MINUTES
Solid Waste Management Advisory Council
January 14, 2016 Regular Meeting
Department of Environmental Quality
Multipurpose Room 707 N. Robinson
Oklahoma City, Oklahoma

Official SWMAC Approval
at September 15, 2016 meeting

Notice of Public Meeting - The Solid Waste Management Advisory Council convened for its Regular Meeting at 9:00 a.m. on January 14, 2016, in accordance with the Open Meeting Act, Section 311 of Title 25 of the Oklahoma Statutes. Notice of Regular Meeting was filed to the Office of the Secretary of State on October 20, 2015. Agendas were posted on the entrance doors at the Department of Environmental Quality (DEQ) Central Office in Oklahoma City at least twenty-four hours prior to the meeting. Mr. Jeff Shepherd, Chair, called the meeting to order. Ms. Quiana Fields called roll and confirmed that a quorum was present. Mr. Shepherd talked on safety precautions in case of an emergency.

MEMBERS PRESENT
Todd Adcock
Rodney Cleveland
Steve Landers
Jim Linn
Matthew Newman
Traci Phillips
Bill Torrean
Jeff Shepherd

DEQ STAFF PRESENT
Kelly Dixon
Mike Stickney
Ted Alford
Martha Penisten
Kole Kennedy
Michele Woods
Patrick Roby
Melissa Adler-Mckibben
Jon Roberts
Jeff Baddick
Kelly Dillon
Karina Pollard
David Cates
Rachel Hanigan
Lloyd Kirk
Emily Stengel
Martin Grafton
Michele Wynn
Hillary Young
Quiana Fields

MEMBERS ABSENT
Hdo Hershley
Brenda Merchant

OTHERS PRESENT
Lynette Wrany, Court Reporter

Approval of the Minutes for the September 17, 2015 Solid Waste Management Advisory Council Meeting – Mr. Newman moved approval of the September 17, 2015 Minutes and Mr. Linn made the second.

See transcript pages 6 – 7

Roll Call

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<th>Yes</th>
<th>Matthew Newman</th>
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Director's Report – Ms. Kelly Dixon, Division Director of the Land Protection Division (LPD) provided an update on division accomplishments.

See transcript pages 7 – 14
**Discussion of Composting Rules** – Mr. Patrick Riley, Environmental Programs Manager of the LPD, stated the composting rule is a follow-up discussion from the Council meeting in September regarding the U.S. Composting Council’s model compost rule template and potential rule change. Following discussion by the Council and none by the public, Mr. Shepherd called for a motion. Mr. Cleveland made a motion that the DEQ staff would review the rules and come up with draft rules by the next meeting. Ms. Phillips made the second.

*See transcript pages 14 – 23*

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**Discussion of separation from groundwater requirements in Chapter 515 Management of Solid Waste** – Mr. Riley stated this is an update regarding the inward gradient landfill, an alternative to current practice in Oklahoma. This item was tabled at the Council meeting in September due to a party that was interested in changing the separation from groundwater rules to allow landfill construction at an elevation within that would be lower than the water table. The presenter was to come back at this meeting with additional information related to environmental performance of those types of constructed landfills. The presenter has decided to no longer pursue this initiative in Oklahoma and the Department is unaware of anyone or any other party that wants to pursue this at this time. Therefore, there is no further discussion on this issue.

*See transcript pages 23 - 24*

A. **Discussion of proposed new Chapter 517 Disposal of Coal Combustion Residuals from Electric Utilities** – Ms. Hillary Young, Engineering Manager of the LPD, stated 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. Following questions by the Council and the public, Mr. Linn moved to approve with specified changes Ms. Young mentioned. Mr. Adcock made the second.

*See transcript pages 24 – 59*

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B. **Discussion of proposed changes to Chapter 515 Management of Solid Waste** – Mr. Riley stated the Department is proposing to amend OAC 252:515-1-1 by excluding solid waste disposal facilities used exclusively for disposal of coal combustion residuals, or coal ash, generated from the combustion of coal at electric utilities and independent power producers, from the applicability of OAC 252:515. Following questions by the Council and none by the public, Mr. Linn moved for approval and Mr. Adcock made the second.

*See transcript pages 60 – 63*

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<td>Jeff Shepherd</td>
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Public Forum – No public issues were raised.

New Business – None

Adjournment – Meeting adjourned at 10:25 a.m.

Transcript and Attendance Sheet are attached as an official part of these Minutes.
**DEPARTMENT OF ENVIRONMENTAL QUALITY**
PUBLIC MEETING
SOLID WASTE MANAGEMENT ADVISORY COUNCIL

**Waste Management Advisory Council Meeting**
JANUARY 14, 2016 - 9:00 A.M.
Multi-Purpose Room, 1st Floor
DEQ Building
707 N. Robinson
Oklahoma City, OK

Reported by Lynette H. Wrany, C.S.R. #1167

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**COUNCIL MEMBERS PRESENT:**
1. Todd Adcock
2. Rodney Cleveland
3. Steve Landers
4. Jim Linn
5. Matthew Newman
6. Traci Phillips
7. Bill Torneten
8. Jeff Shepherd - Chair

**COUNCIL MEMBERS ABSENT:**
9. Ida Hershey
10. Brenda Merchant - Vice-Chair

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**Call to order - 9:08 A.M.**

**CHAIR SHEPHERD:** This January 14th, 2016 meeting of the Solid Waste Management Advisory Council was called in accordance with the Open Meeting Act.

**Notice was filed with the Secretary of State on October the 20th, 2015. The Agenda was duly posted on the doors of the DEQ, 707 North Robinson, Oklahoma City, Oklahoma at least 24 hours prior to the meeting.**

Only matters appearing on the posted Agenda may be considered at this regular meeting. In the event that this meeting is continued or reconvened, public notice of the date, time, and place of the continued meeting will be given by announcement at this meeting. Only matters appearing on the Agenda of a meeting which is continued may be discussed at the continue or reconvened meeting.

**MS. QUIANA FIELDS**
**Mr. Adcock.**
**Mr. ADCOCK**
**Here.**

**MS. QUIANA FIELDS**
**Mr. Cleveland.**
**Mr. CLEVELAND**
**Here.**

**MS. QUIANA FIELDS**
**Ms. Hershey is absent.**

**Mr. Landers**
**Mr. LANDERS**
**Here.**

**MS. QUIANA FIELDS**
**Mr. Linn?**
**MR. LINN**
**Here.**

**MS. QUIANA FIELDS**
**Ms. Merchant is absent.**

**Mr. Newman?**
**Mr. NEWMAN**
**Here.**

**MS. QUIANA FIELDS**
**Ms. Phillips?**
**MS. PHILLIPS**
**Here.**

**MS. QUIANA FIELDS**
**Mr. Torneten?**
**MR. TORNETEN**
**Here.**

**MS. QUIANA FIELDS**
**Mr. Shepherd.**
**CHAIR SHEPHERD**
**Here.**

**MS. QUIANA FIELDS**
**We have a quorum.**

**CHAIR SHEPHERD:** Thanks. Okay. Now I have to read this safety – health and safety issue. So,

**bear with me. It's long.**

We have some safety and housekeeping items to address. For those in attendance that are not DEQ employees, if there is a fire emergency, exit the building in an orderly manner, but do not leave without reporting to the head count meeting location, which is located across Robinson Avenue to the east at the Fire Union Building parking lot. A member of DEQ's building operations will do a head count and collect your visitor's badge if you decide to leave. If there is a tornado or other emergency, there will be an announcement over the PA system. For a tornado, you will be asked to shelter in place here.

