

Staff Response to Public Comments on Proposed Amendments of
Oklahoma Water Resources Board Rules

OAC: 785 Chapter 30. Taking and Use of Groundwater

February 4, 2019

OAC 785:30-5-2 GROUNDWATER PERMITS

Summary of Kathy Martin Comments:

1. Will OWRB use a separate use permit application form for marginal quality water versus fresh water? Will there be a request for any special information about the marginal quality water, such as what dissolved ions make up the total dissolved solids in order to differentiate between marginal water with metals, toxics, and man-made pollution from otherwise benign salty water?

Response: Board staff intends to utilize separate water use permit applications for freshwater and marginal quality water. Proposed marginal quality water well construction standards in OAC 785:35-7-3 require that the drilling contractor check total dissolved solids concentration and place no additional requirements to further determine water quality.

2. What are the expected withdrawal rate limitations for marginal wells? Would OWRB consider all fresh and marginal water withdrawal a single total?

Response: Because there have been no studies to determine maximum annual yield for marginal quality water basins, all permits granted for these basins would have to be temporary permits. Proposed rules for temporary permits found in OAC 785:30-5-2 do not establish separate criteria for freshwater and marginal quality water use, including limits on withdrawal, at this time. OAC 785:35-5-2, current and proposed, establishes rules for temporary permit requirements when land overlies more than one basin.

OAC 785:30-3-6 Well Spacing

Summary of Anthony Mackey Comments:

1. Original strikethrough language is incorrect and contains proposed language.

Response: Proposed language was inadvertently shown as strikethrough language in the published version. The correct version has been included in the Board packet information.

2. The language contained in the proposed rules reads as if the new spacing requirements would only apply to “Minor bedrock or minor alluvium terrace basins or subbasins. In addition, the proposed rules go on state that these new setbacks will be imposed only after a public hearing in relation to the major basin or subbasin. This language does not

seem to indicate that the new setback requirements would apply to all basins and subbasins in the state. In addition, it does not seem to make sense to base any setback for minor basin or subbasin on the public hearing related to a major basin. It would seem the intent is for well spacing to apply to all basins and subbasins in the state that the language should be changed to include both major and minor as well as requiring a public hearing for both.

Response: Section 785:30-3-6(a)(1) and (2) have been restated with the exact same language to reflect that spacing within bedrock basins or subbasins and alluvium and terrace basins or subbasins where the maximum annual yield has been determined will remain unchanged from current rule. These sections have simply been separated out into subset (1) and (2) and the spacing requirements will include both major and minor basins or subbasins.

Section 785:30-3-6(a)(3) and (4) have been revised to require certain spacing for all applications received on or after October 1, 2019 within minor bedrock and minor alluvium and terrace basins or subbasins seeking temporary permits.

Section 785:30-3-6(a)(5) has been revised to require spacing within all major bedrock and alluvium and terrace basins or subbasins for all applications requested to be authorized by temporary permits filed after October 1, 2019. At least one public hearing shall be conducted as described in this subset for all major basins or subbasins pursuant to Section 1020.17 of Title 82 of the Oklahoma Statutes.

Section 785:30-3-6(a)(6) (previously item 4) has simply been restated.

3. It appears that some of the current rules are in conflict with the proposed rules regarding exceptions listed in 785:30-3-6(b). Current rules allow an exception if the well was drilled, completed and used prior to the approval date of a Maximum Annual Yield (MAY). Part (C) could provide an exception simply because the MAY has yet to be approved for that basin.

Response: 785:30-3-6(b)(1)(C) has been revised to include the language “or prior to October 1, 2019” to eliminate this conflict as stated by Mr. Mackey.

4. Mr. Mackey also requested that the revised proposed rules go back to the public for an additional comment period.

Response: A second public comment period was not warranted due to revisions to this Chapter being characterized as minor in nature.