

**TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY
CHAPTER 653. AQUIFER STORAGE AND RECOVERY [NEW]**

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

- Subchapter 1. General Provisions [NEW]
 - 252:653-1-1 Purpose [NEW]
 - 252:653-1-2 Authority [NEW]
 - 252:653-1-3 Applicability [NEW]
 - 252:653-1-4 Conformity with other applicable rules [NEW]
 - 252:653-1-5 Definitions [NEW]
 - 252:653-1-6 Siting Criteria [NEW]
 - 252:653-1-7 Statement of Interest [NEW]
 - 252:653-1-8 Initial meeting with DEQ [NEW]
 - 252:653-1-9 Permits required [NEW]
 - 252:653-1-10 Water sampling and analysis [NEW]
 - 252:653-1-11 Fees [NEW]
- Subchapter 3. Raw Water and Aquifer Characterization [NEW]
 - 252:653-3-1 Applicability [NEW]
 - 252:653-3-2 Raw water and aquifer characterization plan (“RWACP”) requirements [NEW]
 - 252:653-3-3 Attenuation of constituents in aquifer media [NEW]
 - 252:653-3-4 Groundwater standards [NEW]
 - 252:653-3-5 Groundwater monitoring well construction and/or plugging [NEW]
 - 252:653-3-6 RWACP implementation [NEW]
 - 252:653-3-7 Raw water and aquifer characterization report [NEW]
- Subchapter 5. ASR Treatment Plant Construction [NEW]
 - 252:653-5-1 Permit and pilot study required [NEW]
 - 252:653-5-2 Construct according to plans and specifications [NEW]
 - 252:653-5-3 Variances from construction standards [NEW]
- Subchapter 7. ASR Water Delivery Construction [NEW]
 - 252:653-7-1 Applicability [NEW]
 - 252:653-7-2 Permit application requirements [NEW]
 - 252:653-7-3 Additional application requirements for recharge wells [NEW]
 - 252:653-7-4 Additional application requirements for infiltration basins [NEW]
 - 252:653-7-5 Additional application requirements for other water delivery mechanism [NEW]
 - 252:653-7-6 Water delivery pilot test [NEW]
 - 252:653-7-7 Aquifer testing [NEW]
- Subchapter 9. Aquifer Storage & Recovery Operations [NEW]
 - 252:653-9-1 Applicability [NEW]
 - 252:653-9-2 Duration and continuation of expiring permit [NEW]
 - 252:653-9-3 No endangerment [NEW]
 - 252:653-9-4 Permit application requirements [NEW]

- 252:653-9-5 Operation and maintenance of ASR water treatment plant [NEW]
- 252:653-9-6 Operation and maintenance of recharge wells [NEW]
- 252:653-9-7 Operation and maintenance of infiltration basins [NEW]
- 252:653-9-8 Operation and maintenance of other water delivery systems [NEW]
- 252:653-9-9 Source control [NEW]
- 252:653-9-10 Groundwater monitoring requirements [NEW]
- 252:653-9-11 Contingency plan [NEW]
- 252:653-9-12 Corrective action [NEW]
- 252:653-9-13 Reporting requirements [NEW]
- 252:653-9-14 Closure plan [NEW]
- Subchapter 11. Cost Estimates and Financial Assurance [NEW]
- 252:653-11-1 Applicability [NEW]
- 252:653-11-2 Duty to maintain financial assurance [NEW]
- 252:653-11-3 Permit transfers [NEW]
- 252:653-11-4 Substitute financial assurance [NEW]
- 252:653-11-5 Cost estimates for closure [NEW]
- 252:653-11-6 Cost estimates for corrective action [NEW]
- 252:653-11-7 Annual adjustments to cost estimates [NEW]
- 252:653-11-8 Financial assurance [NEW]
- 252:653-11-9 Use of multiple mechanisms [NEW]
- 252:653-11-10 Allowable financial assurance mechanisms [NEW]
- 252:653-11-11 Cash [NEW]
- 252:653-11-12 Certificate of deposit [NEW]
- 252:653-11-13 Trust fund [NEW]
- 252:653-11-14 Escrow account [NEW]
- 252:653-11-15 Surety bond [NEW]
- 252:653-11-16 Letter of credit [NEW]
- 252:653-11-17 Insurance [NEW]
- 252:653-11-18 Corporate financial test [NEW]
- 252:653-11-19 Local government financial test [NEW]
- 252:653-11-20 Corporate guarantee [NEW]
- 252:653-11-21 Local government guarantee [NEW]
- 252:653-11-22 State approved mechanism [NEW]

SUMMARY:

The Department is proposing to create a new Chapter, OAC 252:653 (Aquifer Storage and Recovery), to allow for a regulatory structure for an aquifer storage and recovery (ASR) program. The purpose of the Chapter is to enable DEQ to issue permits to those who wish to undertake an ASR project. The Chapter establishes a multi-phase permitting process and requirements for the construction and operation of an ASR project. The Chapter requires appropriate testing and modeling to ensure a project is feasible and that the aquifer is not harmed. In addition, the Chapter establishes the fees associated with ASR permitting and operations.

AUTHORITY:

Environmental Quality Board, 27A O.S. §§ 1-3-101(B)(4), 1-1-202(C)(4), 1-3-101(B)(7), 2-6-701, 2-6-110, and 2-6-310.1; Water Quality 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 August 15, 2017 through September 15, 2017. Oral comments may be made at the Water Quality Management Advisory Council meeting at 9:00 a.m. on September 26, 2017 and at the Environmental Quality Board meeting at 9:30 a.m. on November 7, 2017.

PUBLIC HEARINGS:

Before the Water Quality Management Advisory Council at 9:00 a.m. on September 26, 2017, 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 November 7, 2017, at Northeastern State University Event Center, 1041 N. Grand Avenue, Tahlequah, OK.

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/LPProprules.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/LPProprules.htm.

CONTACT PERSON:

Hillary Young, Land Protection Division, Chief Engineer, P.O. Box 1677, Oklahoma City, OK 73101-1677, e-mail at Hillary.Young@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.