequency of sampling for the Appendix III constituents following 40 CFR 257.94(d).

When applicable (see Requirement D19), each sample must be analyzed following the Assessment Monitoring Program (40 CFR 257.95) for the following Appendix IV constituents:

- h. Total Antimony
- i. Total Arsenic
- j. Total Barium
- k. Total Beryllium
- l. Total Boron
- m. Total Cadmium
- n. Total Chromium
- o. Total Cobalt
- p. Fluoride
- q. Total Lead
- r. Total Lithium
- s. Total Mercury
- t. Total Molybdenum
- u. Total Selenium
- v. Total Thallium
- w. Radium 226 and 228 combined

For specific metallic constituents, if the owner or operator demonstrates with the approval of IDEM that the results for a filtered (dissolved) metal are no greater than 20% of the relative percent difference of an unfiltered (total recoverable) metal, then the owner or operator may incorporate historic filtered results into the background data set instead of collecting a minimum of eight additional independent samples (40 CFR 257.94(c)) for the unfiltered metal results. The owner or operator may propose an alternative method for incorporating historic results of the specific dissolved metal into the background data set for IDEM review and approval.

Whenever results of total chromium occur at or above its background concentration or maximum contaminant level, whichever is the higher concentration, the owner or operator must speciate and report both trivalent and hexavalent chromium.

D15. The owner or operator must use the results of the static water level measurements from the System listed in Requirement D3 to prepare potentiometric surface maps or groundwater flow maps that include the following information:

- a. Location and identification of each groundwater monitoring well and piezometer.
- b. Groundwater elevations for each well and piezometer. The owner or operator must measure all static water levels on the same day and as close in time as possible before the purging and sampling event.
- c. Date and time of static water level measurement for each well and piezometer.
- d. Ground-surface elevation at each well and piezometer.
- e. Facility property boundaries.

- f. Identification of the aquifer represented, either by a name or elevation.
 - g. Solid waste fill boundaries.
 - h. Facility name and county.
 - i. Map scale, north arrow, groundwater flow direction arrows, and potentiometric-surface contour intervals.
 - j. Indications of which wells are considered background, upgradient, or downgradient.
 - k. Locations and elevations of all site benchmarks.
- D16. If a groundwater flow map indicates that the groundwater flow direction, including flow reversals, is other than anticipated in the design of the System listed in Requirement D3, then the owner or operator must notify IDEM of the difference in the groundwater monitoring report submitted for Requirement D23. The notification must include either of the following: information demonstrating that the System complies with 40 CFR 257.91(c); or a proposal to revise the System design for IDEM approval.

The owner or operator must determine if the System currently complies with 40 CFR 257.91(c) before collecting samples for the scheduled semiannual sampling event. If a flow reversal occurs, then the owner or operator may postpone, with IDEM approval, the scheduled semiannual sampling event in 30-day extension increments if they determine that the System does not comply with 40 CFR 257.91(c).

If the owner or operator determines a groundwater flow reversal occurred during a scheduled semiannual sampling event, then data from that sampling event must not be utilized in statistical evaluations specified in the StEP or incorporated into background groundwater quality and groundwater protection standard calculations, unless the owner or operator adequately demonstrates to IDEM that the data accurately represents established groundwater quality conditions when a flow reversal did not occur. Additionally, the owner or operator must immediately schedule a replacement sampling event in order to complete the required semiannual evaluation for groundwater releases from the facility. Within seven days of scheduling the replacement sampling event, the owner or operator must notify IDEM of the schedule.

If design changes to the existing System are necessary, then the owner or operator must make the changes within 30 days after receiving IDEM approval of the revised design or other time frame approved by IDEM.

- D17. Background groundwater monitoring well(s) must provide groundwater samples that represent historical conditions unaffected by a CCR unit or facility activities that may contribute Appendix III and Appendix IV constituents listed in Requirement D14 against which background comparisons occur. Additionally, for any background well added to the System listed in Requirement D3, the owner or operator must:

- a. Establish background groundwater quality for the Appendix III and Appendix IV constituents listed in Requirement D14.
- b. Determine the background groundwater quality by sampling each new well for eight independent sampling events within 12 months after the well's installation, unless the owner or operator can justify to IDEM an extended period of no more than 12 additional months.