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<td>1 in the building away from the windows and doors and/or</td>
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<td>2 follow the instructions from the announcement.</td>
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<td>3 If needed, the First Aid Kit and automatic</td>
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<td>4 electronic defibrillator are located in the handicap</td>
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<td>5 restroom, which is located just outside the room –</td>
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<td>6 this room's southwest exit doors on the right.</td>
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<td>7 This room has two exits, one in the northwest</td>
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<td>8 corner and one located near the southwest part of the</td>
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<td>9 room.</td>
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<td>10 The building has three exits: First are the</td>
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<td>11 front doors on the east side of the building where you</td>
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<td>12 entered. Second are the doors located in shipping and</td>
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<td>14 security desk. Those lead to the alley on the north</td>
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<td>15 side of the building. Last are the employee entrance</td>
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<td>16 doors on the southwest corner of the building. The</td>
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<td>17 front doors should be used, if possible.</td>
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<td>18 The men's restroom is located on the left in</td>
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<td>19 the main hallway past the elevators. The women's</td>
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<td>20 restroom is located on the – on the cross hallway</td>
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<td>21 just past the men's room or out the southwest room</td>
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<td>22 exit doors, around the corner on the right.</td>
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<td>23 There are no planned alarm system or elevator</td>
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<td>24 alarm tests scheduled for today.</td>
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<td>25 All right.</td>
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| **MR. TORNETEN:** Do you take questions on that? |
| **CHAIR SHEPHERD:** There's lighted lights that |
| will guide you out. |
| **TRACI:** Made two meetings in a row on time. |
| **MR. LINN:** We get a round of applause for |
| that. Thank you, Traci. |
| **CHAIR SHEPHERD:** All right. Here we go. |
| **ROLL CALL:** Has been done. Approval of the |
| minutes for September 17th, 2015 Solid Waste |
| Management Advisory Coun. Meeting. |
| **MR. NEWMAN:** Motion to approve. |
| **MR. LINN:** Second. |
| **MS. QUIANA FIELDS:** Mr. Adcock? |
| **MR. ADOCK:** Yes. |
| **MS. QUIANA FIELDS:** Mr. Cleveland? |
| **MR. CLEVELAND:** Yes. |
| **MS. QUIANA FIELDS:** Mr. Landers? |
| **MR. LANDERS:** Abstain. |
| **MS. QUIANA FIELDS:** Mr. Lin? |
| **MR. LINN:** Yes. |
| **MS. QUIANA FIELDS:** Mr. Newman? |
| **MR. NEWMAN:** Yes. |
| **MS. QUIANA FIELDS:** Ms. Phillips? |
| **MS. PHILLIPS:** Yes. |
| **MS. QUIANA FIELDS:** Mr. Torneten? |

| 1 abandoned and boarded up. That clean up spurred lots |
| 2 of development. There's a lot of houses, there are |
| 3 housing developments and community centers. So this |
| 4 is a really good story that highlights the clean up |
| 5 aspect of Brownfields and how it leads to |
| 6 redevelopment and adds to the tax base. So that's |
| 7 something that we -- a story that we like to tell. |
| 8 Also, the Okmulgee Development -- Okmulgee |
| 9 Area Development Authority in Okmulgee received the |
| 10 National Brownfield Award this past year for its |
| 11 efforts to redevelop the old Basin Refinery. It was a |
| 12 partnership between the county and the city and |
| 13 Phillips 66 to clean up this refinery. |
| 14 The clean up is done. And after the clean |
| 15 up, the OADC has been able to beneficially bring |
| 16 businesses to that property. There's a hotel, there's |
| 17 a Ford dealership that's going in and there's also a |
| 18 it's a hardware store. I can't think of the name |
| 19 of it right now. And they have plans for continued |
| 20 development. So they're bringing more tax base into |
| 21 the community because of the clean up. |
| 22 We also started this year a project to go |
| 23 across the state and assess school laboratories for |
| 24 chemicals and help them inventory what they have and |
| 25 clean up the chemicals. I think we've got 25 out of |

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1 33 applications that we have completed to date.
2 And the good news story about this, I think,
3 not only is it were we able to help the schools clean
4 these up, but we’re going a step beyond and referring
5 them to our pollution prevention program where they
6 can counsel them on how to give them some tools on how
7 to use small-scale chemistry and not collect so many
8 chemicals in the future. So they have a — it’s a
9 long-term goal.
10 And I wanted to end today with a project that
11 got recognition from Keep Oklahoma Beautiful. Matt
12 Newman with Covanta was recognized for his efforts on
13 a mercury thermostat take-back program. This program
14 was created to collect mercury thermostats. Covanta
15 reached out to Locke Supply, who was willing to play.
16 And, you know, what’s interesting about that is Locke
17 Supply is a local Oklahoma company. And they were
18 willing to participate when these big box stores
19 weren’t. So and DEQ partnered with Covanta, a lot of
20 the public utilities partnered with Covanta to get the
21 word out and make this project a success.
22 And I don’t know if you want to say a few
23 words about that, but, you know, you were recognized
24 by Keep Oklahoma Beautiful in November for your
25 efforts.

1 MR. NEWMAN: Yeah. It’s just a great example
2 of public-private partnerships. And Fenton and
3 Patrick helped tremendously. It was Product
4 Stewardship Institute, Thermostat Recycling
5 Corporation, Locke Supply, and then OG&E, AEP-PSO and
6 ONG all reaching out to their clients.
7 And the electric utilities have thermostat
8 replacement programs. So this is a shoe in to keeps
9 these thermostats out of landfills and to recycle them
10 appropriately. I think ONG will — has already
11 contacted over 800,000 of their clients. So, with the
12 utilities’ outreach and education, really the DEQ’s
13 outreach and education, we’ll make a huge difference
14 and make this a success.
15 MS. KELLY DIXON: Yeah. We’ve even got our
16 local environmental folks out in the — out in the
17 counties reaching out and spreading the word about
18 this program, too. So we’re — it has been a success
19 and we think it will continue to be a success.
20 So those are some of the good news stories I
21 just wanted to share with you guys. And I’m going to
22 turn it back over to Patrick.
23 MR. PATRICK RILEY: Thank you.
24 MR. NEWMAN: Could I give you one more good
25 news story? Is that all right, Patrick?

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<td>really gotten on board. We have energy champions on each floor that promote energy conservation tips. So just one more thing that we’re happy to brag about.</td>
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<td>A couple more updates and then we’ll get on to the next Agenda Item. The — at our last meeting we were tasked with — by the Council to coordinate a work group to review the Closure and Post-closure Costs Worksheets. I just want to provide an update and let the Council and the public know that we’ve had that first meeting of the work group. Ms. Merchant, Mr. Adcock, Mr. Shepherd, and Mr. Landers participated with DEQ Staff to review those. In accordance with the rules, we have to review those worksheets every five years. And so, we’re — we’re working on that now. We have another meeting scheduled for later this month, I believe. And once we have results, we’ll present those for review and discussion to the Council.</td>
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<td>MR. TORNETEN: So those won’t go in effect for this year’s Closure/Post-closure Cost Estimates?</td>
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<td>MR. PATRICK RILEY: Correct. One last thing, if you — if you’re not aware already, there will be a Board and Council orientation at DEQ for — primarily for new Board and Council Members, just a training event to let them know about what DEQ does and its mission and activities. And that’s going to be held on — at DEQ on March 24th. And I think the members are going to be contacted individually for that. But just a heads up to be looking for information about that. And if there aren’t any questions, then that concludes the Director’s Report.</td>
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<td>CHAIR SHEPHERD: All right. Does anybody have any questions? All right. We’ll move on to Item Number 5, Discussion of the Composting Rules, a follow-up discussion regarding the U.S. Composting Council’s model compost rule template and potential rule change.</td>
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<td>MR. PATRICK RILEY: Okay. If you remember, the — at the last meeting in September, we presented some information from the U.S. Composting Council in the form of their model rules template. And we did this on — at the request of the Chairman of the Council to see if there were or if there would be benefit to modifying our rules that address composting. And there was some discussion at the meeting and a motion was made to keep this as an Agenda Item for this meeting.</td>
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<td>CHAIR SHEPHERD: Okay.</td>
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<td>MR. PATRICK RILEY: And the motion was to recommend that everyone read the model rule template and come back with questions and comments and continue the discussion today. I’m sharing the input received from businesses or industries that were interested in composting. And so, we’re here to continue that discussion and receive any of those comments. And then, I have some information that I’d like to share about the conversation that DEQ had with the Oklahoma Department of Agriculture.</td>
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<td>CHAIR SHEPHERD: Okay.</td>
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<td>MR. PATRICK RILEY: So is there information that the Council would like to share, or questions or comments?</td>
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<td>CHAIR SHEPHERD: I mean, I read the rules. I read them four or five times. So, you know, as far as I’m concerned, I think they’re a good base to move from and develop our own set or copy those or however we want to move forward. U.S. Composting Council.</td>
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<td>MR. PATRICK RILEY: So just to benefit those that maybe weren’t at the last meeting or just to summarize what we’re talking about, the way the Solid Waste Rules are structured now, we have a scenario that regulates composting facilities that are for yard waste only and it does not have a lot of design criteria or regulatory oversight. And then we have composting rules, design criteria and regulation for anything else that might be composted. For yard waste only, it’s a very simple process and requires only filing a plan with the DEQ. But if you wanted to add anything else to yard waste to compost, then, the way the rules are structured, you’re required to design and operate a facility that’s very much like a landfill, with compost liner system, leachate collection, groundwater monitoring, which becomes somewhat cumbersome and maybe overly burdensome and unnecessary for some types of composting materials.</td>
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<td>So the plan or the composting template that we presented, it uses a tiered approach that tries to balance design and operating criteria with the perceived or anticipated human health and environmental risk of the feedstock and volume of material to be composted so that it, the regulatory and operating criteria, would become more stringent as risk — with higher risk.</td>
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| 24 | So we thought that that might be something that Oklahoma could — could work with to develop some **LOWERY & ASSOCIATES, INC.** (405) 319-9990
1 rules that — that would allow and encourage recycling
2 to occur and not burden unnecessarily facilities that
3 wanted to participate in it.
4 It is used in other states. The Department
5 of Agriculture offers composting permits for
6 agriculturally-based materials. The DEQ has a
7 memorandum of understanding with the Department of
8 Agriculture to set out and identify areas where we may
9 have overlapping jurisdiction to kind of understand
10 the gray areas between the two agencies.
11 And the conversations we had with them most
12 recently, last month, composting was a topic and they
13 are being approached by facilities that want to
14 compost things beyond agriculture materials. And from
15 what we've heard in that conversation with the
16 Department of Ag is that they want to encourage
17 composting, but they're also somewhat uncomfortable in
18 granting permits for things that — that are outside
19 their scope and they would much rather see DEQ do
20 that. But they've also shared the observation that
21 from what they're hearing is that the regulated
22 community sees DEQ's regulations as more burdensome,
23 and so they're coming to the Department of Ag seeking
24 permits.
25 Wanting to promote composting, they hate to

