

**TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY
CHAPTER 740. IMPLEMENTATION OF OKLAHOMA'S WATER QUALITY
STANDARDS**

RULE IMPACT STATEMENT

A. Statement of need for the rule change and legal basis supporting it.

The gist of this rule and the underlying reason for the rulemaking is to comply with the Water Quality Standards Triennial Review and includes the following updates: add, remove and/or modify certain definitions; update reasonable potential to allow the use of a fish tissues study to confirm the need for a water quality-based effluent limit; update Assessment of Fish and Wildlife Propagation support to add fish tissue criteria as the preferred method for assessing waterbodies for selenium, with water column criteria being used if fish tissue is unavailable; and, adding Assessment of Secondary Body Contact Recreation support to add criteria values for assessment.

B. Classification of rule change (major/non-major), justification for that classification, and business cost estimate over the first five (5) years.

The proposed rule is anticipated to be a non-major rule change as there are no mandated costs with this rulemaking, and thus the business cost estimate will not exceed the threshold of \$1,000,000 over the initial five-year period following the promulgation of the proposed rule, as defined in 75 O.S. § 303(D)(3)(b). The updates to regulations do not involve any mandated expenses for government agencies or private parties. Any cost associated with conducting a fish tissue study would be voluntary and below the major-rule threshold. Other proposed changes are not expected to increase or add new business costs.

C. Description of the purpose of the proposed rule change, whether the change is mandated by federal law or is required to participate in or implement a federal program, and whether the change exceeds the requirements of the federal law.

Updates and rule changes are in line with federal regulations within the Clean Water Act to protect surface waters as a component of the Triennial Review process. This rulemaking does not exceed the requirements of federal law. The proposed changes to the methodologies reflect EPA recommendations based on updated scientific understanding. This includes the addition of the ability to perform a fish tissue study for the development of a site-specific selenium criterion. Changes to Secondary Body Contact Recreation assessment are based on updated scientific understanding and EPA guidance to allow for better protection of human health.

D. Description of the classes of persons who most likely will be affected by the proposed rule(s), including classes that will bear the costs of the proposed rule(s), and any information on cost impacts received by the agency from any private or public entities.

Classes of persons affected are those who own, operate, or plan to operate municipal or industrial wastewater treatment facilities, that must obtain permits to treat, dispose, and reuse municipal and industrial wastewater. This will also affect customers of those systems, incarcerated persons, and any other persons who recreate in Oklahoma's waters and those who consume drinking water in

Oklahoma. DEQ has solicited affected businesses and the public to provide information concerning the cost impacts of the proposed regulations, and will update this response as such information is received.

E. Description of the classes of persons who will benefit from the proposed rule(s).

Classes of persons benefited are those who own, operate, or plan to operate municipal and industrial wastewater treatment facilities, as well as those who must obtain permits to treat, dispose of, and reuse municipal and industrial wastewater. This will also affect customers of those systems, incarcerated persons, and any other persons who recreate in Oklahoma's waters.

F. Comprehensive analysis of the rule change's economic impact, including impacts to the full-time-employee count of the agency, costs or benefits, a quantification of implementation and compliance costs on the affected businesses, business sectors, public utility ratepayers, individuals, state or local governments, and on the state as a whole, with a listing of all fee changes and justification for each fee change.

DEQ has solicited affected businesses and the public to provide information concerning the cost impacts of the proposed regulations, and will update this response as such information is received. DEQ expects no new significant economic impact on the affected classes of persons (including businesses, business sectors, public utility ratepayers, individuals, state or local governments, and the state as a whole) from this rulemaking activity as it aligns state rules with preexisting federal standards, without imposing any additional requirements that are not already present in the federal regulations. Permittees who elect to seek a site-specific criterion will voluntarily incur costs associated with that site-specific criterion, and it is unclear how many permittees would choose to pursue the option of a site-specific criterion. DEQ does not anticipate that this rulemaking will require any increase to DEQ's count for full-time employees.