If the owner, operator, or IDEM determines that the current System (see Requirement D3) does not have the required background well(s), then within 60 days the owner or operator must submit a plan per Requirement D3 proposing to establish new or additional background wells for the current System for IDEM review and approval. This plan must include well location(s) for obtaining background groundwater quality samples that satisfy the specifications of this requirement.

- D18. The owner or operator must implement the StEP identified in Requirement D11 and include the outcome of each statistical determination in a statistical evaluation report (see Requirement D23.d).
- D19. The owner or operator must implement a detection monitoring program consistent with 40 CFR 257.94 and the StEP. If the owner or operator determines there is a statistically significant increase (SSI) over background for one or more of the Appendix III constituents listed in Requirement D14 at any of the downgradient groundwater monitoring wells, then the owner or operator must comply with one of the following requirements:

- a. Demonstrate that a source other than the CCR unit caused the SSI over background levels for a constituent, or that the SSI resulted from error in sampling, analysis, statistical evaluation, or natural variation in groundwater quality (40 CFR 257.94(e)(2)). Within 45 days of detecting an SSI over background levels, or other time frame approved by IDEM, the owner or operator must submit the written demonstration to IDEM.

If the demonstration is approved, the owner or operator may continue with a detection monitoring program for any unit for which the demonstration was made.

- b. Within 30 days after receiving notice that the demonstration is not acceptable to IDEM, submit an assessment monitoring program plan meeting the requirements of 40 CFR 257.95, which includes the Appendix IV constituents listed in Requirement D14, to IDEM for approval. Within 90 days of determining an SSI, the owner or operator must establish and implement the assessment monitoring program following 40 CFR 257.95, which includes the Appendix IV constituents listed in Requirement D14. The owner or operator must also implement the assessment monitoring program plan after receiving approval from IDEM; or

- c. If a demonstration is not pursued, the owner or operator must submit an assessment monitoring program plan specified in Requirement 19.b within 30 days of determining the SSI. Within 90 days of determining an SSI, the owner or operator must establish and implement the assessment monitoring program following 40 CFR 257.95, which includes the Appendix IV constituents listed in Requirement D14. The owner or operator must also implement the assessment monitoring program plan after receiving approval from IDEM.
- D20. Within 90 days of finding that any of the Appendix IV constituents listed in Requirement D14 have been detected at a statistically significant level exceeding the groundwater protection standards (40 CFR 257.95(h)), or the groundwater protection standard for total boron of 4 mg/L or background, whichever is greater, the owner or operator must comply with one of the following requirements (40 CFR 257.95(g)(3)):
- a. Complete the assessment of corrective measures as required by 40 CFR 257.96 and submit the results of the corrective measures assessment to IDEM. As part of the selection of corrective measures, the owner or operator must include an evaluation of potential groundwater flow reversals on the System. The 90-day deadline to complete the assessment of corrective measures may be extended for no longer than 60 days. After completing the assessment of corrective measures, the owner or operator must implement Requirement D21; or
 - b. Demonstrate that a source other than the CCR unit caused the contamination, or that the statistically significant level exceeding the groundwater protection standard resulted from error in sampling, analysis, statistical evaluation, or natural variation in groundwater quality consistent with 40 CFR 257.95(g)(3)(ii). Within 90 days of detecting a statistically significant level exceeding the groundwater protection standard, the owner or operator must complete and submit the written demonstration to IDEM for approval.
- If the demonstration is approved, then the owner or operator may continue with an assessment monitoring program for any unit for which the demonstration was made.
- D21. At least 30 days prior to initiating 40 CFR 257.97, the owner or operator must hold a public meeting to discuss the results of the corrective measures assessment with interested and affected parties. As soon as feasible, the owner or operator must select a remedy that, at a minimum, meets the standards listed in 40 CFR 257.97(b). The owner or operator must submit the first semiannual report describing the progress in selecting and designing the remedy (40 CFR 257.97(a)) to IDEM for review and approval. If additional semiannual progress reports are necessary, the owner or operator must submit the reports within six months of submitting the previous semiannual report. The final report for the selected remedy must, at a minimum, meet the standards listed in 40 CFR 257.97(b), utilizing the provisions specified in 40 CFR 257.97(c) and (d), and must be approved by IDEM.

- D22. Within 90 days after receiving IDEM approval of the selected remedy, the owner or operator must initiate remedial activities based on the approved remedy and the standards listed in 40 CFR 257.98. The corrective action program is complete when IDEM approves the owner or operator's demonstration that concentrations of Appendix IV constituents listed in Requirement D14 have not exceeded the groundwater protection standard(s) for a period of three consecutive years at all points of the plume beyond the System following 40 CFR 257.98(c).