1 turn people away. But, again, they think it's DEQ's
2 role. So they will be a -- if we decide to pursue
3 rules, I think that they will be a stakeholder and
4 we'll involve them in that conversation.
5 CHAIR SHEPHERD: What about — what about
6 wastewater sludge? Is that governed under the DEQ as
7 far as --
8 MR. PATRICK RILEY: Wastewater sludge is
9 regulated by the Water Quality Department. So we have
10 --
11 CHAIR SHEPHERD: We have some jurisdiction
12 there. Okay. All right. So where do we move on from
13 here? Do we just move to adopt rules?
14 MR. PATRICK RILEY: It's up to you how we
15 want to proceed. We would do a couple of things. One
16 would be to direct staff to do some research and
17 present some -- our findings. We could present rules
18 to look at.
19 CHAIR SHEPHERD: Have we -- have we bothered
20 to have discussions with the Board on this?
21 MR. PATRICK RILEY: No.
22 CHAIR SHEPHERD: Okay. Maybe we should
23 invite some of them to join our discussions. Because I
24 would hate to drag them up to the Board and then have
25 them say we're not approving these.

1 that type of facility are so large that it discourages
2 anyone from pursuing that project further.
3 MR. CLEVELAND: Okay. So — so what — what
4 you guys are kind of looking for direction from this
5 Board is action to task DEQ to further look at
6 modifying the rules or changing the rules to — that
7 reflects the Composting Council that — their
8 recommendations, and then also to help with these
9 permitting?
10 MR. PATRICK RILEY: Yeah. We could — we're
11 looking for some direction. Basically we're looking
12 for — we're asking if you think it's worthwhile for
13 us to do this.
14 I would point out that the Composting Council
15 template is just an example. I don't know that —
16 that we would implement those rules as they are. I
17 like, in theory, the tiered approach. I think it has
18 benefit. But we wouldn't take that verbatim and make
19 rules from it.
20 But that's a place to start and I like that
21 approach. If you think there's merit in that, we can
22 look at it, continue to look at it and present some
23 ideas.
24 MR. CLEVELAND: Would there be any statutory
25 requirements? Any — would there need to be anything
SWMAC Meeting 1/14/2016

1 for this upcoming legislative year, anything that’s
2 done that would have to — that would be reflected on
3 —
4 MR. PATRICK RILEY: I wouldn’t anticipate
5 anything, especially this year. I defer to my
6 attorney about statutes, if he’s aware of anything
7 that might be impacted by a composting rule.
8 MR. TAD ALFORD: To my knowledge, I don’t
9 think there any statutory change would be necessary.
10 DEQ does have statutory authority to issue commercial
11 composting permits. And so, it would be more just of
12 administrative rules to help, I guess, facilitate this
13 tiered approach.
14 But again, we have jurisdiction over this
15 topic and I don’t think there is any statutory
16 impediment, no.
17 MR. TORNETEN: You’d still have to follow the
18 Uniform Permitting Rules, as far as issuing a permit?
19 MR. TAD ALFORD: Correct.
20 MR. PATRICK RILEY: Yes.
21 MR. TAD ALFORD: So as of the right now the
22 different types of permits, Tier I through III, is set
23 out in Chapter 4. So, depending on what we do come up
24 with, it’s possible that there my be changes necessary
25 to Chapter 4 of DEQ’s Rules, which isn’t presented to

22

1 this body. But that may be a consideration as well.
2 MR. LANDERS: So what tier is it if someone
3 comes to the DEQ wanting a composting permit?
4 MR. PATRICK RILEY: For yard waste only.
5 it’s —
6 MR. LANDERS: No, the —
7 MR. PATRICK RILEY: For something?
8 MR. LANDERS: Yes.
9 MR. PATRICK RILEY: It would be a Tier III.
10 It would be a Land Disposal Facility Permit.
11 CHAIR SHEPHERD: I mean, I think it’s
12 worthwhile, I mean, I think that there are certainly
13 quite a bit of waste streams and feedstocks out there
14 that could be composted.
15 I guess do we need a motion?
16 MR. CLEVELAND: I make a motion that we
17 direct the DEQ staff to review it.
18 CHAIR SHEPHERD: Do you want them to come up
19 with some draft rules by the next meeting?
20 MR. CLEVELAND: Yeah. Yes.
21 MS. PHILLIPS: I’ll second.
22 CHAIR SHEPHERD: Okay.
23 MS. QUIANA FIELDS: Mr. Adcock?
24 MR. ADCOCK: Yes.
25 MS. QUIANA FIELDS: Mr. Cleveland?

24

1 Oklahoma.”
2 MR. PATRICK RILEY: If you remember, at our
3 last meeting we had a presentation by a party that was
4 interested in changing the separation from groundwater
5 rules to allow landfill construction at a elevation
6 within — that would be lower than the water table.
7 CHAIR SHEPHERD: Correct.
8 MR. PATRICK RILEY: And are known as an
9 inward gradient landfill. And at that meeting the
10 item was tabled until the next — until this meeting
11 to allow the presenter to come back with additional
12 information, especially related to environmental
13 performance of those types of constructed landfills.
14 The presenter has decided to no longer pursue
15 this initiative in Oklahoma. So — and I’m unaware of
16 anyone or any other party that wants to pursue this at
17 this time. So, I think we’ve concluded the discussion
18 on this issue.
19 CHAIR SHEPHERD: Okie dokie. All right.
20 Moving on to Number 7. Public Rulemaking Hearings.
21 Discussion of proposed new Chapter 517 Disposal of
22 Coal Combustion Residuals from Electric Utilities.
23 MR. PATRICK RILEY: And I’ll ask Hillary
24 Young, our Chief Engineer, to present some information
25 regarding the proposed rules.

