

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

RULE IMPACT STATEMENT

Before the Water Quality Management Advisory Council on October 4, 2016

Before the Environmental Quality Board on November 9, 2016

1. DESCRIPTION:

The gist of this rule and the underlying reason for the rulemaking is to ensure the Oklahoma Pollutant Discharge Elimination System (OPDES) is in compliance with the Department of Environmental Quality's (DEQ or the Department) delegation agreement and to ensure Oklahoma retains responsibility for administering the National Pollutant Discharge Elimination System (NPDES) Program in Oklahoma.

The Department proposes to update its rules concerning the date of the incorporation by reference for the Code of Federal Regulations from July 1, 2015, to July 1, 2016. The most significant federal regulation updates being incorporated are 1) an update regarding electronic reporting for NPDES; 2) an update to the effluent limitations guidelines and standards (ELGs) for the steam electric power generating industry; and 3) an update that establishes pretreatment standards that prevent the discharge of pollutants in wastewater from onshore unconventional oil and gas (UOG) extraction facilities to publicly owned treatment works (POTWs). The electronic reporting update will modernize the reporting of OPDES discharge program information from paper-based reporting to electronic reporting. The ELGs update establishes nationally applicable limits on the amount of toxic metals and other harmful pollutants that coal-fired steam electric power plants are allowed to discharge. The pretreatment standards for the discharge of pollutants in wastewater from onshore UOG extraction facilities to POTWs will help protect the operational integrity of POTWs.

2. CLASSES OF PERSONS AFFECTED:

The updates will affect several classes of people, which are as follows:

The electronic reporting update will affect all those who hold an OPDES permit, which includes majors, non-majors, individual permittees, and general permittees;

The update for the ELGs for the steam electric power generating industry will affect discharging steam electric power generating entities; and

The update of pretreatment standards will affect onshore UOG extraction facilities that propose to discharge their effluent to a POTW. DEQ is not aware of any UOG extraction facilities that currently engage in this practice.

3. **CLASSES OF PERSONS WHO WILL BEAR COSTS:**

The class of persons bearing the costs for the electronic reporting rule will be DEQ and the OPDES permittees. DEQ has been working to upgrade its systems and train its personnel to receive reporting data electronically conveyed by the permittees to the agency. Additionally, DEQ personnel will be available to assist OPDES permittees in complying with the rule. However, it is ultimately the OPDES permittee who will need to ensure they can electronically report to DEQ as required by this rule.

The class of persons bearing the costs of the update for ELGs for the steam electric power generating industry will be those in that industry who must comply with the updates.

The class of persons bearing the costs of the update of the pretreatment standards for onshore UOG extraction facilities that discharge their effluent to a POTW will, to the best of DEQ's knowledge, be none. DEQ is not aware of any UOG extraction facilities that currently engage in this practice.

4. **INFORMATION ON COST IMPACTS FROM PRIVATE/PUBLIC ENTITIES:**

DEQ has not received information from public or private entities regarding the cost impacts for any of the proposed updates.

5. **CLASSES OF PERSONS BENEFITTED:**

OPDES permittees will benefit from the electronic reporting rule. This rule will allow for a reduction in paperwork and an immediate, secure transmittal of monitoring data to the Department. Additionally, DEQ will benefit from gains in efficiency by no longer manually entering compliance data into a database.

The class of persons will benefit from the updated ELGs are those who use Oklahoma's rivers for recreational uses and those who have an interest in the ecosystem health of Oklahoma's rivers.

The class of persons benefiting from the update of the pretreatment standards for onshore UOG extraction facilities that discharge their effluent to a POTW will be the POTWs that might otherwise receive the discharge from onshore UOG extraction facilities.

6. **PROBABLE ECONOMIC IMPACT ON AFFECTED CLASSES OF PERSONS:**

DEQ anticipates that most OPDES permit holders already have the capability to electronically submit their reporting data in accordance with the new rule. However, a few permittees will potentially need training and/or new equipment, such as a computer and internet access, in order to submit their reports electronically.

DEQ is aware that those affected by the ELG updates for steam powered electric generating industry will likely incur costs to comply. These costs will likely include

additional treatment of effluent prior to discharging to waters of the state.

DEQ does not anticipate that those affected by the update for pretreatment standards for onshore UOG extraction facilities will incur costs to comply. DEQ is not aware of any UOG extraction facilities that currently engage in this practice; to the best of DEQ's knowledge, all such facilities dispose of their wastewater through other avenues.

7. PROBABLE ECONOMIC IMPACT ON POLITICAL SUBDIVISIONS:

DEQ does not anticipate the proposed rule changes to have any economic impact that will be unique to political subdivisions. Any political subdivision that falls under these regulations will be expected to comply just as a private entity would need to comply.