REPORTING

- D23. The owner or operator must submit a groundwater monitoring report that includes the results obtained from the implementation of Requirements D14 or D17 no later than 60 days after each groundwater monitoring event with the following exceptions:

- The owner or operator must submit radium-specific information no later than 90 days after the groundwater monitoring event.
- If the owner or operator implements a verification resampling program, then the owner or operator must submit verification resampling results no later than 30 days after the last verification event. Verification resampling is defined in the March 2009 *Statistical Analysis of Groundwater Monitoring Data at RCRA Facilities* (EPA 530/R-09-007).

The owner or operator must submit by email as a PDF and an electronic data file (EDF)(see Requirement D24) the information in a groundwater monitoring report to IDEM as required in Requirement A4 for document submittals. The date IDEM receives the email will be the receipt date for the submittal.

Unless otherwise notified, the permittee must email the EDF to geologydata@idem.in.gov. The owner or operator must clearly label the PDF and EDF with the facility name and a brief description of the file. The email must include the facility name and a brief description typed in the email's subject heading. Upon IDEM request, the owner or operator must submit one unbound paper copy in addition to the PDF.

The report must include the following:

- a. The laboratory-certified report with analytical results, field parameters (see Requirement D24), field sheets, and chain-of-custody forms. The laboratory-certified report must include the following: detection limit for each chemical constituent, date samples collected, date the laboratory received the samples, date the laboratory analyzed the samples, date the laboratory prepared the report, method of analysis the laboratory used for each constituent, sample identification number for each sample, and results of all sample analyses.
- b. All information specified in Requirement D15 and a table summarizing the static water level and groundwater elevation for each well and piezometer.

- c. An evaluation of the groundwater quality, recent notifications of any compliance issues related to a problematic well or piezometer (see Requirement D8), special field observations and procedures, and deviations from the SAP.
 - d. The statistical evaluation report (see Requirement D18).
- D24. The owner or operator must submit one EDF of the analytical results and field parameters from the System formatted as an ASCII, tab-delimited text file. The EDF must contain the facility name, SW Program ID number, and the name of the analytical laboratory. Additionally, the file must include the fields listed below for the analytical results and as applicable, the following field parameters when measured: pH, specific conductance, temperature, turbidity, well depth, depth to water, and static water elevation.
- a. SampleDate: Month, day, and year (mm/dd/yyyy). Value should be formatted as a date if possible.
 - b. WellName: Names of groundwater monitoring wells, piezometers, leachate wells, surface water collection points, etc.
 - c. LabIDN: ID assigned to the sample by the laboratory.
 - d. SampleType: Regular, duplicate(s), trip blank(s), equipment blank(s), field blank(s), verification re-sample(s), and replicate(s).
 - e. SpeciesName: Chloride, sodium, ammonia, field pH, etc. The order of constituents is not critical. However, it is best to reflect the order that is on the laboratory-data sheets and keep all field data grouped together. Metals should indicate “dissolved” phase or “total” phase. Associated static water levels do not have their own header, but must be entered as “GW WaterLevel” under the header “SpeciesName.” The actual elevations must be entered under the header “Concentration.”
 - f. Concentration (results): The entry must be a number. Please do not enter text, such as “NA,” “ND,” or “<.”
 - g. Units: mg/l, µg/l, standard units for pH, degrees Celsius (°C) or degrees Fahrenheit (°F) for temperature, and µmhos/cm for specific conductance.
 - h. Detected: Yes or no.
 - i. DetectionLimit.
 - j. AnalyticalMethod.
 - k. EstimatedValue: Indicate “Yes” if the reported concentration is an estimated value. If a value recorded was not estimated, enter “No.” If a concentration is estimated, use the “Comments” field to explain why the concentration was estimated.
 - l. Comments: Analytical laboratory and/or field personnel comments regarding the reported results.
 - m. SampleMedium: Groundwater, leachate, surface water, etc.
 - n. ProgramArea: Solid Waste.

Additional guidance on EDF submittals is available by emailing questions to geologydata@idem.in.gov.

- D25. The owner or operator must retain laboratory quality assurance/quality control (QA/QC) documentation from valid analyses of groundwater samples for at least three years.

