

**TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY
CHAPTER 606. OKLAHOMA POLLUTANT DISCHARGE ELIMINATION SYSTEM
(OPDES) STANDARDS**

SUBCHAPTER 1. INTRODUCTION

252:606-1-3. Adoption of U.S. EPA regulations by reference

(a) **Interpretation of rules.** Narrative provisions of this Chapter apply control over any provision of regulations of the Environmental Protection Agency (EPA) which are adopted by reference. The rules set forth in this Chapter are interpreted consistently with state compliance with the requirements of 40 CFR Part 123 (EPA Regulations on State NPDES Permit Program Requirements), and applicable provisions of the federal Clean Water Act and Oklahoma law.

(b) **Federal regulations adopted.** The following provisions of Title 40 of the Code of Federal Regulations (CFR) and the requirements contained therein are, unless otherwise specified, adopted and incorporated by reference in their entirety:

- (1) Part 116 (Hazardous Substances List)
- (2) Part 117 (Reportable Quantities for Hazardous Substances)
- (3) The following from PART 122 (NPDES PERMIT REGULATIONS):
 - (A) 122.1(b) - (scope of NPDES permit requirements)
 - (B) 122.2 - (definitions)
 - (C) 122.3 - (exclusions)
 - (D) 122.4 - (prohibitions)
 - (E) 122.5 - (effect of permit)
 - (F) 122.6 - (continuation of expiring permits)
 - (G) 122.7(b) and (c) - (confidential information)
 - (H) 122.21 - (application for a permit)
 - (I) 122.22 - (signatories)
 - (J) 122.24 - (concentrated aquatic animal production facilities)
 - (K) 122.25 - (aquaculture projects)
 - (L) 122.26 - (stormwater discharges)
 - (M) 122.27 - (silviculture)
 - (N) 122.28(a) and (b) - (general permits)
 - (O) 122.29 - (new sources and new dischargers)
 - (P) 122.30 - What are the objectives of the storm water regulations for small MS4s?
 - (Q) 122.31 - As a tribe, what is my role under the NPDES storm water program?
 - (R) 122.32 - As an operator of a small MS4, am I regulated under the NPDES storm water program?
 - (S) 122.33 - If I am an operator of a regulated small MS4, how do I apply for an NPDES permit and when do I have to apply?
 - (T) 122.34 - As an operator of a regulated small MS4, what will my NPDES MS4 storm water permit require?
 - (U) 122.35 - As an operator of a regulated small MS4, may I share the responsibility to implement the minimum control measures with other entities?
 - (V) 122.36 - As an operator of a regulated small MS4, what happens if I don't comply with the application or permit requirements in §§ 122.33 through 122.35?

- (W) 122.41 - (permit conditions)
 - (X) 122.42 - conditions for specified categories of permits)
 - (Y) 122.43 - establishing permit conditions)
 - (Z) 122.44 - (establishing permit limitations, standards and other conditions)
 - (AA) 122.45 - (calculating permit conditions)
 - (BB) 122.46 - (permit duration)
 - (CC) 122.47(a) - (schedules of compliance)
 - (DD) 122.48 - (monitoring requirements)
 - (EE) 122.50 - (disposal into wells)
 - (FF) 122.61 - (permit transfer)
 - (GG) 122.62 - (permit modification)
 - (HH) 122.63 - (minor modifications of permits)
 - (II) 122.64 - (permit termination)
 - (JJ) Appendices A through I
- (4) The following from PART 124 (Procedures for Decision making):
- (A) 124.1 - (introduction)
 - (B) 124.2 - (definitions)
 - (C) 124.3(a), (c), and (d) - (application for a permit)
 - (D) 124.5(a), (c), (d) and (f) - (modification of permits)
 - (E) 124.6(a), (c), (d) and (e) - (draft permit)
 - (F) 124.7 - (statement of basis of conditions where no fact sheet is adopted)
 - (G) 124.8 - (fact sheet)
 - (H) 124.10(a)(1)(ii), (a)(1)(iii), ~~(a)(1)(v)~~, (a)(1)(iv), (b), (c), (d), and (e) - (public notice)
 - (I) 124.11 - (public comments and requests for hearings)
 - (J) 124.12(a) and (c) - (public hearings)
 - (K) 124.13 - (obligation of protestors, etc., to raise all issues)
 - (L) 124.14 - (reopening)
 - (M) 124.15 - (issuance & effective dates of permits)
 - (N) 124.17(a) and (c) - (response to comments)
 - (O) 124.51(a) and (b) - (specific permitting procedures-purpose and scope)
 - (P) 124.52 - (permits required on a case-by-case basis)
 - (Q) 124.56 - (fact sheets)
 - (R) 124.57(a) - (public notice)
 - (S) 124.59 - (comments from government agencies)
 - (T) 124.62 - (decision on variances)
 - (U) 124.66 - (thermal variance procedures)
- (5) The following from PART 125 (criteria and standards for NPDES):
- (A) Subpart A (technology-based treatment),
 - (B) B (criteria for aquaculture projects),
 - (C) D (fundamentally different factors),
 - (D) H (alternative effluent limitations),
 - (E) I (new cooling water intakes), and
 - (F) J (existing cooling water intakes).
- (6) 40 CFR Part 129 (Toxic Pollutant Effluent Standards)
- (7) 40 CFR Part 136 (testing and laboratory)