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| 25 | CHAIR SHEPHERD: Okay. Quick question. At the end of this, we’re voting on the approval of these rules. Correct? |
| 26 | CHAIR SHEPHERD: Okay. |
| 27 | MR. KENT FLETCHER: I’m Kent Fletcher. I’m with Western Farmers. |
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1. CHAIR SHEPHERD: Okay.
2. MR. KENT FLETCHER: I’m Kent Fletcher. I’m with Western Farmers.
3. CHAIR SHEPHERD: Okay.
4. MR. KENT FLETCHER: But they’re not -- if we look at them, it is just to be considered. It is not a deal killer as far as Western Farmers is concerned. Whether we want this process to go forward.
5. CHAIR SHEPHERD: Okay. All right, Hillary.
6. MS. HILLARY YOUNG: I’m Hillary Young. Chair of the Land Protection Division.
7. And, as you know, the federal rule on the disposal of coal combustion residuals or CCR.
8. generated by electric utilities and independent power producers became final on April 17th, 2015. The rule became effective on October 19th, 2015. The federal rule establishes minimum national criteria for the disposal of CCR in landfills and surface impoundments. The final federal rule is self-implementing and EPA does not require states to adopt it. However, regardless of state implementation, facilities that are affected by the rule are required to abide by it. Citizen, states and Tribes can only enforce requirements under RCRA citizen suits. After internal discussions and meeting with stakeholders. DEQ decided to move forward with adopting the federal requirements. There are several reasons why DEQ decided to move forward on this. First, we believe strongly that DEQ should be in charge of environmental compliance in Oklahoma. Second, there is strong support from the industry to be regulated by these rules to pursue this rule adoption.
9. We have been told by industry that complying with state rules may offer some protection from citizen suits. If there is a citizen suit, it makes industry’s position stronger if they have a permit and a compliance schedule with DEQ. Third, it provides a mechanism for resolving compliance issues without having to resort to lawsuits, a huge benefit to citizens, the regulated community and the State of Oklahoma. And finally, it gives those facilities required to follow these rules the ability to not have to follow two separate rules, a state set and a federal set.
10. Now EPA recommended that states revise their Solid Waste Management Plans to address the issuance of CCR rules and to submit revisions of these plans to EPA for approval. The Solid Waste Management Plan will serve as a mechanism where the state will set out, as part of our overall Solid Waste Program, how we intend to regulate CCR landfills and surface impoundments. For the Solid Waste Management Plan to be approved, the state must meet the minimum requirements of the federal rule. And this will be accomplished through this rule making. I’d like to stress again that these rules must meet the federal requirements and they are strongly supported by the industry that will be regulated by them. Once DEQ decided to pursue this rule making, we reviewed statutory requirements to ensure there were no contradictions with the federal rules. It was determined two minor changes were needed. The first relates to locating landfills in seismic impact zones. Title 27A exempts NHIW landfills from this string requirement. so the proposed statutory change will remove the exemption for CCR landfills only. It is

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1 adopt it. However, regardless of state implementation, facilities that are affected by the rule are required to abide by it. Citizen, states and Tribes can only enforce requirements under RCRA citizen suits. After internal discussions and meeting with stakeholders, DEQ decided to move forward with adopting the federal requirements. There are several reasons why DEQ decided to move forward on this. First, we believe strongly that DEQ should be in charge of environmental compliance in Oklahoma. Second, there is strong support from the industry to be regulated by these rules to pursue this rule adoption.

We have been told by industry that complying with state rules may offer some protection from citizen suits. If there is a citizen suit, it makes industry’s position stronger if they have a permit and a compliance schedule with DEQ. Third, it provides a mechanism for resolving compliance issues without having to resort to lawsuits, a huge benefit to citizens, the regulated community and the State of Oklahoma. And finally, it gives those facilities required to follow these rules the ability to not have...
1 important to note that CCR landfills may still be
2 located in seismic impact zones if engineered
3 correctly. The proposed change will not affect other
4 NHIW landfills or MSW landfills.
5 The second proposed statutory change is found
6 in the Mining Code of Title 45. Current statutory
7 language exempted disposal of coal ash in non-coal
8 mining operations from all solid waste permitting
9 requirements. The proposed statutory change removes
10 this exemption. DEQ and the Department of Mines have
11 worked together to address the proposed change.
12 DEQ also looked into imposing fees on those
13 facilities that would be regulated by these rules.
14 Stakeholders were supportive. However, when opening a
15 fee statute, you never know what might happen.
16 Therefore, DEQ did not feel comfortable with opening
17 the statute at this time.
18 Now that I have given some background, I’d
19 like to move on to the rules themselves. We chose to
20 create a new Chapter 517, rather than incorporate
21 requirements into Chapter 515, for several reasons.
22 First, it allowed us to simply move the federal rules
23 into the new chapter largely intact.
24 Second, it makes it clear who is required to
25 follow these rules. So there is no confusion for our

---

1 other facilities that are regulated by the 515s.
2 And third, it makes the EPA approval process
3 go much more smoothly.
4 We began this process by taking the federal
5 rules and applicable rules in Chapter 515 and putting
6 them together into Chapter 517. So every rule in
7 Chapter 517 is either from the federal rules or is
8 from Chapter 515.
9 Because the federal rules are
10 self-implementing, our challenge was making those
11 rules work in the context of a permitting program.
12 Some general changes to the federal rules were made
13 throughout Chapter 517. And those changes include the
14 most obvious, which is the citation changes to 517
15 within the rules, any statements regarding national
16 applicability were removed, and the addition of
17 language to require submittal of plans to DEQ.
18 Now I will briefly – I can briefly go over
19 each subchapter to show you where we inserted language
20 from Chapter 515 into the federal rules.
21 Subchapter 1. General Provisions. Section
22 1-1 through 1-3 are from the federal rules 257.50
23 through 257.53.
24 In 1-2, Applicability of other regulations,
25 this is from 257.52. And in 257.52 there is a

---

1 statement regarding CCR units being subject to 257.31,
2 257.32 and 257.33. We’ve removed that statement,
3 because those are references to the other areas of the
4 federal rules, because these referred to locating in a
5 flood plane, endangered species and discharge to
6 surface waters. This language already existed in the
7 515, so we moved that language over from the 515 and
8 put it in the appropriate places in the 517s. And
9 I’ll remind you of that when we get there. So those
10 are also federal requirements.
11 In 1-3, the Definitions, we tweaked some to
12 fit with state regs and then added the definition of
13 CLIMOCs, which is a publication used to obtain 30-year
14 mean precipitation data in wetlands.
15 Section 1-4 through 1-7’s is from the 515s.
16 1-4, Terms not defined by Act or rule. This is
17 covering our bases if something’s not explicitly
18 defined. Test methods and map scales. It’s just
19 standard language from the 515s over what test methods
20 to use. Sovereignty.
21 And then I want to call your attention to
22 1-7, Permits. This is the section directing CCR units
23 to be permitted. In (a) Permit required. This is
24 simply stating that a permit is required for all CCR
25 units. And in (b) Existing CCR landfills, Existing

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1. Permitting Act. Legal right to property. Permit application. What we want to see in a permit application. And then the maps that we want to look at to help us evaluate a permit application. And again, this is straight from the 515s.

2. Next is Subchapter 5, Location restrictions. Section 5-1 through 5-5 is directly from the federal rules 257.60 through 257.64. 5-6 through 5-11 is directly from the 515s. Please note that the 100-year flood plane and endangered or threatened species that were in the applicability statement I talked about in Subchapter 1 are addressed here. So these are also requirements of the federal rules.

3. We've moved over the additional location restrictions from the 515s to maintain consistency throughout the Solid Waste Program and so that disposal facilities are sited consistently across our solid waste program.

4. Next is Subchapter 7, Subsurface investigation. This entire subchapter is from Subchapter 7 of the 515s. The reason we moved this into the 517s is because the federal rules have a separation from groundwater requirement but don't set out any procedures for how to make that determination. The subsurface investigation is applicable to new CCR units for lateral expansions of CCR units.

5. Next is Subchapter 9, Groundwater monitoring and corrective action. This subchapter is from the federal rules 257.90 through 257.98, with the exception of 517-9-7(e), and we added the requirement to discuss the results of the corrective measures assessment in a public meeting. This requirement is from the 515s and was carried over for program consistency and because we think public involvement at this point is important.