Upon IDEM request, the owner or operator must submit by email the laboratory QA/QC for a specified groundwater monitoring data package as a PDF to IDEM as required in Requirement A4 for document submittals within 60 days after receiving the request. The *"Solid & Hazardous Waste Programs, Analytical Data Deliverable Requirements: Supplemental Guidance"* provides additional information about laboratory QA/QC. The guidance is available on IDEM's website at (www.in.gov/idem/waste/files/resource_sw_data_deliverable_reqs.pdf)

E. FINANCIAL RESPONSIBILITY FOR CLOSURE AND POST-CLOSURE

- E1. The owner or operator must update and maintain a financial assurance mechanism as specified in 329 IAC 10-39 in an amount not less than the estimated costs of closure and post-closure in the approved closure and post-closure plan for BGS CCR surface impoundments submitted with the revised closure application dated December 28, 2022 (VFC #83410424, Appendix H, pp. 602-623 of 629). The owner or operator must submit signed originals of the financial assurance mechanism and updates used to meet this requirement.
- E2. The owner or operator must annually review and submit an update by June 15 addressing the following items as detailed in 329 IAC 10-39-2(c) and (d), and 329 IAC 10-39-3(c):
- a. The owner or operator must adjust the closure and post-closure cost estimates for inflation.
 - b. The owner or operator must revise the cost estimates to account for changes which increase the cost of closure or post-closure.
 - c. The owner or operator may revise the cost estimates to account for changes which reduce the cost of closure or post-closure. The permittee must provide documentation supporting reduced cost-estimates, for example, letters and maps documenting areas certified as closed.
 - d. The owner or operator must submit an existing contour map of the approved solid waste land disposal facility that delineates the boundaries of all areas into which waste has been placed, and the boundaries of areas certified as closed. The map must be certified by a professional engineer or a registered land surveyor.
 - e. The owner or operator must submit documentation showing that the financial assurance mechanism is current to cover the estimated costs of closure and post-closure. The permittee must submit signed originals of the financial assurance and/or updates used to meet this requirement.

F. COMPLIANCE SCHEDULE REQUIREMENTS

- F1. At least 60 days prior to the placement of borrow material, the owner or operator must provide the following documentation to IDEM and receive approval before using soil borrow area(s) for the soil structural fill and final cover construction:
- a. Plans depicting the location(s) of the borrow area(s) and the locations of the borrow area(s) test pits if applicable
 - b. Results of the borrow area test pits and/or the soil specifications, and environmental testing results showing imported soils are clean/uncontaminated
 - c. A soil balance calculation to support the availability of soils for the backfill and final cover
- F2. At least 60 days before beginning excavation of CCR material, the owner or operator must submit the following to IDEM for review:
- a. A project-specific dust control plan
 - b. A spill prevention plan including health and safety preventative measures and contingency plan
- F3. The owner or operator must establish a financial assurance mechanism as specified in 329 IAC 10-39 in an amount not less than the estimated costs of closure and post-closure in the approved closure and post-closure plan no later than 45 days after receipt of this IDEM approval letter and submit proof of the establishment of the financial assurance to IDEM no later than 60 days after receipt of this approval.
- F4. The owner or operator must notify IDEM Office of Land Quality (OLQ) and Office of Water Quality (OWQ) at least 30 days before terminating the NPDES permit for managing and discharging storm water and contact water from the CCR units at the facility.
- F5. Within 60 days after receiving this IDEM Approval Letter, the owner or operator must submit a stand-alone Sampling and Analysis Plan (SAP) that meets Requirement D9. The SAP must describe sampling protocols, equipment, and methods for collecting samples to be analyzed for constituents listed in Requirement D14.

The owner or operator must submit by email the SAP as a PDF to IDEM as required in Requirement A4 for document submittals. The date IDEM receives the email will be the receipt date for the response. The submittal must include the facility name and a brief description typed in the email's subject. Upon IDEM request, owner or operator must submit one unbound paper copy in addition to the PDF. The owner or operator must not implement the SAP before receiving approval.

- F6. Within 60 days after receiving this IDEM Approval Letter, the owner or operator must submit a stand-alone Quality Assurance Project Plan (QAPjP) that meets Requirement D10 for the constituents listed in Requirement D14.

The owner or operator must submit by email the QAPjP as a PDF to IDEM as required in Requirement A4 for document submittals. The date IDEM receives the email will be the receipt date for the response. The submittal must include the facility name and a brief description typed in the email's subject. Upon IDEM request, the owner or operator must submit one unbound paper copy in addition to the PDF. The owner or operator must not implement the QAPjP before receiving approval.