- (8) 40 CFR §§ 401-471 (Effluent Guidelines and Standards)
 - (9) 40 CFR § 110.6 (notice of oil discharge) and
 - (10) 40 CFR Part 302 (Reportable Quantities and Notification).
- (c) The following provisions of 40 CFR that are applicable to biosolids are hereby incorporated by reference, subject to any modifications and additional requirements specified in this Chapter:
- (1) The following Sections from Part 503, Subpart A (General Provisions):
 - (A) 503.1 (Purpose and applicability)
 - (B) 503.2 (Compliance period)
 - (C) 503.3 (Permits and direct enforceability)
 - (D) 503.4 (Relationship to other regulations)
 - (E) 503.5 (Additional or more stringent requirements)
 - (F) 503.6(a)-(e), (g)-(j) (Exclusions)
 - (G) 503.7 (Requirement for a person who prepares biosolids)
 - (H) 503.8 (Sampling and analysis)
 - (I) 503.9 (General definitions)
 - (2) The following Sections from Part 503, Subpart B (Land Application):
 - (A) 503.10(a),(b)(1)&(2),(e),(f),(g) (Applicability)
 - (B) 503.11 (Special definitions)
 - (C) 503.12 (General requirements)
 - (D) 503.13 (Pollutant limits)
 - (E) 503.14 (Management practices)
 - (F) 503.15 (Operational standards - pathogens and vector attraction reduction)
 - (G) 503.16(a) (Frequency of monitoring)
 - (H) 503.17(a) (Recordkeeping)
 - (I) 503.18 (Reporting)
 - (3) The following Sections from Part 503, Subpart D (Pathogens and Vector Attraction Reduction):
 - (A) 503.30 (Scope)
 - (B) 503.31 (Special definitions)
 - (C) 503.32(a), (b) (Pathogens)
 - (D) 503.33(a), (b)(1)-(11) (Vector attraction reduction)
 - (4) The following Sections from Part 503 Subpart E (Incineration):
 - (A) 503.40 (Applicability)
 - (B) 503.41 (Special definitions)
 - (C) 503.42 (General requirements)
 - (D) 503.43 (Pollutant (Metal) limits)
 - (E) 503.44 (Operational standard - total hydrocarbons)
 - (F) 503.45 (Management practices)
 - (G) 503.46 (Frequency of monitoring)
 - (H) 503.47 (Recordkeeping)
 - (I) 503.48 (Reporting)
 - (5) The following Appendices from Part 503:
 - (A) Appendix A (Procedure to determine the annual whole biosolids application rate for a biosolids)
 - (B) Appendix B (Pathogen treatment processes)

(d) **Exclusions.** Provisions of 40 CFR relating to CAFOs are excluded because they are beyond the jurisdiction of this Chapter.

SUBCHAPTER 3. DISCHARGE PERMITTING PROCESS FOR REGULAR INDIVIDUAL DISCHARGE PERMITS

252:606-3-4. Fees

(a) **General.** Application fees are non-refundable and are due when an application is filed with DEQ.