6. Subchapter 11, Design Criteria. All of this subchapter is from the federal rules 257.70 through 257.74, with a couple of exceptions. Starting at 517-11-1(a)(2), we added language from the 515s to submit a QAQC plan, obtain written approval from DEQ to construct, provide written notification of the construction, and to hold a pre-construction meeting. This language was added again to 517-11-3(c) under Design Criteria for surface impoundments.

7. Again, taking a self – this is taking a self-implementing program and putting it into the context of a permitting program.

8. Subchapter 13, Operational Requirements. Section 13-1 through 13-5 are from 257.80 through 257.84 of the federal rules. 13-6 through 13-7 are from the 515s. Discharges, this language was taken from the 515s. However, this is, again, the third item that was referred to in the applicability portion that referenced other federal rules. So this is also a federal requirement. 13-7 is Leachate collection and management for CCR landfills.

9. Subchapter 15, Closure and Post-closure care. Section 15-1 through 15-4 is from the 515s. And this just has performance standard, DEQ notification, certification, and final closure – and final closure. And then Section 15-5 through 15-9 of the federal rules – 257 is from the federal rules 257.100 through 257.104, with the exception of 517-15-9(c)3. We added language from the 515 that allows DEQ to extend the post-closure period. And one thing to note here is that post closure is 30 years.

10. Section 15-10 through 15-12 from Chapter 515 as well, and that has to do with post-closure use of property, certification of post-closure performance, and land use restrictions.

11. Next is Subchapter 17, Cost Estimates and Financial Assurance. All of this is from Chapter 515, Subchapter 27. Because the federal rule is self-implementing, there are no financial assurance requirements. As you know, financial assurance is needed because, in the event a facility cannot complete closure or post-closure, the state is required to step in and use the financial assurance to complete it. Financial assurance will apply to all CCR units, so both landfills and surface impoundments.

12. Subchapter 19 is Recordkeeping. This is from the federal rules 257.105 through 257.107. For 517-19-2 we added a statement which stated that for those plans requiring approval by DEQ, submittal of the plan constitutes notification.

13. Next we have our Appendices. Appendices A and B are the Constituents for Detection and Assessment Monitoring. C and D are Bore cores and Drilling Plan and Borehole Depth Calculation Table. And Appendix E and F are for Calculating Closure and Post-closure Care.

14. And I would like to note that there is an error in the footnotes that we will correct. In Appendix E, we referenced — in footnote b, we referenced 252.515-27-34(a)(2). That should be 252.517-17-34(a)(2). And then again in c, it should be – it is referenced as 252 515-27-8(a)(2), and it should be 252.517-17-8(a)(2). So we'll make those changes.

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<td>the footnotes 252 515-27-34(a)(2), should be</td>
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<td>252.517-17-34(a)(2). And again in a where we</td>
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<td>3</td>
<td>reference 515, we will change that to 517</td>
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<td>requirement.</td>
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<td>And then as you -- as Jeff said earlier. we</td>
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<td>received comments yesterday. And, due to the time</td>
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<td>7</td>
<td>constraints, we were unable to prepare a formal</td>
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<td>8</td>
<td>written response. But we will provide that for the</td>
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<td>Board if these rules pass. And with the exception of</td>
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<td>10</td>
<td>number 3, we don't propose any changes to these rules</td>
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<td>based on these comments. However, we can go over the</td>
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<td>comments or I can just talk about number 3. Whatever</td>
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<td>you all like.</td>
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<td>14</td>
<td>MR. LANDERS: What would be the response to</td>
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<td>15</td>
<td>Number 2?</td>
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<td>16</td>
<td>MS. HILLARY YOUNG: Number 2.</td>
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<td>17</td>
<td>MR. LANDERS: Or why are you not addressing</td>
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<td>18</td>
<td>that?</td>
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<td>19</td>
<td>MS. HILLARY YOUNG: Well, Number 2 talks</td>
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<td>20</td>
<td>about the use of the term &quot;waste.&quot; And it says, &quot;In</td>
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<td>21</td>
<td>numerous locations throughout proposed a OAC 252-517,</td>
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<td>22</td>
<td>use of the term &quot;waste&quot; is inappropriate. A more</td>
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<td>23</td>
<td>appropriate approach would be to substitute &quot;CCR&quot; for</td>
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<td>24</td>
<td>&quot;waste.&quot; And they gave some examples.</td>
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<td>And our response to that is the federal --</td>
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<td>1</td>
<td>waste is sprinkled throughout the -- both the federal</td>
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<td>2</td>
<td>portions that we moved in and some of the state part.</td>
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<td>3</td>
<td>So the federal portion needs to stay the same, because</td>
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<td>4</td>
<td>we don't know how it would be perceived by EPA when</td>
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<td>5</td>
<td>trying to get the Solid Waste Management Plan</td>
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<td>approved. We can change the state portion, but we</td>
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<td>7</td>
<td>don't think it's necessary, because these rules are</td>
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<td>for the disposal of CCR, so it is a waste.</td>
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<td>9</td>
<td>If the Council feels strongly that we should</td>
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<td>10</td>
<td>change the state portion, then -- then we could -- we</td>
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<td>11</td>
<td>could look at -- we could propose doing that. We</td>
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<td>12</td>
<td>could go through and look at it right now, because,</td>
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<td>13</td>
<td>you know, we want to vote on these rules today. So if</td>
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<td>14</td>
<td>any changes need to be made, we would --</td>
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<td>15</td>
<td>MR. CLEVELAND: Well, was waste defined in</td>
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<td>16</td>
<td>all the definitions? I didn't see that.</td>
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<td>17</td>
<td>MS. HILLARY YOUNG: No. And I'd like to --</td>
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<td>18</td>
<td>you know, part of the reason for this was that, you</td>
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<td>19</td>
<td>know, they said that. &quot;CCR may be managed/stored on a</td>
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<td>20</td>
<td>temporary basis in a CCR unit before beneficial reuse,</td>
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<td>21</td>
<td>thus the term of &quot;waste&quot; isn't always appropriate.&quot;</td>
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<td>22</td>
<td>But, you know, this chapter is -- we have a</td>
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<td>23</td>
<td>beneficial use exception and the chapter does not</td>
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<td>24</td>
<td>apply to practices that meet the definition of</td>
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<td>beneficial use. So when it -- before it becomes a</td>
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<td>beneficial use, before it's been beneficially used,</td>
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<td>it's a waste until it's -- until it's set out and sent</td>
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<td>for beneficial use.</td>
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<td>CHAIR SHEPHERD: So they can't store it on a</td>
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<td>5</td>
<td>temporary basis. It's a waste. If they're storing it</td>
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<td>6</td>
<td>for temporary -- on a temporary basis for beneficial</td>
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<td>use, it's still a waste, so it has to be stored</td>
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<td>8</td>
<td>accordingly.</td>
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<td>9</td>
<td>MS. HILLARY YOUNG: Right.</td>
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<td>10</td>
<td>CHAIR SHEPHERD: Okay.</td>
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<td>11</td>
<td>MR. TAD ALFORD: Just for clarification, once</td>
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<td>12</td>
<td>CCR is beneficially reused, it's exempt from these</td>
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<td>rules and no longer considered a waste. Again,</td>
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<td>we've -- we're the Solid Waste Management Advisory</td>
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<td>Council. If it is -- if it is going into a unit</td>
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<td>that's subject to regulation by these provisions, it,</td>
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<td>by definition, would be a waste.</td>
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<td>18</td>
<td>But again, we're not saying that the material</td>
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<td>can't be beneficially reused and, therefore, basically</td>
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<td>20</td>
<td>taken out of the category of a waste. But these rules</td>
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<td>21</td>
<td>apply to the material as it is considered a waste. If</td>
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<td>22</td>
<td>it's beneficially reused, it's not a -- these rules</td>
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<td>don't apply, and, therefore, we don't see that the</td>
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<td>change is necessary.</td>
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<td>But again, we're open with whatever the</td>
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1 minimum pound, you know, that someone can store on
2 site for a length of period of time? Or how do you
3 know? And I'm sure maybe in-and-out weight, you guys
4 are looking at that in reports from an in-and-out
5 weight perspective, that material is actually
6 being turned over within a year's time period?
7 MR. TAD ALFORD: So with respect to the CCR
8 units, they're not necessarily tracking of how
9 much material is going into the unit, like a municipal
10 solid waste would.
11 MS. PHILLIPS: Right.
12 MR. TAD ALFORD: Because they don't pay fees
13 on these. So even if CCR is disposed of in an
14 impoundment or landfill, so long as they appropriately
15 beneficially reuse the material, I don't think we
16 would necessarily care how long it had been in that
17 unit. But so long as it is in the unit, it has to be
18 handled in accordance with these rules.
19 So, so long as the material's managed in
20 accordance with the disposal rules, there wouldn't be
21 anything that would prevent them from in the future
22 being able to beneficially reuse that material.
23 CHAIR SHEPHERD: So the bottom line is,
24 that's inconsequential what the -- right?
25 MR. TAD ALFORD: That's our opinion. Because