- F7. Within 60 days after receiving this IDEM Approval Letter, the owner or operator must submit a stand-alone Statistical Evaluation Plan (StEP) that meets Requirement D11.

The owner or operator must submit by email the StEP as a PDF to IDEM as required in Requirement A4 for document submittals. The date IDEM receives the email will be the receipt date for the response. The submittal must include the facility name and a brief description typed in the email's subject. Upon IDEM request, the owner or operator must submit one unbound paper copy in addition to the PDF. The StEP is effective upon IDEM's written approval.

In the StEP, the owner or operator must present the data distribution assumptions. The statistical procedures must be appropriate for the data distribution and provide a balance between the probability of falsely identifying a statistically significant difference and the probability of failing to identify a statistically significant difference. To achieve the balance, the owner or operator should consider the background sample sizes, the number of individual statistical tests performed, the number of groundwater monitoring wells, and the specific verification resampling method. The statistical procedures must account for analytical results below method detection limits.

- F8. Within 60 days after receiving this IDEM Approval Letter, the owner or operator must submit a plan proposing to establish background groundwater quality for the System (see Requirements D3 and D17) for IDEM review and approval. Requirement D3 currently specifies GAMW-25 and GAMW-25B as the background groundwater monitoring wells for the System. This plan must include well location(s) for obtaining background groundwater quality samples that represent historical conditions unaffected by a CCR unit or facility activities that may contribute parameters of concern (at minimum, the Appendix III and Appendix IV constituents listed in Requirement D14) against which background comparisons occur. Based on our review of the plan, the facility may be required to submit additional or alternate background monitoring location(s) for IDEM review.

- F9. Within 90 days after receiving this IDEM Approval Letter, the owner or operator must submit a device-installation plan (see Requirement D3) for GAMW-24, GAMW-25, GAMW-25B, and GAMW-26 downgradient of the Boiler Slag Pond between GAMW-13 and MW-112 for IDEM approval.

- F10. Within 60 days after completing the well installation(s) described under Requirement F5, the owner or operator must submit new and updated geologic cross-sections. The owner or operator must submit by email geologic cross sections as a PDF to IDEM as required in Requirement A4 for document submittals. The date IDEM receives the email will be the receipt date for the response. The submittal must include the facility name and a brief description typed in the email's subject. Upon IDEM request, the owner or operator must submit one unbound paper copy in addition to the PDF.
- F11. Within 90 days after receiving this IDEM Approval Letter, the owner or operator must submit the boring logs for MW-102, MW-103, MW-104, MW-114, and MW-115.

NOTICE OF DECISION

The Indiana Department of Environmental Management (IDEM) issued a decision regarding the closure and post-closure plans for the NIPSCO Bailly Generating Station CCR Surface Impoundments (SW Program ID 64-014) at 246 Bailly Station Road, Chesterton, 46304, Porter. This decision approves the closure of a portion of the coal combustion residuals (CCR) surface impoundments at the facility. The final decision is available online via IDEM's Virtual File Cabinet (VFC). Please go to: <http://vfc.idem.in.gov/>. You can search there for approval documents using a variety of criteria. A copy of the decision has also been mailed to the following library:

Westchester Public Library, 200 West Indiana Avenue, Chesterton, 46304

If you need assistance accessing the permit, please contact the Solid Waste Permits Section at (317) 232-4473 or toll free within Indiana at (800) 451-6027, or send an e-mail to OLQ@idem.IN.gov with the permit information in the subject line.

APPEAL PROCEDURES

If you wish to challenge this decision, IC 13-15-6-1 and IC 4-21.5-3-7 require that you file a Petition for Administrative Review. If you seek to have the effectiveness of the permit stayed during the Administrative Review, you must also file a Petition for Stay. The Petition(s) must be submitted to the Office of Environmental Adjudication (OEA) at the address below within the following timeframes:

1. If you received this notice by U.S. mail, you must file the petition within 18 days of the notice postmark date (15 days from the date IDEM mailed the notice, plus 3 days because the notice was sent via U.S. Mail).
2. If you received this notice by email, you must file the petition within 15 days of the date IDEM sent the email.
3. If an IDEM representative personally gave ("served") you this notice, you must file the petition within 15 days of the date you were given the notice.