(b) **Individual discharge permit fees.** The fees for individual discharge permits are as follows:

(1) **Application fees.** The application fee for:

(A) a new or amended individual discharge permit is ~~five hundred dollars (\$500.00)~~ \$500.

(B) renewal under an existing individual discharge permit is ~~five hundred dollars (\$500.00)~~ \$500.

(2) **Annual fees.** All holders of individual discharge permits shall pay an annual permit fee over the life of the permit. Payments for annual fees are due upon receipt of an invoice mailed from DEQ. ~~Payments received by DEQ shall be applied to the twelve-month~~ 12-month period following the due date of the initial invoice issued by DEQ, but shall not be applied past the expiration date of the permit. Failure to pay an annual fee may result in suspension or termination of the permit. The formulas used to calculate the annual fee schedules fees are in Appendices B and C.

(c) **Individual permit fees for industrial users.** The fees for individual industrial user permits are as follows:

(1) **Application fees.** The application fee for:

(A) a new or amended individual industrial user permit is ~~five hundred dollars (\$500.00)~~ \$500.

(B) renewal under an existing individual industrial user permit is ~~five hundred dollars (\$500.00)~~ \$500.

(2) **Annual fees.** All holders of individual industrial user permits shall pay an annual permit fee over the life of the permit. Payments for annual fees are due upon receipt of an invoice from DEQ. ~~Payments received by DEQ shall be applied to the twelve-month period following the due date of the initial invoice issued by DEQ, but shall not be applied past the expiration date of the permit.~~ Failure to pay an annual fee may result in suspension or termination of the permit. The formula used to calculate the annual fee schedules fee is in Appendix E.

(d) **Stormwater and other general discharge permit fees.** ~~The fees for authorizations under stormwater or other general discharge permits are as follows:~~

(1) **Application fees.** The application fee for any new or renewal request for coverage under ~~the~~ a stormwater or other general discharge permit is ~~one hundred dollars (\$100.00)~~ \$100.

(2) **Annual fees.** All holders of an authorization to discharge pursuant to a stormwater or other general discharge permit shall pay ~~an~~ the applicable annual fee over the life of the permit. ~~as follows:~~

(A) MS4 stormwater permits - \$710.

(B) authorizations under a stormwater general permit - \$330.

(C) authorizations under a general permit for all other discharges:

(i) for the first outfall - \$480; and

(ii) for each additional outfall - \$100.

(3) Payments of annual fees for authorizations to discharge under the general construction stormwater discharge permit. The annual fee for authorizations to discharge under the general construction stormwater permit is due upon receipt of an invoice mailed by DEQ at the time of the initial application and every 12 months after the effective date of the authorization until the authorization is terminated. ~~Payments received by DEQ~~ The annual fee shall be applied to the ~~twelve-month~~ 12-month period following the ~~due date of the invoice issued by DEQ~~, but shall not be applied past the expiration of the authorization issuance of the authorization or following the due date of the annual fee.

(4) Failure to pay annual fee. Failure to pay ~~such~~ the required annual fee may result in suspension or termination of the authorization. ~~The annual fee schedule is in Appendix D.~~

(e) CPI fee increase. To assist in meeting rising costs to the Department for the permitting and enforcement activities covered by this Chapter, the fees set out in (b) and (c) of this Section shall be automatically adjusted on July 1st every year to correspond to the percentage, if any, by which the Consumer Price Index (CPI) for the most recent calendar year exceeds the CPI for the previous calendar year. The Department may round the adjusted fees up to the nearest dollar. The Department may waive collection of an automatic increase in a given year if it determines other revenues, including appropriated state general revenue funds, have increased sufficiently to make the funds generated by the automatic adjustment unnecessary in that year. A waiver does not affect future automatic adjustments.

(1) Any automatic fee adjustment under this subsection may be averted or eliminated, or the adjustment percentage may be modified, by rule promulgated pursuant to the Oklahoma Administrative Procedures Act. The rulemaking process may be initiated in any manner provided by law, including a petition for rulemaking pursuant to 75 O.S. § 305 and OAC 252:4-5-3 by any person affected by the automatic fee adjustment.

