

**TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY  
CHAPTER 631. PUBLIC WATER SUPPLY OPERATION**

**RULE IMPACT STATEMENT**

Before the Water Quality Management Advisory Council on January 8, 2013  
Before the Environmental Quality Board on February 22, 2013

1. **DESCRIPTION:** DEQ proposes to: (1) modify the annual fee schedule for public water supply (“PWS”) systems; (2) update its rules concerning the date of the incorporation by reference of certain federal regulations from July 1, 2011, to July 1, 2012 including the addition of the Ground Water Rule, Stage 2 Disinfection Byproducts Requirements, and the Long-Term 2 Enhanced Surface Water Treatment Rule; and (3) Substituting Standard Plate Count with Heterotrophic Plate Count and removing the criteria to test for Enterococcus subgroup of the fecal streptococcus group of bacteria when a system performs a chloramine engineering study.
  
2. **CLASSES OF PERSONS AFFECTED:** Classes of persons affected are those who operate or plan to operate a public water supply system.
  
3. **CLASSES OF PERSONS WHO WILL BEAR COSTS:** Classes of persons who will bear the costs of increased fees are those who operate a public water supply. It is anticipated that any increase in fees will be passed along to the consumer.  
  
DEQ does not anticipate any increase in costs as the result of the incorporation by reference or with the implementation of the heterotrophic plate count.
  
4. **INFORMATION ON COST IMPACTS FROM PRIVATE/PUBLIC ENTITIES:** The DEQ has not received any information from other public or private entities concerning the cost impacts of the fee increases.
  
5. **CLASSES OF PERSONS BENEFITTED:** All citizens of Oklahoma will be benefitted, particularly those members of the public who obtain drinking water from a public water supply. Additionally, the proposed fee increase along with additional general revenue appropriations will allow DEQ to generate sufficient resources to continue regulating public water supply systems at the current level plus take on existing rules currently under EPA’s authority.
  
6. **PROBABLE ECONOMIC IMPACT ON AFFECTED CLASSES OF PERSONS:** There will be an economic impact on those who operate public water supplies (see paragraphs 3, 4 and 9).
  
7. **PROBABLE ECONOMIC IMPACT ON POLITICAL SUBDIVISIONS:** There will be an economic impact on political subdivisions (e.g., municipalities) that operate public water supply systems (see paragraphs 3, 4 and 9).

8. **POTENTIAL ADVERSE EFFECT ON SMALL BUSINESS:** There will be an economic impact on small businesses (e.g., commercial entities that provide drinking water) that operate public water supply systems (see paragraphs 3, 4 and 9).
9. **LISTING OF ALL FEE CHANGES, INCLUDING A SEPARATE JUSTIFICATION FOR EACH FEE CHANGE:** Below is the list of proposed fee changes. See paragraph 15 for a justification of the increase in fees.

**INSPECTION COSTS PORTION OF ANNUAL FEE**

	<i>Current Fee</i>	<i>Proposed Fee</i>
Purchase Water Systems	\$36	\$50
Ground Water Systems	\$72	\$100
Surface Water Systems	\$143	\$200

**FEDERAL PROGRAM REQUIREMENT PORTION OF THE ANNUAL FEE (COSTS ASSOCIATED WITH TRACKING, REPORTING AND ENFORCEMENT, ETC.)**

	<i>Current Fee</i>	<i>Proposed Fee</i>
Purchase Water Systems	\$266	\$370
Ground Water Systems	\$1,167	\$1,600
Surface Water Systems	\$4,980	\$6,800

10. **PROBABLE COSTS AND BENEFITS TO DEQ TO IMPLEMENT AND ENFORCE:** Implementing the proposed fee increases will help DEQ continue to retain primacy of the public water supply program by allowing DEQ to generate an additional \$500,000 in fee income necessary to: (a) overcome enforcement deficiencies in its PWS program identified by EPA; and (b) assuming primacy of the three new rules discussed in paragraph 1.
11. **PROBABLE COSTS AND BENEFITS TO OTHER AGENCIES TO IMPLEMENT AND ENFORCE:** Other agencies will not need to enforce these rules. However, there may be some agencies that own and operate public water supply systems that will be subject to the increased fees.
12. **SOURCE OF REVENUE TO BE USED TO IMPLEMENT AND ENFORCE RULE:** Federal grants, general revenue and fees will continue to be used to run the Public Water Supply Program.
13. **PROJECTED NET LOSS OR GAIN IN REVENUES FOR DEQ AND/OR OTHER AGENCIES, IF IT CAN BE PROJECTED:** DEQ has projected a \$2,000,000 shortfall for the next fiscal year in the PWS program (see Paragraph 15). To address the shortfall, DEQ

has requested an additional \$500,000 in fees and \$1,500,000 in additional general revenue. DEQ will not experience a net gain in revenue because the additional income generated will be used to fully implement the PWS program. DEQ will lower the annual fees should other revenue sources (i.e., federal grants or state appropriations) increase.

14. **COOPERATION OF POLITICAL SUBDIVISIONS REQUIRED TO IMPLEMENT OR ENFORCE RULE:** Any necessary cooperation of a political subdivision is already in place.
15. **EXPLANATION OF THE MEASURES THE DEQ TOOK TO MINIMIZE COMPLIANCE COSTS:** In 2010, DEQ conducted a program-wide budgetary and workload analysis. The workload analysis showed that DEQ does not have sufficient funding to cover the costs to properly administer the PWS program. Further analysis of the budget and workload in 2012 indicated DEQ will experience a shortfall of approximately \$2,000,000 in the next fiscal year.
16. **DETERMINATION OF WHETHER THERE ARE LESS COSTLY OR NONREGULATORY OR LESS INTRUSIVE METHODS OF ACHIEVING THE PURPOSE OF THE PROPOSED RULE:** None.
17. **DETERMINATION OF THE EFFECT ON PUBLIC HEALTH, SAFETY AND ENVIRONMENT:** The fee increase will allow DEQ to perform compliance activities to ensure that the public water supply program will meet state and federal requirements and ensure Oklahoma's drinking water is protected.
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:** N/A.
19. **DETERMINATION OF ANY DETRIMENTAL EFFECT ON THE PUBLIC HEALTH, SAFETY AND ENVIRONMENT IF THE PROPOSED RULE IS NOT IMPLEMENTED:** In a letter dated November 9, 2012, EPA indicated that failure to fully fund and implement the PWS program would result in EPA administering all PWS programs in Oklahoma. EPA administering all of PWS programs would result in the loss of the millions of dollars of drinking water low interest loans and grants for publicly owned PWS systems. There would also be a change in the regulatory approach. EPA's historical approach to regulation is heavily reliant on enforcement and monetary penalties whereas DEQ's approach is more reliant on offering technical assistance and working with facilities to ensure they can meet timelines for compliance.
20. **PROBABLE QUANTITATIVE AND QUALITATIVE IMPACT ON BUSINESS ENTITIES (INCLUDE QUANTIFIABLE DATA WHERE POSSIBLE):** See paragraph 8.

**THIS RULE IMPACT STATEMENT WAS PREPARED ON:** December 13, 2012; Amended  
on February 4, 2013