

TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY
CHAPTER 517. DISPOSAL OF COAL COMBUSTION RESIDUALS FROM
ELECTRIC UTILITIES

Field Code Changed

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

- Subchapter 1. General Provisions [NEW]
 - 252:517-1-1 Scope and purpose [NEW]
 - 252:517-1-2 Applicability of other regulations [NEW]
 - 252:517-1-3 Definitions [NEW]
 - 252:517-1-4 Terms not defined by Act or rule [NEW]
 - 252:517-1-5 Test methods and map scales [NEW]
 - 252:517-1-6 Severability [NEW]
 - 252:517-1-7 Permits [NEW]
- Subchapter 3. Permit Provisions and Applications [NEW]
 - Part 1. General Provisions [NEW]
 - 252:517-3-1 Duration of permit [NEW]
 - 252:517-3-2 Permit transfer [NEW]
 - 252:517-3-3 General requirements [NEW]
 - 252:517-3-4 Oath required [NEW]
 - 252:517-3-5 Legal right to property [NEW]
 - 252:517-3-6 Permit applications [NEW]
 - 252:517-3-7 Aesthetic enhancement [NEW]
 - Part 3. Required Maps and Drawings [NEW]
 - 252:517-3-31 General requirements [NEW]
 - 252:517-3-32 General location map [NEW]
 - 252:517-3-33 Flood plain map [NEW]
 - 252:517-3-34 Quadrangle topographic map [NEW]
 - 252:517-3-35 Existing contour map [NEW]
 - 252:517-3-36 Site map [NEW]
 - 252:517-3-37 Design drawings [NEW]
 - 252:517-3-38 Groundwater resource and usage map [NEW]
 - 252:517-3-39 Surface geologic map [NEW]
 - 252:517-3-40 Highest groundwater contour map [NEW]
 - 252:517-3-41 Potentiometric surface map [NEW]
 - 252:517-3-42 Site-specific cross sections [NEW]
 - 252:517-3-43 Fill cross section map [NEW]
 - 252:517-3-44 Excavation contour map [NEW]
 - 252:517-3-45 Top of liner contour map [NEW]
 - 252:517-3-46 Completion map [NEW]
- Subchapter 5. Location Restrictions [NEW]
 - 252:517-5-1 Placement above the uppermost aquifer [NEW]
 - 252:517-5-2 Wetlands [NEW]
 - 252:517-5-3 Fault areas [NEW]

252:517-5-4 Seismic impact zones [NEW]
 252:517-5-5 Unstable areas [NEW]
 252:517-5-6 Scenic rivers [NEW]
 252:517-5-7 Recreation/preservation areas [NEW]
 252:517-5-8 Endangered or threatened species [NEW]
 252:517-5-9 100-year floodplain [NEW]
 252:517-5-10 Public water supply [NEW]
 252:517-5-11 Wellhead protection area [NEW]
 Subchapter 7. Subsurface Investigation [NEW]
 Part 1. General Provisions [NEW]
 252:517-7-1 Applicability [NEW]
 252:517-7-2 General [NEW]
 252:517-7-3 Compliance with OWRB rules [NEW]
 252:517-7-4 Drilling plan [NEW]
 252:517-7-5 Drilling [NEW]
 Part 3. Data Collection [NEW]
 252:517-7-31 Data collection [NEW]
 252:517-7-32 Borehole logs [NEW]
 252:517-7-33 Lithologic sample logs [NEW]
 252:517-7-34 Geophysical logs [NEW]
 252:517-7-35 Soil and rock sampling [NEW]
 252:517-7-36 Soil tests [NEW]
 252:517-7-37 Soil reports [NEW]
 252:517-7-38 Regional hydrogeologic study [NEW]
 Part 5. Groundwater Study [NEW]
 252:517-7-51 General [NEW]
 252:517-7-52 Piezometers required [NEW]
 252:517-7-53 Piezometer details [NEW]
 252:517-7-54 Groundwater elevation measurements [NEW]
 252:517-7-55 Area rainfall [NEW]
 252:517-7-56 Shallow saturated zone investigation [NEW]
 Part 7. Surface Penetration Plugging [NEW]
 252:517-7-71 Plugging requirements [NEW]
 Subchapter 9. Groundwater Monitoring/Corrective Action [NEW]
 252:517-9-1 Applicability [NEW]
 252:517-9-2 Groundwater monitoring systems [NEW]
 252:517-9-3 Reserved [NEW]
 252:517-9-4 Groundwater sampling and analysis requirements [NEW]
 252:517-9-5 Detection monitoring program [NEW]
 252:517-9-6 Assessment monitoring program [NEW]
 252:517-9-7 Assessment of corrective measures [NEW]
 252:517-9-8 Selection of remedy [NEW]
 252:517-9-9 Implementation of the corrective action program [NEW]
 Subchapter 11. Design Criteria [NEW]