(2) If the United States Department of Labor ceases to publish the CPI or revises the methodology or base years, no further automatic fee adjustments shall occur until a new automatic fee adjustment rule is promulgated pursuant to the Oklahoma Administrative Procedures Act.

(3) For purposes of this subsection, “Consumer Price Index” or “CPI” means the Consumer Price Index - All Urban Consumers (U.S. All Items, Current Series, 1982-1984=100, CUUR0000SA0) published by the United States Department of Labor. The CPI for a calendar year is the figure denoted by the Department of Labor as the “Annual” index figure for that calendar year.

(f) Fees not received within 30 days after the due date will be subject to an additional fee of ten percent (10%) of the fee set forth in the statement.

(g) If the fees have not been received by the Department within 60 days after the due date set forth in the invoice, the authorization to discharge under the permit will be subject to revocation after notice and opportunity for hearing.

(h) State appropriations and federal grants will be used to offset the annual fee where possible.

(i) The fees shall only be raised in the manner stated in paragraph (e) above, unless a workload and budget analysis is completed, which demonstrates that an additional increase in fees is warranted.

APPENDIX D. FEES FOR STORMWATER PERMITS AND OTHER GENERAL PERMITS [REVOKED]

- (A) The fee for MS4 stormwater permits is \$710.00.
- (B) The fee for all general permits, including Authorizations under general stormwater is as follows:
 - (1) Stormwater and non-discharging facilities - \$330
 - (2) Discharging facilities - \$480 for first outfall plus \$100 for each additional outfall.
- (C) The annual fee must be paid in advance by all facilities which have been authorized to discharge under a permit as of June 30 of each year.
- (D) Fee payment must be made by check, draft, or money order payable to the Oklahoma Department of Environmental Quality and mailed or hand delivered to the Department's offices.
- (E) The first year fee for facilities will be prorated and will cover the period beginning the issuance date of the authorization and ending June 30th of the coinciding fiscal year. A statement of the first year fee will be mailed to the applicant within 10 days of receipt of application and will be due within 20 days of receipt of application.
- (F) A statement of fees due will be mailed to the permittee at the beginning of each fiscal year (July 1).
- (G) Fees not received by the due date will be subject to an additional fee of ten percent (10%) of the fee set forth in the statement.
- (H) If the fees have not been received by the Department within fifteen (15) days after the due date set forth in the statement, authorization to discharge under the permit will be subject to revocation after notice and opportunity for hearing.
- (I) State appropriations and federal grants will be used to offset the annual fee where possible.
- (J) To assist in meeting rising costs to the Department of the OPDES program associated with permitting and enforcement for stormwater and other general discharge permits, the fees set out in this Appendix shall be automatically adjusted on July 1st every year to correspond to the percentage, if any, by which the Consumer Price Index (CPI) for the most recent calendar year exceeds the CPI for the previous calendar year. The Department may round the adjusted fees up to the nearest dollar. The Department may waive collection of an automatic increase in a given year if it determines other revenues, including appropriated state general revenue funds, have increased sufficiently to make the funds generated by the automatic adjustment unnecessary in that year. A waiver does not affect future automatic adjustments.
 - (1) Any automatic fee adjustment under this subsection may be averted or eliminated, or the adjustment percentage may be modified, by rule promulgated pursuant to the Oklahoma Administrative Procedures Act. The rulemaking process may be initiated in any manner provided

by law, including a petition for rulemaking pursuant to 75 O.S. § 305 and OAC 252:4-5-3 by any person affected by the automatic fee adjustment.

(2) If the United States Department of Labor ceases to publish the CPI or revises the methodology or base years, no further automatic fee adjustments shall occur until a new automatic fee adjustment rule is promulgated pursuant to the Oklahoma Administrative Procedures Act.

(3) For purposes of this subsection, “Consumer Price Index” or “CPI” means the Consumer Price Index - All Urban Consumers (U.S. All Items, Current Series, 1982-1984=100, CUUR0000SA0) published by the United States Department of Labor. The CPI for a calendar year is the figure denoted by the Department of Labor as the “Annual” index figure for that calendar year.

(K) The fees listed in this Appendix shall only be raised in the manner stated in paragraph (J) above, unless a workload and budget analysis is completed, which demonstrates that an additional increase in fees is warranted.