

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

Before the Solid Waste Management Advisory Council at 9:00 a.m. on January 14, 2021.  
Before the Environmental Quality Board at 9:30 a.m. on February 19, 2021.

**RULE IMPACT STATEMENT**

1. **DESCRIPTION:** The Department of Environmental Quality (DEQ), in response to changes to 40 CFR 257 Subpart D, is proposing to amend OAC 252:517 to change the classification of “clay-lined” CCR surface impoundments to “unlined”, revise certain closure deadlines for surface impoundments, provide alternative closure provisions, establish groundwater protection standards for four Appendix B constituents, add a summary requirement to the annual groundwater report, and make other non-substantive changes. The gist of this rulemaking is to incorporate federal changes and ensure state CCR rules are at least as protective as federal rules. This rulemaking is necessary to maintain Environmental Protection Agency (EPA) authorization of Oklahoma’s CCR regulatory program.
2. **CLASSES OF PERSONS AFFECTED:** Owners and/or operators of new and existing disposal facilities receiving only CCR generated from the combustion of coal at electric utilities and independent power producers will be required to comply with the proposed rulemaking.
3. **CLASSES OF PERSONS WHO WILL BEAR COSTS:** Owners and/or operators of new and existing CCR facilities will bear the costs of complying with the proposed rulemaking, though minimal additional costs are expected.
4. **INFORMATION ON COST IMPACTS FROM PRIVATE/PUBLIC ENTITIES:** No information was provided to the Department by any private or public entities regarding cost impacts for the proposed rulemaking.
5. **CLASSES OF PERSONS BENEFITTED:** The general public, CCR generators, and owners and/or operators of CCR disposal facilities will benefit from the proposed rulemaking as it will incorporate federal changes and ensure state CCR rules are at least as protective as federal rules which is necessary to maintain EPA authorization of Oklahoma’s CCR regulatory program.
6. **PROBABLE ECONOMIC IMPACT ON AFFECTED CLASSES OF PERSONS:** Owners and operators of CCR disposal facilities are already subject to OAC 252:517, which prescribes requirements pertaining to the disposal of CCR generated from the combustion of coal at electric utilities and independent power producers, therefore minimal economic impact is anticipated as a result of the proposed rulemaking.
7. **PROBABLE ECONOMIC IMPACT ON POLITICAL SUBDIVISIONS:** No economic impact on political subdivisions is anticipated.

8. **POTENTIAL ADVERSE EFFECT ON SMALL BUSINESS:** No significant economic impact on small business is anticipated.

9. **LISTING OF ALL FEE CHANGES, INCLUDING A SEPARATE JUSTIFICATION FOR EACH FEE CHANGE:** None.

10. **PROBABLE COSTS AND BENEFITS TO DEQ TO IMPLEMENT AND ENFORCE:** DEQ will incur and absorb any additional costs associated with the proposed rulemaking, though none are anticipated. The benefit to DEQ is ensuring Oklahoma's CCR regulatory program is at least as protective as the federal rules which is necessary to maintain EPA authorization of the State's regulatory program.

11. **PROBABLE COSTS AND BENEFITS TO OTHER AGENCIES TO IMPLEMENT AND ENFORCE:** None.

12. **SOURCE OF REVENUE TO BE USED TO IMPLEMENT AND ENFORCE RULE:** The source of revenue to be used to implement and enforce the proposed rulemaking are fees previously established and collected pursuant to 27A O.S. § 2-10-802.

13. **PROJECTED NET LOSS OR GAIN IN REVENUES FOR DEQ AND/OR OTHER AGENCIES, IF IT CAN BE PROJECTED:** None.

14. **COOPERATION OF POLITICAL SUBDIVISIONS REQUIRED TO IMPLEMENT OR ENFORCE RULE:** No cooperation of political subdivisions is required for the proposed rulemaking.

15. **EXPLANATION OF THE MEASURES DEQ TOOK TO MINIMIZE COMPLIANCE COSTS:** DEQ will be absorbing any additional costs associated with the proposed rulemaking, though none are anticipated, and will not be proposing any additional permitting or disposal fees at this time.

16. **DETERMINATION OF WHETHER THERE ARE LESS COSTLY OR NONREGULATORY OR LESS INTRUSIVE METHODS OF ACHIEVING THE PURPOSE OF THE PROPOSED RULE:** There are no other such methods of achieving the purpose of the proposed rule.

17. **DETERMINATION OF THE EFFECT ON PUBLIC HEALTH, SAFETY, AND ENVIRONMENT:** The proposed rulemaking will have a positive effect on public health, safety, and the environment by ensuring Oklahoma's CCR regulatory program is at least as protective as the federal rules thereby enabling consistent State regulation of CCR disposal facilities.

18. **IF THE PROPOSED RULE IS DESIGNED TO REDUCE SIGNIFICANT RISKS TO THE PUBLIC HEALTH, SAFETY, AND ENVIRONMENT, EXPLANATION OF THE NATURE OF THE RISK AND TO WHAT EXTENT THE PROPOSED RULE WILL REDUCE THE RISK:** The proposed rulemaking is designed to ensure proper regulation of CCR facilities and to reduce risks posed to human health and the environment when CCR is not disposed of appropriately within the State. The proposed rulemaking will ensure Oklahoma's CCR regulatory program is at least as protective as the federal rules and allows for consistent DEQ oversight and enforcement of CCR disposal facilities.

19. **DETERMINATION OF ANY DETRIMENTAL EFFECT ON THE PUBLIC HEALTH, SAFETY, AND ENVIRONMENT IF THE PROPOSED RULE IS NOT IMPLEMENTED:** If the proposed rulemaking is not implemented, Oklahoma's CCR regulatory program would not be as protective as the federal rules and EPA's authorization of the program would be lost. Consequently, DEQ's ability to consistently regulate the proper disposal of CCR generated at electric utilities and independent power producers within the State would be adversely affected.

20. **PROBABLE QUANTITATIVE AND QUALITATIVE IMPACT ON BUSINESS ENTITIES, INCLUDING QUANTIFIABLE DATA WHERE POSSIBLE:** The proposed rulemaking will impact all business entities that own and/or operate CCR disposal facilities. However, the qualitative and quantitative impact on the existing business entities will be minimal, since the facilities are already in the process of closing their "clay-lined" surface impoundments under different provisions of the rules. Also, while the revised closure specifications and changes to the groundwater sections in the proposed rulemaking will add details to their currently applicable reporting requirements, the impact should not be burdensome but will allow for more complete and comprehensive reporting, as well as allow for more consistent oversight and enforcement of CCR disposal operations and thus improved protectiveness of the environment.

**THIS RULE IMPACT STATEMENT WAS PREPARED ON:** December 15, 2020.