Office of Environmental Adjudication
Indiana Government Center North, Room N103
100 North Senate Avenue
Indianapolis, IN 46204

The Petition(s) must include facts demonstrating that you are either the applicant, a person aggrieved or adversely affected by the decision, or otherwise entitled to review by law. Identifying the permit, decision, or other order for which you seek review by permit number, name of the applicant, location, or date of this notice will expedite review of the petition. Additionally, IC 13-15-6-2 and 315 IAC 1-3-2 require that your Petition include:

1. the name, address, and telephone number of the person making the request;
2. the interest of the person making the request;
3. identification of any persons represented by the person making the request;
4. the reasons, with particularity, for the request;
5. the issues, with particularity, for the request;
6. identification of the terms and conditions which, in the judgment of the person making the request, would be appropriate in the case in question to satisfy the requirements of the law governing documents of the type granted or denied by the Commissioner's action; and
7. a copy of the pertinent portions of the permit, decision, or other order for which you seek review, at a minimum, the portion of the Commissioner's action that identifies the person to whom the action is directed and the identification number of the action.

Pursuant to IC 4-21.5-3-1(f), any document serving as a petition for review or review and stay must be filed with the OEA. Filing of such a document is complete on the earliest of the following dates:

1. the date on which the petition is delivered to the OEA;
2. the date of the postmark on the envelope containing the petition, if the petition is mailed to the OEA by United States mail; or
3. the date on which the petition is deposited with a private carrier, as shown by a receipt issued by the carrier, if the petition is sent to the OEA by private carrier.

In order to assist permit staff in tracking any appeals of the decision, please provide a copy of your petition to Adam Weinzapfel, IDEM, Solid Waste Permits, IGCN 1154, 100 North Senate Ave., Indianapolis, IN 46204-2251.

The OEA will provide you with notice of any pre-hearing conferences, preliminary hearings, hearings, stays, or orders regarding this decision if you submit a written request to the OEA. If you do not provide a written request to the OEA, you will no longer be notified of any proceedings pertaining to this decision.

More information on the review process is available at the website for the Office of Environmental Adjudication at <http://www.in.gov/oea>.



INDIANA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

We Protect Hoosiers and Our Environment.

100 N. Senate Avenue • Indianapolis, IN 46204
(800) 451-6027 • (317) 232-8603 • www.idem.IN.gov

Eric J. Holcomb
Governor

Brian C. Rockensuess
Commissioner

What if you are not satisfied with this decision and you want to file an appeal?

Who may file an appeal?

The decision described in the accompanying Notice of Decision may be administratively appealed. Filing an appeal is formally known as filing a “Petition for Administrative Review” to request an “administrative hearing”.

If you object to this decision issued by the Indiana Department of Environmental Management (IDEM) and are: 1) the person to whom the decision was directed, 2) a party specified by law as being eligible to appeal, or 3) aggrieved or adversely affected by the decision, you are entitled to file an appeal. (An aggrieved and adversely affected person is one who would be considered by the court to be negatively impacted by the decision. If you file an appeal because you feel that you are aggrieved, it will be up to you to demonstrate in your appeal how you are directly impacted in a negative way by the decision).

The Indiana Office of Environmental Adjudication (OEA) was established by state law – see Indiana Code (IC) 4-21.5-7 – and is a separate state agency independent of IDEM. The jurisdiction of the OEA is limited to the review of environmental pollution concerns or any alleged technical or legal deficiencies associated with the IDEM decision making process. Once your request has been received by OEA, your appeal may be considered by an Environmental Law Judge.

What is required of persons filing an appeal?

Filing an appeal is a legal proceeding, so it is suggested that you consult with an attorney. Your request for an appeal must include your name and address and identify your interest in the decision (or, if you are representing someone else, his or her name and address and their interest in the decision). In addition, please include a photocopy of the accompanying Notice of Decision or list the permit number and name of the applicant, or responsible party, in your letter.

Before a hearing is granted, you must identify the reason for the appeal request and the issues proposed for consideration at the hearing. You also must identify the permit terms and conditions that, in your judgment, would appropriately satisfy the requirements of law with respect to the IDEM decision being appealed. That is, you must suggest an alternative to the language in the permit (or other order, or decision) being appealed, and your suggested changes must be consistent with all applicable laws (See Indiana Code 13-15-6-2) and rules (See Title 315 of the Indiana Administrative Code, or 315 IAC).



Visit on.IN.gov/survey or scan the QR code to provide feedback.

We appreciate your input!



Filing an appeal
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The effective date of this agency action is stated on the accompanying Notice of Decision (or other IDEM decision notice). If you file a “Petition for Administrative Review” (appeal), you may wish to specifically request that the action be “stayed” (temporarily halted) because most appeals do not allow for an automatic “stay”. If, after an evidentiary hearing, a “stay” is granted, the IDEM-approved action may be halted altogether, or only allowed to continue in part, until a final decision has been made regarding the appeal. However, if the action is not “stayed” the IDEM-approved activity will be allowed to continue during the appeal process.

Where can you file an appeal?

If you wish to file an appeal, you must do so in writing. There are no standard forms to fill out and submit, so you must state your case in a letter (called a petition for administrative review) to the Indiana Office of Environmental Adjudication (OEA). Do not send the original copy of your appeal request to IDEM. Instead, send or deliver your letter to:

**The Indiana Office of Environmental Adjudication
100 North Senate Avenue, Room N103
Indianapolis, IN 46204**

If you file an appeal, also please send a copy of your appeal letter to the IDEM contact person identified in the Notice of Decision, and to the applicant (person receiving an IDEM permit, or other approval).

Your appeal (petition for administrative review) must be received by the Office of Environmental Adjudication in a timely manner. The due date for filing an appeal may be given, or the method for calculating it explained, on the accompanying Notice of Decision (NOD). Generally appeals must be filed within 18 days of the mailing date of the NOD. To ensure that you meet this filing requirement, your appeal request must be:

- 1) Delivered in person to OEA, by the close-of-business on the eighteenth day (if the 18th day falls on a day when the Office of Environmental Adjudication (OEA) is closed for the weekend or for a state holiday, then your petition will be accepted on the next business day on which OEA is open), or
- 2) Given to a private carrier who will deliver it to the OEA on your behalf, (and from whom you must obtain a receipt dated on or before the 18th day), or
- 3) For those appeal requests sent by U.S. Mail, your letter must be postmarked by no later than midnight of the 18th day, or
- 4) Faxed to the OEA at (317) 233-9372 before the close-of-business on the 18th day, provided that the original signed “Petition for Administrative Review” is also sent, or delivered, to the OEA in a timely manner.

What are the costs associated with filing an appeal?

The OEA does not charge a fee for filing documents for an administrative review or for the use of its hearing facilities. However, OEA does charge a fifteen cent (\$.15) per page fee for copies of any documents you may request. Another cost that could be associated with Your appeal would be for attorney’s fees. Although you have the option to act as your own



Visit on.IN.gov/survey or scan the QR code to provide feedback.

We appreciate your input!



Filing an appeal
Page 2

Attorney, the administrative review and associated hearing are complex legal proceedings; therefore, you should consider whether your interests would be better represented by an experienced attorney.

What can you expect from the Office of Environmental Adjudication (OEA) after you file for an appeal?

The OEA will provide you with notice of any prehearing conference, preliminary hearings, hearings, “stays,” or orders disposing of the review of this decision. In addition, you may contact the OEA by phone at (317) 233-0850 with any scheduling questions. However, technical questions should be directed to the IDEM contact person listed on the Notice of Decision.

Do not expect to discuss details of your case with OEA other than in a formal setting such as a prehearing conference, a formal hearing, or a settlement conference. The OEA is not allowed to discuss a case without all side being present. All parties to the proceeding are expected to appear at the initial prehearing conference.





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If you need assistance accessing the permit, please contact the Solid Waste Permits Section at (317) 232-4473 or toll free within Indiana at (800) 451-6027, or send an e-mail to OLQ@idem.IN.gov with the permit information in the subject line.

APPEAL PROCEDURES

If you wish to challenge this decision, IC 13-15-6-1 and IC 4-21.5-3-7 require that you file a Petition for Administrative Review. If you seek to have the effectiveness of the permit stayed during the Administrative Review, you must also file a Petition for Stay. The Petition(s) must be submitted to the Office of Environmental Adjudication (OEA) at the following address within 15 days of the date of newspaper publication of this Notice:

Office of Environmental Adjudication
Indiana Government Center North,
Room N103
100 North Senate Avenue
Indianapolis, IN 46204