8. POTENTIAL ADVERSE EFFECT ON SMALL BUSINESS:

For the electronic reporting rule, DEQ anticipates that some smaller dischargers, such as those under DEQ's small industries, may experience a brief period of re-training for reporting the required data. However, the electronic reporting rule will make the reporting faster and more streamlined, so that once a permittee is trained in reporting the data, it should be faster and less time consuming for that permittee.

DEQ expects no other adverse effects on small businesses.

9. LISTING OF ALL FEE CHANGES, INCLUDING A SEPARATE JUSTIFICATION FOR EACH FEE CHANGE:

The proposed rule does not include any changes to the current fee structure.

10. PROBABLE COSTS AND BENEFITS TO DEQ TO IMPLEMENT AND ENFORCE:

Implementing the electronic reporting rule will cause DEQ to incur costs through training personnel, increased work-loads required with managing databases, and providing customer assistance to the regulated community who is reporting electronically. However, the rule will significantly cut down on the volume of paperwork being processed by DEQ employees and the associated data entry, which should result in long-term savings to DEQ employee time and work-load.

The updated ELGs for steam powered electric power generating plants will not cause a noticeable increase in costs or benefits to DEQ.

The update of the pretreatment standards for onshore UOG extraction facilities discharging effluent to a POTW will not cause a noticeable increase in costs or benefits to DEQ.

11. **PROBABLE COSTS AND BENEFITS TO OTHER AGENCIES TO IMPLEMENT AND ENFORCE:**

The proposed rules will not cause any other agencies to incur implementation or enforcement costs. However, any state agency that obtains an OPDES permit from DEQ will likely experience the same types of costs and benefits experienced by the private sector.

12. **SOURCE OF REVENUE TO BE USED TO IMPLEMENT AND ENFORCE RULE:**

There is no new funding necessary to implement and enforce this rule. Current funding sources include federal grant funds, user fees, and general revenue appropriations.

13. **PROJECTED NET LOSS OR GAIN IN REVENUES FOR DEQ AND/OR OTHER AGENCIES, IF IT CAN BE PROJECTED:**

None anticipated; the proposed rule does alter neither the DEQ's fee structure nor the duties of DEQ or other agencies.

14. **COOPERATION OF POLITICAL SUBDIVISION REQUIRED TO IMPLEMENT OR ENFORCE RULE:**

The proposed rule updates will be implemented and enforced by DEQ alone.

15. **EXPLANATION OF THE MEASURES THE DEQ TOOK TO MINIMIZE COMPLIANCE COSTS:**

To minimize the cost of compliance with the electronic reporting rule, DEQ bore the cost of purchasing and obtaining software applications that support electronic reporting by the regulated community; thus, the regulated community does not need to purchase software in order to comply with the electronic reporting rule. Also, during the initial implementation period DEQ is providing dual reporting, electronic and hard copy, to ensure no reporting errors occur.

No measures were available to DEQ to minimize the cost of compliance of updating the ELGs for steam powered electric facilities.

No measures were available to DEQ to minimize the cost of compliance of updating the pretreatment standards for onshore UOG discharging effluent to POTWs.

16. **DETERMINATION OF WHETHER THERE ARE LESS COSTLY OR NONREGULATORY OR LESS INTRUSIVE METHODS OF ACHIEVING THE PURPOSE OF THE PROPOSED RULE:**

DEQ has determined that the proposed rule updates are the least costly and least intrusive methods for achieving the purpose of the proposed rule.

17. **DETERMINATION OF THE EFFECT ON PUBLIC HEALTH, SAFETY AND ENVIRONMENT:**

Promulgating these rules will further protect the public health, safety, and environment of Oklahoma.

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 rules are not designed to reduce significant risks to the public health, safety or environment.

19. **DETERMINATION OF ANY DETRIMENTAL EFFECT ON THE PUBLIC HEALTH, SAFETY AND ENVIRONMENT IF THE PROPOSED RULE IS NOT IMPLEMENTED:**

Failure to pass the proposed rules will likely create confusion between DEQ regulations and the federal regulations. Any confusion in DEQ's regulations poses a threat to complying with the rules, which could have a detrimental effect on the environment or the public health and safety.

20. **PROBABLE QUANTITATIVE AND QUALITATIVE IMPACT ON BUSINESS ENTITIES (INCLUDE QUANTIFIABLE DATA WHERE POSSIBLE):**

DEQ has not received any quantifiable or qualitative data of the impacts of the proposed updates.

THIS RULE IMPACT STATEMENT WAS PREPARED ON: August 30, 2016

AMENDED: September 19, 2016

AMENDED: September 21, 2016