1 again, if these rules apply, it is a waste. But that
2 doesn't, again, prevent them from being able to
3 beneficially reuse that material in the future.
4 MR. PATRICK RILEY: And I'd point out that at
5 some of our facilities here, at least one of our
6 facilities that I'm aware of, there was CCR extracted
7 from previous disposal when a market was determined
8 that it was available. So, it actually went into the
9 disposal area and reclaimed CCR and then used it
10 beneficially. And otherwise, it could have remained
11 where it was disposed without further regulation. So
12 I think it's when it has value it can be reclaimed and
13 used.
14 MR. LANDERS: Sorry, I said I hope
15 so.
16 MS. PHILLIPS: So you -- you don't have
17 people stockpiling, I mean for the perceived or, you
18 know, the perception that there will be beneficial
19 reuse, since you're seeing that it's going straight,
20 you know, it's being tracked and handled as a waste?
21 MR. MIKE STICKNEY: What you're discussing is
22 what we would call speculative accumulation. And if
23 we were aware of that, then, yes, there are guidelines
24 and rules to regulate that, to eliminate the
25 possibility of it just being stockpiled and

1 sidestepping disposal.
2 MS. PHILLIPS: Okay. Okay
3 CHAIR SHEPHERD: I think getting back to
4 Hillary, reading number 3, it does. I mean, the
5 comment seems to be confusing, which makes, I guess,
6 the rule even more confusing. But what are -- what
7 does the rule say and then what is -- what is -- what
8 are we trying -- what is this person trying to say
9 here?
10 MS. HILLARY YOUNG: Well, I think that what
11 they're saying is, because there is -- what they're
12 saying -- what the comment is is that Proposed 252
13 517-1-7 requires the existing CCR impoundments be
14 permitted upon expiration. And this is when I was
15 talking about the permits that were permitted under
16 516 would either have to be -- get a permit prior to
17 expiration or by October 19th, 2018.
18 CHAIR SHEPHERD: Uh-huh.
19 MS. HILLARY YOUNG: And they're saying that
20 the permit -- application permitting scheme for
21 existing CCR impoundments that are not expanding is
22 unclear in the proposed rules. And that is because
23 the permitting of an existing impoundment follows a --
24 in our mind follows the provisions and process set out
25 in Subchapter 3. And so, it refers to them as like a

1 new CCR unit. And so we would consider this for sold
2 waste purposes a new CCR unit for permitting purposes.
3 But, however, it may be beneficial for us to
4 clarify this in the language. So we actually have
5 some language proposed to change it to make it clearer.
6 that where it is applicable to these types of
7 impoundments. And that would be for 517-3-3 in the
8 General Requirements, and (b) where it says New permit
9 applications. Applications requesting a permit for a
10 new CCR unit or lateral expansion of an existing CCR
11 unit. And then we could add -- we would add the
12 language, "or existing CCR surface impoundments
13 without a solid waste permit" into that, so that if it's
14 clear that these apply to those surface impoundments
15 that are existing under other rules.
16 CHAIR SHEPHERD: Right.
17 MS. HILLARY YOUNG: And then again in
18 517-3-6. Permit applications, we would also add under
19 (a). New application, a permit application for a new
20 CCR unit, and then add the language, "and an existing
21 surface impoundment without a solid waste permit shall
22 include all the information required by the Oklahoma
23 Uniform Permitting Act." And that way it's -- it's
24 very clear and there's no confusion.
25 CHAIR SHEPHERD: So if somebody has -- if
1 somebody has a surface impoundment permitted under 616
2 and they want to build another one, they would have to
3 come and get another — a permit under 517?
4 MS. HILLARY YOUNG: Right. If it’s a
5 CCR impoundment, yes.
6 CHAIR SHEPHERD: That makes sense.
7 MS. HILLARY YOUNG: Right. This is — this
8 --
9 CHAIR SHEPHERD: Same as solid waste, right?
10 MS. HILLARY YOUNG: Yes. Yes. And — and I
11 think this comment is just — is specifically just
12 referring to the existing — the existing impoundments
13 that are currently permitted under 616, which are
14 actually CCR impoundments. So — and they have to
15 move over to the 517s.
16 CHAIR SHEPHERD: Okay.
17 MR. TORNETEN: So when they move over,
18 they’re starting from scratch, as far as the
19 permitting process. They have got to submit all the
20 same information that a new permit would have to.
21 They have to go through public comment, all of that.
22 MS. HILLARY YOUNG: That’s right. That’s
23 right. But under — I would like to point out though,
24 too, that these surface impoundments, the 616s, have
25 to get new permits every five years. And under the

1 517s, they will be permitted for the life of the
2 facility. So they only have to do it once.
3 CHAIR SHEPHERD: And this is similar to a
4 Solid Waste. And we know — we’ve got the situation
5 where we have the big permitted boundary and you can
6 permit, you know, little cells inside. But if
7 somebody’s going outside of that permitted boundary.
8 then they have got to go through the whole permitting
9 process. Does that make sense?
10 MR. TAD ALFORD: Just to — Excuse me.
11 Sorry.
12 CHAIR SHEPHERD: Go ahead.
13 MR. TAD ALFORD: Just to clarify. It’s also a
14 product of the Uniform Permitting Code that’s in the
15 statutes and also within Chapter 4 of our rules. DEQ
16 wouldn’t be able to issue these units a new permit
17 without going through the process. And it will be a
18 Tier III permit. And so, unfortunately, it will
19 require all that process that is as if it would be
20 starting out as a new facility. So our hands are kind
21 of tied with that respect.
22 CHAIR SHEPHERD: Yeah.
23 MR. TORNETEN: So that’s the opportunity for
24 anybody that doesn’t like coal combustion power plants
25 to step up and say we protest this.

1 was from, you said, from 45?
2 MS. HILLARY YOUNG: Yeah. Title 45 is the
3 Mining Code, because the Department of Mines permits
4 facilities that do reclamation in mining. And coal
5 ash mines are the only ones that are exempted from the
6 federal rules. So a limestone quarry would have to —
7 that would be permitted under the Department of Mines
8 now will have to get a landfill permit under the 517s.
9 So in the Mining Code, it had exempted all. It
10 exempted coal mining and non-coal mining reclamation
11 projects basically. That —
12 CHAIR SHEPHERD: So if a — so if a coal —
13 if CCR is going back into an old strip mine. It did
14 not need a permit?
15 MS. HILLARY YOUNG: Right. It’s exempt. And
16 it would fall under the Department of Mines’
17 jurisdiction.
18 CHAIR SHEPHERD: Okay. And now it’s going to
19 fall under 517?
20 MS. HILLARY YOUNG: Not coal mines. It would
21 be other mines that are non-coal mining activities.
22 such as limestone.
23 CHAIR SHEPHERD: So you couldn’t take CCR to
24 an old limestone quarry?
25 MS. HILLARY YOUNG: Yes. But it will have to
SWMAC Meeting 1/14/2016

1. have a permit under the 517s.
2. CHAIR SHEPHERD: But you could still take it
3. to an old coal mine?
4. MS. HILLARY YOUNG: Right. And that’s a
5. federal requirement. So our hands are tied on that as
6. well.
7. CHAIR SHEPHERD: All right. Fees? So we’re
8. going into this without extracting a fee?
9. MS. HILLARY YOUNG: Right.
10. CHAIR SHEPHERD: From these people?
11. MS. HILLARY YOUNG: That’s right.
12. CHAIR SHEPHERD: How are we going to regulate
13. them? And how are we going to allocate resources
14. without fees?
15. MS. HILLARY YOUNG: We have decided to
16. -- to use our existing resources to regulate
17. these facilities, because some of them we
18. already regulate them. We regulate the
19. landfills that are existing. We already
20. regulate them without them paying fees. And
21. we -- and the surface impoundments are
22. regulated by Water Quality now.
23. And so, our program has decided to, you know,
24. that we will just use the resources that we have now
25. to take it on, because the industry had asked us to

1. take on these rules.
2. CHAIR SHEPHERD: How many more facilities are
3. we adding?
4. MS. HILLARY YOUNG: Well, we anticipate one
5. coming over from the Department of Mines. Potentially
6. there could be two surface impoundments at existing
7. facilities.
8. CHAIR SHEPHERD: Okay.
9. MS. HILLARY YOUNG: But I’m not -- I’m not
10. positive about that number. But it’s not many.
11. CHAIR SHEPHERD: Okay. All right.
12. MR. TORNETEN: In the closure cost appendices
13. here you reference unit costs obtained from DEQ’s
14. website. Do those costs exist now? Or are those to
15. be added? Or --
16. MR. PATRICK RILEY: It’s the same costs that
17. are associated with Chapter 515.
18. MR. TORNETEN: Same costs?
19. MR. PATRICK RILEY: Same costs.
20. MS. HILLARY YOUNG: Yeah. I’d like to note, 21. too, that with the updating of unit costs, I mean,
22. this is covered in 517-17-4 on page 96. Appendix E
23. and F are to be updated coinciding with the update of
24. H and I in 252:515. And that something we’re
25. working on now so that we don’t have these you know.

1. staggering update requirements. And I just wanted to
2. point that out.
3. CHAIR SHEPHERD: Have we done an analysis?
4. Do we feel like those costs, unit costs that we have
5. for 515, are sufficient for the 517s?
6. MR. PATRICK RILEY: You also need to remember
7. that NHMV landfills are currently regulated under 515
8. and are required to submit closure cost estimates
9. using Appendix H and I from 515.
10. CHAIR SHEPHERD: Okay.
11. MR. PATRICK RILEY: So this isn’t new. I
12. mean, they will be subject to the same regime as they
13. were previously under 515.
14. CHAIR SHEPHERD: Okay.
15. MR. PATRICK RILEY: So it isn’t as big of a
16. change as it sounds like.
17. CHAIR SHEPHERD: Okay. Any other questions
18. from the Council?
19. Is there any other questions or comments from
20. the public?
21. Thank you, Hillary.
22. MR. HOWARD GROUND: Yes. My name is Howard
23. Ground. I’m the President of Environmental Federation
24. of Oklahoma, which is a trade organization of
25. industries here within the state and we work strictly

1. on environmental and water issues.
2. And as Hillary discussed -- and the
3. membership includes the electric utilities, as well as
4. some of those that also beneficially reuse some of the
5. ash that’s generated at the utilities.
6. And so, as the member companies, we discussed
7. it within our organization. We -- they approached the
8. DEQ asking, like Hillary mentioned, that the DEQ take
9. on this regulation of this new CCR, instead of just
10. leaving it up to third-party citizen lawsuits for
11. compliance.
12. We have been regulated forever, since these
13. units were built. So we wanted to continue being
14. under DEQ regulation. And as she mentioned, we do
15. feel it gives some protection that we, you know, to
16. show the public we are in compliance. When we are
17. complying with state regs we will, therefore be
18. complying with federal regs.
19. And we just want to really thank the DEQ for
20. taking this on. We know it’s a burden. It’s not
21. something they had to do. But it’s something we
22. requested and we’ve been working with them since July
23. to get this done. And then we will also be working
24. with them at the legislature. Because there are
25. changes that will be done within the law itself.

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And I just wanted to say that. And just so you know, that is a Council know that, as industry, we would rather be regulated by the DEQ than just rely on the EPA. So we think that’s very important.

CHAIR SHEPHERD: Okay. Thank you.

MR. TOM LAZARSKI: Good morning. Chairman and Members of the Council. My name is Tom Lazarski. I’m with Corporate Environmental from OG&E Energy Corp.

I just wanted to briefly state our words of support for this rulemaking of the federal Coal Combustion Rules. I wanted to acknowledge also the effort of DEQ here, the team they put together for adopting — putting this rule together. It took a lot of time and effort. And as Bud also mentioned, it is a multi-disciplinary with utilities supporting this.

You know, we understand that the adoption of these federal rules that we feel it rightly places responsibility with regulating and protecting the state resources of ODEQ. And so, the adoption of the federal CCR rule, I guess, will provide us with more regulatory certainty as utilities, such as ours.

So, I want to keep my remarks brief, but I just want to let the Council know that we are supporting this rule. So, thank you.

CHAIR SHEPHERD: Thank you.

MR. TORNETEN: I had one other question. If 616 rules and now it has to get permitted under these new rules, are there differences in the requirements for the technical requirements, like for liners or anything that would — location restrictions, anything like that?

MS. HILLARY YOUNG: There are differences.

For instance, like separation from groundwater. In the 616 it’s actually 15 feet and for these rules it’s 5 feet. There is other — there is — there is requirements for monitoring wells for these surface impoundments from Water Quality. It’s kind of an option, up to the discretion of DEQ, and where the placement of the impoundment is. This, it’s required, no matter what.

And I think — there are certain — certain demonstrations that have to be made for these impoundments as far as location restrictions. And that’s for — that’s the federal portion. And so, they’ll have to make certain demonstrations that they meet some of the location requirements of the federal rules.

Is there anything else that you guys can think of?


MS. HILLARY YOUNG: Oh, and financial assurance. Right.

MR. TORNETEN: How about leachate collection?

Are 517 impoundments required to do leachate collection?

MR. PATRICK RILEY: No, they aren’t.

MS. HILLARY YOUNG: No.

MR. TORNETEN: Won’t they be required to do leachate collection under 517?

MS. HILLARY YOUNG: I don’t think so.

MR. PATRICK RILEY: It’s a surface impoundment.

MS. HILLARY YOUNG: Yeah. Because it’s a — yeah.

CHAIR SHEPHERD: It’s a pond, right?

MS. HILLARY YOUNG: It is. It is. It’s like wet.

MR. CLEVELAND: We have leachate ponds.

MS. HILLARY YOUNG: In a lot of states it’s like wet storage. Because you — the reason why these were put into — these rules even came around is because of the incident in Tennessee where they had the impoundment that collapsed. And we don’t have those type of impoundments in Oklahoma. And in various places in the rules it makes distinctions between impoundments that are below ground and impoundments that are above ground and certain requirements that are required.

For instance, like they have to do like a hazard assessment. And — and that’s, you know, to determine whether or not they’ll have some sort of a failure. And that would apply to impoundments that would be above ground.

So, there is some — there’s a lot of nuances to the impoundment part of it. It’s all federal.

comes from the federal requirements. So no matter what, they have to follow those anyway.

CHAIR SHEPHERD: Okay.

MR. KENT FLETCHER: I’m Kent Fletcher with Western Farmers Electric Cooperative. And I just wanted to say, to back up what Bud and others have said, we appreciate DEQ’s work on this. And we support it. And it is better — we prefer to be regulated by DEQ on this issue rather than defend ourselves in federal court because of what we have to put on the Internet. So I just think it will be better through DEQ for everyone. Thank you.
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<td>1 CHAIR SHEPHERD: Any other questions or comments from the public?</td>
<td>1 MS. QUIANA FIELDS: Mr. Adcock?</td>
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<td>2 MR. ADCOCK: Yes.</td>
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<td>3 Any discussions? Any more discussion from the Council?</td>
<td>3 MS. QUIANA FIELDS: Mr. Cleveland?</td>
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<td>4</td>
<td>4 MR. CLEVELAND: Yes.</td>
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<td>5 All right. Do I hear a motion to approve Chapter 517, Disposal of Coal Combustion Residuals from the Electric Utilities?</td>
<td>5 MS. QUIANA FIELDS: Mr. Landers?</td>
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<td>6</td>
<td>6 MR. LANDERS: Yes.</td>
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<td>7</td>
<td>7 MS. QUIANA FIELDS: Mr. Linn?</td>
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<td>8 MR. LINN: So moved.</td>
<td>8 MR. LINN: Yes.</td>
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<td>9 MR. LANDERS: I have a question first. So do we also voting on -- do we have a suggested change on the application timeline? Was there a -- was there a proposal there also?</td>
<td>9 MS. QUIANA FIELDS: Mr. Newman?</td>
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<td>10 MR. NEWMAN: Yes.</td>
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<td>11</td>
<td>11 MS. QUIANA FIELDS: Ms. Phillips?</td>
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<td>12</td>
<td>12 MS. PHILLIPS: Yes.</td>
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<td>13</td>
<td>13 MS. QUIANA FIELDS: Mr. Torneten.</td>
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<td>14 MR. TAD ALFORD: Not on the timeline.</td>
<td>14 MR. TORNETEN: Yes.</td>
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<td>15</td>
<td>15 MS. QUIANA FIELDS: Mr. Shepherd?</td>
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<td>16 MR. LANDERS: A clarification.</td>
<td>16 CHAIR SHEPHERD: Yes.</td>
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<td>17 MR. TAD ALFORD: With respect to the scope, yes. And so, if we could make it clear, however you're proposing to adopt the rules, whether it's inclusive of the articulated changes, and if we want to go over those again, we can, or without those proposed changes and as you have the text in front of you.</td>
<td>17 MS. QUIANA FIELDS: Motion passed.</td>
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<td>18 CHAIR SHEPHERD: All right. Now we've got to take those to the Board, correct?</td>
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<td>19 MR. PATRICK RILEY: Correct.</td>
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<td>20 MR. LANDERS: I don't believe that there are any issues that we're aware of.</td>
<td>21 CHAIR SHEPHERD: And we have -- do we have -- do we have some issues with the Board?</td>
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<td>21</td>
<td>22 MR. TAD ALFORD: I don't believe that there are any issues that we're aware of.</td>
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<td>22 CHAIR SHEPHERD: Okay. What are the changes?</td>
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<td>23 MS. HILLARY YOUNG: The changes are in the appendixes. You know, the costs estimates where we had the -- the footnotes that have the wrong citations.</td>
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<td>24</td>
<td>25 CHAIR SHEPHERD: Seismic issues?</td>
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<td>Answer the other one is for the existing surface impoundments that are coming over from the 616, including that language in the permitting language where we added the statement of existing CCR surface impoundments without a Solid Waste Permit to the need for a new permit application. And also again, under Permit Applications, following the Uniform Permitting Act.</td>
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<td>MR. TORNETEN: If their five-year renewal period's coming up before these are finalized, then they can get their five-year renewal but then the 2018 rule would kick in?</td>
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<td>MR. TAD ALFORD: Correct.</td>
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<td>3</td>
<td>MR. TORNETEN: But they'd still have to get their five-year renewal?</td>
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<td>4</td>
<td>MR. TAD ALFORD: Correct. And based on the fact that again the federal rules apply regardless.</td>
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<td>I'm sure it, if there was a particular issue, that DEQ could make a – make a common sense approach or take a common sense approach on how that unit is permitted.</td>
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<td>6</td>
<td>But I don't know if any of that fall within that category. But, if they do, I'm sure that we could come to a solution that would be both protective of human health and the environment as well as workable for the unit.</td>
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<td>7</td>
<td>CHAIR SHEPHERD: Any other questions or comments?</td>
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<td>8</td>
<td>Do I hear a motion to approve discussion of the changes to 517?</td>
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<td>9</td>
<td>MR. LINN: So moved.</td>
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<td>10</td>
<td>MR. ADCOCK: Second.</td>
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<td>11</td>
<td>MS. QUIANA FIELDS: Mr. Adcock?</td>
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<td>12</td>
<td>MR. ADCOCK: Yes.</td>
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1 regulations go to the Governor and then she has to
2 approve them?
3 MR. TAD ALFORD: They go to the
4 legislature. And depending on their action or
5 Inaction, the Governor can then --
6 CHAIR SHEPHERD: Okay. So we're going to --
7 If the Board approves them in February, they'll go to
8 the legislature this time around? Okay. Do we know
9 how the Governor stands on these rules?
10 MR. TAD ALFORD: Only through what -- well,
11 the rulemaking process does require these rules to be
12 provided to the Governor's office.
13 CHAIR SHEPHERD: Uh-huh.
14 MR. TAD ALFORD: And then she has 45 days
15 from receipt to reject them, if she so chooses.
16 CHAIR SHEPHERD: Okay.
17 MR. TAD ALFORD: They were not rejected. I
18 had discussions with the General Counsel of the
19 Governor's Office and there weren't any -- there
20 weren't any comments made that suggest that these
21 rules will be killed upon arrival.
22 CHAIR SHEPHERD: Okay. She did that once
23 before.
24 MR. TAD ALFORD: Yeah. We'll remain
25 hopeful.

1 CHAIR SHEPHERD: Okay.
2 MS. MICHELLE WYNNE: We will monitor and
3 follow that process also --
4 CHAIR SHEPHERD: Okay.
5 MS. MICHELLE WYNNE: -- as part of the
6 legislative process.
7 CHAIR SHEPHERD: Okay. Any other comments,
8 questions, concerns?
9 Is there any new business?
10 All right. I guess we are adjourned.
11 Meeting Adjourned – 10:42 A.M.

** C E R T I F I C A T E **
1 STATE OF OKLAHOMA )
2 ) SS:
3 COUNTY OF OKLAHOMA )
4
5 I, Lynette Wrany, a Certified Shorthand Reporter
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9 the same appears herein.
10 I further certify that I am not a relative of,
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15 typewritten pages contain a full, true and correct
16 transcript of my stenography notes so taken, during
17 said meeting.
18 WITNESS my hand and seal this the 16th day of

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<td><a href="mailto:david.cates@deq.ok.gov">david.cates@deq.ok.gov</a></td>
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<td><a href="mailto:lundy.riser@aes.com">lundy.riser@aes.com</a></td>
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<td>Michelle Wynn</td>
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<td><a href="mailto:michelle.wynn@deq.ok.gov">michelle.wynn@deq.ok.gov</a></td>
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THE SOLID WASTE MANAGEMENT ADVISORY COUNCIL
RULEMAKING RECOMMENDATION
TO THE ENVIRONMENTAL QUALITY BOARD

Identification of Proposed Rulemaking:

Chapter Number and Title:
OAC 252:517 Disposal of Coal Combustion Residuals from Electric Utilities [NEW]

On January 14, 2016 the members of this Council, by authority vested in them by the Oklahoma Environmental Quality Code (27 O.S. Sec. 2-2-201), by roll call vote, recommended to the Environmental Quality Board that the rulemaking described above be adopted as:

_____ X _____ permanent [take effect after legislative review]

_____ emergency [temporary, to take effect upon approval by the Governor because of time]

This Council has considered the proposed rulemaking and comments about it and determined, to the best of its knowledge, that all applicable requirements of the Oklahoma Administrative Procedures Act have been followed.

This Council authorizes the Department to prepare this recommended rulemaking for the Board, making any changes approved by the Council, correcting typographical, grammatical and reference errors, and formatting them as required by the Office of Administrative Rules. This is to be done with the understanding that such changes shall neither alter the sense of what this Council recommends nor invalidate this recommendation.

Respectfully,

Chair or Designee: ____________________________ Date Signed: 1/14/16

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THE SOLID WASTE MANAGEMENT ADVISORY COUNCIL
RULEMAKING RECOMMENDATION
TO THE ENVIRONMENTAL QUALITY BOARD

Identification of Proposed Rulemaking:

Chapter Number and Title:
OAC 252:515 Management of Solid Waste

On January 14, 2016 the members of this Council, by authority vested in them by the Oklahoma Environmental Quality Code (27 O.S. Sec. 2-2-201), by roll call vote, recommended to the Environmental Quality Board that the rulemaking described above be adopted as:

_________ permanent [take effect after legislative review]

_________ emergency [temporary, to take effect upon approval by the Governor because of time]

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Respectfully,

[Signature]
Chair of Designee

Date Signed: 1/14/16

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