252:517-11-1 Design criteria for new CCR landfills and any lateral expansion of a CCR landfill [NEW]

252:517-11-2 Liner design criteria for existing CCR surface impoundments [NEW]

252:517-11-3 Liner design criteria for new CCR surface impoundments and any lateral expansion of a CCR surface impoundment [NEW]

252:517-11-4 Structural integrity criteria for existing CCR surface impoundments [NEW]

252:517-11-5 Structural integrity criteria for new CCR surface impoundments and any lateral expansion of a CCR surface impoundment [NEW]

Subchapter 13. Operational Requirements [NEW]

252:517-13-1 Air criteria [NEW]

252:517-13-2 Run-on and run-off controls for CCR landfills [NEW]

252:517-13-3 Hydrologic and hydraulic capacity requirements for CCR surface impoundments [NEW]

252:517-13-4 Inspection requirements for CCR surface impoundments [NEW]

252:517-13-5 Inspection requirements for CCR landfills [NEW]

252:517-13-6 Discharges [NEW]

252:517-13-7 Leachate collection and management for CCR landfills [NEW]

Subchapter 15. Closure and Post-closure Care [NEW]

252:517-15-1 Performance standard [NEW]

252:517-15-2 Timelines [NEW]

252:517-15-3 Certification of final closure [NEW]

252:517-15-4 Final closure [NEW]

252:517-15-5 Inactive CCR surface impoundments [NEW]

252:517-15-6 Closure or retrofit of CCR units [NEW]

252:517-15-7 Criteria for conducting the closure or retrofit of CCR units [NEW]

252:517-15-8 Alternative closure requirements [NEW]

252:517-15-9 Post-closure care requirements [NEW]

252:517-15-10 Post-closure use of property [NEW]

252:517-15-11 Certification of post-closure performance [NEW]

252:517-15-12 Land use restrictions [NEW]

Subchapter 17. Cost Estimates and Financial Assurance [NEW]

Part 1. General Provisions [NEW]

252:517-17-1 Applicability [NEW]

252:517-17-2 Effective date [NEW]

252:517-17-3 Duty to maintain financial assurance [NEW]

252:517-17-4 Updating [NEW]

252:517-17-5 Permit transfers [NEW]

252:517-17-6 Effect of non-renewal of, or failure to maintain or provide financial assurance [NEW]

252:517-17-7 Substitute financial assurance [NEW]

252:517-17-8 Economic life of CCR unit [NEW]

Part 3. Cost Estimates [NEW]

252:517-17-31 Cost estimates for closure [NEW]

252:517-17-32 Cost estimates for post-closure care [NEW]

252:517-17-33 Cost estimates for corrective action [NEW]

252:517-17-34 Annual adjustments to cost estimates [NEW]
Part 5. Determination of Cost Estimates [NEW]
252:517-17-51 Cost estimates for closure and post-closure [NEW]
252:517-17-52 Cost estimates for corrective action [NEW]
Part 7. Financial Assurance Mechanisms [NEW]
252:517-17-71 General requirements for financial assurance mechanisms [NEW]
252:517-17-72 Use of multiple mechanisms [NEW]
252:517-17-73 Allowable financial assurance mechanisms [NEW]
252:517-17-74 Cash [NEW]
252:517-17-75 Certificate of deposit [NEW]
252:517-17-76 Trust fund [NEW]
252:517-17-77 Escrow account [NEW]
252:517-17-78 Surety bond [NEW]
252:517-17-79 Letter of credit [NEW]
252:517-17-80 Insurance [NEW]
252:517-17-81 Corporate financial test [NEW]
252:517-17-82 Corporate guarantee [NEW]
252:517-17-83 State approved mechanism [NEW]
Subchapter 19. Record Keeping, Notification, and Posting of Information to the Internet [NEW]
252:517-19-1 Recordkeeping requirements [NEW]
252:517-19-2 Notification requirements [NEW]
252:517-19-3 Publicly accessible internet site requirements [NEW]
Appendix A. Constituents for Detection Monitoring [NEW]
Appendix B. Constituents for Assessment Monitoring [NEW]
Appendix C. Borings in Drilling Plan [NEW]
Appendix D. Borehole Depth Calculation Table [NEW]
Appendix E. Procedure for Calculating Closure Cost Estimates for Financial Assurance [NEW]
Appendix F. Procedure for Calculating Post-closure Cost Estimates for Financial Assurance [NEW]

SUMMARY:

The Department is proposing to create a new Chapter, OAC 252:517 (Disposal of Coal Combustion Residuals from Electric Utilities). The Department is proposing OAC 252:517 in response to the United States Environmental Protection Agency (EPA) promulgating 40 CFR Part 257, Subpart D which prescribes new requirements pertaining to the disposal of coal combustion residuals (CCR) generated from the combustion of coal at electric utilities and independent power producers. DEQ has incorporated the requirements of 40 CFR Part 257, Subpart D in its entirety and inserted, where appropriate, pertinent language to enable DEQ to permit CCR facilities and enforce the new Chapter.

DEQ is proposing to exclude solid waste disposal facilities used exclusively for disposal of CCR, or coal ash, from applicability under OAC 252:515. Therefore, it is proposed that the provisions within OAC 252:515 currently applicable to CCR facilities will no longer apply, and those facilities will be regulated under the new OAC 252:517.

AUTHORITY:

Environmental Quality Board, 27A O.S. §§ 2-2-101, 2-10-201, and 2-10-301(D); Solid Waste Management Advisory Council, 27A O.S. § 2-2-201.

COMMENT PERIOD:

Deliver or mail written comments on the proposed rules to the contact person from December 1, 2015 through January 13, 2016. Oral comments may be made at the Solid Waste Management Advisory Council meeting at 9:00 a.m. on January 14, 2016 and at the Environmental Quality Board meeting at 9:30 a.m. on February 19, 2016.

PUBLIC HEARINGS:

Before the Solid Waste Management Advisory Council at 9:00 a.m. on January 14, 2016, in the Multi-Purpose Room, first floor of the Department of Environmental Quality, 707 N. Robinson, Oklahoma City, OK 73102.

Before the Environmental Quality Board at 9:30 a.m. on February 19, 2016, in the Multi-Purpose Room, first floor of the Department of Environmental Quality, 707 N. Robinson, Oklahoma City, OK 73102.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

The Department requests that business entities affected by these proposed rules provide the Department, within the comment period and in dollar amounts if possible, the increase or decrease in the level of direct costs such as fees and the indirect costs such as reporting, record keeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by a particular entity due to compliance with the proposed rules.

PROPOSED RULES:

Copies of the proposed rules may be obtained from the contact person, may be viewed on the DEQ website at www.deq.state.ok.us/LPDnew/LPPProprules.htm, or may be reviewed at the Department of Environmental Quality, 707 N. Robinson, Oklahoma City, Oklahoma 73102.

RULE IMPACT STATEMENT:

The Rule Impact Statement for the proposed rules will be on file at the Department of Environmental Quality and may be requested from the contact person, or viewed on the DEQ website at www.deq.state.ok.us/LPDnew/LPPProprules.htm.

CONTACT PERSON:

Mike Stickney, Land Protection Division, Solid Waste Compliance Section, P.O. Box 1677, Oklahoma City, OK 73101-1677, e-mail at Mike.Stickney@deq.ok.gov, phone 405-702-5100, or fax 405-702-5101.

ADDITIONAL INFORMATION:

Persons with disabilities who desire to attend the public hearing and need assistance should notify the contact person three days in advance of the meeting during business hours at 405-702-5100 or by using TDD relay number 1-800-522-8506.