The Petition(s) must include facts demonstrating that you are either the applicant, a person aggrieved or adversely affected by the decision, or otherwise entitled to review by law. Identifying the permit, decision, or other order for which you seek review by permit number, name of the applicant, location, or date of this notice will expedite review of the petition. Additionally, IC 13-15-6-2 and 315 IAC 1-3-2 require that your Petition include:

1. the name, address, and telephone number of the person making the request;
2. the interest of the person making the request;
3. identification of any persons represented by the person making the request;
4. the reasons, with particularity, for the request;
5. the issues, with particularity, for the request;
6. identification of the terms and conditions which, in the judgment of the person making the request, would be appropriate in the case in question to satisfy the requirements of the law governing documents of the type granted or denied by the Commissioner's action; and
7. a copy of the pertinent portions of the permit, decision, or other order for which you seek review, at a minimum, the portion of the Commissioner's action that identifies the

person to whom the action is directed and the identification number of the action.

Pursuant to IC 4-21.5-3-1(f), any document serving as a petition for review or review and stay must be filed with the OEA. Filing of such a document is complete on the earliest of the following dates:

1. the date on which the petition is delivered to the OEA;
2. the date of the postmark on the envelope containing the petition, if the petition is mailed to the OEA by United States mail; or
3. the date on which the petition is deposited with a private carrier, as shown by a receipt issued by the carrier, if the petition is sent to the OEA by private carrier.

In order to assist permit staff in tracking any appeals of the decision, please provide a copy of your petition to Adam Weinzapfel, IDEM, Solid Waste Permits, IGCN 1154, 100 North Senate Ave., Indianapolis, IN 46204-2251.

The OEA will provide you with notice of any pre-hearing conferences, preliminary hearings, hearings, stays, or orders regarding this decision if you submit a written request to the OEA. If you do not provide a written request to the OEA, you will no longer be notified of any proceedings pertaining to this decision.

More information on the review process is available at the website for the Office of Environmental Adjudication at <http://www.in.gov/oea>.

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HSPAXLP



INDIANA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

We Protect Hoosiers and Our Environment.

100 N. Senate Avenue • Indianapolis, IN 46204
(800) 451-6027 • (317) 232-8603 • www.idem.IN.gov

Eric J. Holcomb
Governor

Brian C. Rockensuess
Commissioner

March 28, 2024

VIA EMAIL heather@wpl.lib.in.us

Westchester Public Library
200 West Indiana Avenue
Chesterton, Indiana 46304

Re: Documents for Public View

Dear Sir/Madam:

A copy of a permit decision for the NIPSCO Bailly Generating Station is attached. Also attached is a copy of the public notice announcing this permit decision and indicating the documents' availability at your library.

This public notice will soon appear in a local newspaper, and on the IDEM Public Notice website at: <https://www.in.gov/idem/public-notices/>. Please make these documents available to the public for the next 20 days since this permit can be appealed.

Please date and sign the enclosed verification of receipt form and email it to AWeinzap@idem.IN.gov with a description of how and when the document was made available to the public for review.

If you have any questions, please contact me by dialing (317) 232-7612 or by e-mail at AWeinzap@idem.IN.gov.

Sincerely,

Adam Weinzapfel
Solid Waste Permits Section
Office of Land Quality



Visit on.IN.gov/survey or scan the QR code to provide feedback.

We appreciate your input!



Enclosures: Notice of Decision
Permit Letter
Verification of Receipt Form

cc with enclosures: Porter County Health Department
Porter County Commissioners
Porter County Solid Waste Management District
Director, Northwest IDEM Regional Office
President, Chesterton Town Council

From: [Poe, Diane L](#)
To: [Chaddock, Heather](#)
Cc: [Weinzapfel, Adam](#)
Subject: NIPSCO Baily Generating Station Permit Closure Plan Approval
Date: Thursday, March 28, 2024 8:37:00 AM
Attachments: [032824 64-01 Approval Letter - Library.pdf](#)
[image001.png](#)
[image002.png](#)
[image003.png](#)
[image004.png](#)
[image005.png](#)
[image006.png](#)

Attached is correspondence regarding the above property in Porter County. A hardcopy will **not** be sent to the addressee.

If you have any questions, please contact Adam Weinzapfel, permit manager. His information is in the last paragraph of page 1 above his signature block.



Indiana Department of
Environmental Management

Diane Poe
OLQ Permits Branch Administrative Assistant
• (317) 232-4473 • dpoe@idem.IN.gov

Protecting Hoosiers and Our Environment



www.idem.IN.gov