G. Detailed explanation of methodology and assumptions used to determine the economic impact, including dollar amounts calculated.

Cost estimates are based on an assumption of how many permittees might elect to pursue site-specific criteria. Incurred costs include the cost of conducting site-specific studies, which are voluntarily performed by entities seeking site-specific criteria and approved by DEQ. The cost of these studies vary widely based on the study conducted, the size of the discharger, and the size of the waterbody. Therefore, DEQ's method of estimating costs assumes that site-specific studies will be, on average, similar to one or more recently completed studies. DEQ intends to collect information about costs from the entities who completed recent studies.

H. Determination of whether implementation of the proposed rule(s) will have an economic impact on any political subdivisions or require their cooperation in implementing or enforcing the rule(s).

DEQ has solicited affected entities and the public seeking information about compliance costs of the proposed rules, and will update this response as such information is received. DEQ anticipates no economic impact on political subdivisions. No cooperation from political subdivisions is required to implement or enforce the rule. The costs associated with rule changes will be from site-specific studies, which are voluntary.

I. Determination of whether implementation of the proposed rule(s) may have an adverse economic effect on small business as provided by the Oklahoma Small Business Regulatory Flexibility Act.

DEQ has solicited affected businesses and the public seeking information about compliance costs of the proposed rules, and will update this response as such information is received. There may be an economic effect on small businesses (defined in 75 O.S. § 502) if the small business is required to obtain an OPDES permit for the discharge of wastewater and wishes to conduct a site-specific study. The costs associated with rule changes will be from conducting a site-specific study, which is voluntary.

J. Any measures taken by the agency to minimize cost and impact of the proposed rule change on business and economic development in the state, local governmental units, and for individuals.

There are no additional compliance costs expected due to this rule, and thus, no additional measures were taken by DEQ.

K. Determination of the effect of the proposed rule(s) on the public health, safety and environment and, if the proposed rule(s) is/are designed to reduce significant risks to the public health, safety and environment, an explanation of the nature of the risk and to what extent the proposed rule will reduce the risk.

Concerning the selenium criteria, the proposed rule incorporates updated scientific understanding regarding the toxicity and bioaccumulation of selenium in aquatic life and fully protects the Fish and Wildlife Propagation beneficial use. The updated selenium criteria will benefit Oklahoma residents and recreational visitors through the protection of aquatic life resources and improved condition of surface waters throughout the state. The proposed SBCR criteria will benefit Oklahoma residents and recreational visitors through protection of human health and improved condition of surface waters around the state through updated standards.

L. Determination of any detrimental effect on the public health, safety and environment if the proposed rule(s) is/are not implemented.

There will be no detrimental effect on public health, safety, and the environment if the proposed rule is not implemented.

M. Analysis of alternatives to adopting the rule.

There is no reasonable alternative means to achieve the goals of updating Oklahoma Water Quality Standards without adopting the proposed rules in this chapter which complement those proposed changes. Failure to adopt the proposed rules will likely leave certain water quality issues that were raised during the triennial review, such as naturally high selenium concentrations and confusion about site-specific criteria requirements, unaddressed until the next review period.

N. Estimates of the amount of time that would be spent by state employees to develop the rule and of the amount of other resources that would be utilized to develop the rule.

DEQ estimates that it has spent less than 200 hours and minimal resources meeting with industry partners, the Environmental Protection Agency (EPA), and internally in the development of these proposed rules.

O. Summary and preliminary comparison of any existing or proposed federal regulations that are intended to address the activities to be regulated by the proposed rule.

Oklahoma has been delegated the exclusive authority to develop and maintain water quality standards for the state under the Clean Water Act; therefore, there are no applicable federal regulations. However, the proposed rules are largely consistent with EPA recommendations, as modified for local conditions.

P. This rule impact statement was prepared on: 9/1/26

Modified on: