A. **A BRIEF DESCRIPTION OF THE PURPOSE OF THE PROPOSED RULES.**

The staff of the Oklahoma Water Resources Board ("OWRB") is proposing to amend various provisions of OAC 785:35 as follows:

Section 785:35-1-2 is proposed to add definitions of “cathodic protection” and “deep anode groundbed” to address confusion related to professional activities regulated by the Oklahoma Corporation Commission and which involve well drillers which are licensed by the Board. A definition was added for “marginal water” to clarify certain new activities authorized by recent statutory and regulatory amendments. Further definitions were added for “beneficial use,” “groundwater,” “soil boring,” and “total dissolved solids” to clarify the meaning of terms which already appear in this chapter, but were defined elsewhere.

A recommendation is proposed to amend 785:35-1-5 to reduce the maximum amount of expenditures per well from fifteen thousand dollars to ten thousand dollars. This amendment is for the purpose of conforming the rules to recent legislative enactments.

A recommendation is proposed to amend Section 785:35-1-6 to change the terms for members of the advisory council to two years and directing that vacancies on the council be filled within sixty days. The proposed amendment is intended to give all members of the council the same term length.

A recommendation is proposed to amend 785:35-3-1 and 785:35-3-2 to add a new license category for marginal water well construction and continuing education requirements for the new category. The proposed amendments are for the purpose of administering new professional activities authorized by recent legislative enactments.

A recommendation is proposed to amend 785:35-7-1 to prohibit constructing fresh groundwater wells in marginal-quality water zones. This amendment is intended to protect against the contamination of fresh groundwater by comingling with marginal groundwater. Another proposed amendment to the same rule reduces the minimum amount of chlorine to be used in drilling fluids to a level recommended by industry experts. The reduced minimum chlorine concentration is intended to preserve the function of polymers commonly found in drilling fluids.

A recommendation is proposed to amend 785:35-7-1.1 to modify construction standards for heat exchange wells by changes which include references to new industry standards and material specifications. It is further recommended to amend 785:35-11-1 to add a provision identifying and referencing industry standards for the plugging of vertical closed loop heat exchange wells. The amendments are intended update the Board’s rules to reflect current industry practices and available construction materials.

A recommendation is proposed to add a new section 785:35-7-3 which provides minimum construction standards for marginal water wells. The new section is necessary to administer professional activities authorized by recent legislative enactments. The section previously numbered 785:35-7-3 is proposed to be renumbered to 785:35-7-4.
B. A DESCRIPTION OF THE CLASSES OF PERSONS WHO MOST LIKELY WILL BE AFFECTED BY THE PROPOSED RULES, INCLUDING CLASSES THAT WILL BEAR THE COSTS OF THE PROPOSED RULES, AND ANY INFORMATION ON COST IMPACTS RECEIVED BY THE AGENCY FROM ANY PRIVATE OR PUBLIC ENTITIES.

Well drillers and pump installers are most likely affected by the proposed rules. The same classes affected will bear the costs of the rules.

C. A DESCRIPTION OF THE CLASSES OF PERSONS WHO WILL BENEFIT FROM THE PROPOSED RULES.

Well drillers and pump installers will benefit by the proposed amendments by having clearer guidance and direction. The same classes will also benefit from the additional work from the marginal water well construction.

D. A DESCRIPTION OF THE PROBABLE ECONOMIC IMPACT OF THE PROPOSED RULES UPON AFFECTED CLASSES OF PERSONS OR POLITICAL SUBDIVISIONS, INCLUDING A LISTING OF ALL FEE CHANGES AND, WHENEVER POSSIBLE, A SEPARATE JUSTIFICATION FOR EACH FEE CHANGE.

The probable economic impact upon affected classes of persons or political subdivisions will not be significant. OAC section 785:35-7-3 requires the well drillers to file intent to drill fee in the amount of $500.00. The intent to drill fee for marginal water well construction will be offset by the new opportunity that allows the licensed well drillers to drill marginal quality water wells in the State.

E. THE PROBABLE COSTS AND BENEFITS TO THE AGENCY AND TO ANY OTHER AGENCY OF THE IMPLEMENTATION AND ENFORCEMENT OF THE PROPOSED RULES, THE SOURCE OF REVENUE TO BE USED FOR IMPLEMENTATION AND ENFORCEMENT OF THE PROPOSED RULES, AND ANY ANTICIPATED EFFECT ON STATE REVENUES, INCLUDING A PROJECTED NET LOSS OR GAIN IN STATE REVENUES IF IT CAN BE PROJECTED BY THE AGENCY.

No extraordinary costs to the OWRB or other agencies are anticipated. It is anticipated that the proposed amendments will have no effect on state revenues.

F. A DETERMINATION OF WHETHER IMPLEMENTATION OF THE PROPOSED RULES WILL HAVE AN ECONOMIC IMPACT ON ANY POLITICAL SUBDIVISIONS OR REQUIRE THEIR COOPERATION IN IMPLEMENTING OR ENFORCING THE RULES.

No persons or entities are likely to be impacted by the proposed changes to OAC Sections 785:35. In general, political subdivisions are not charged with the implementation or enforcement of the proposed rules; therefore no general economic impact is anticipated for these entities.

G. A DETERMINATION OF WHETHER IMPLEMENTATION OF THE PROPOSED RULES MAY HAVE AN ADVERSE ECONOMIC EFFECT ON SMALL BUSINESS AS PROVIDED BY THE OKLAHOMA SMALL BUSINESS REGULATORY FLEXIBILITY ACT.

There will be no adverse economic impact on small business.
H. AN EXPLANATION OF THE MEASURES THE AGENCY HAS TAKEN TO MINIMIZE COMPLIANCE COSTS AND A DETERMINATION OF WHETHER THERE ARE LESS COSTLY OR NONREGULATORY METHODS OR LESS INTRUSIVE METHODS FOR ACHIEVING THE PURPOSE OF THE PROPOSED RULES.

There are no measures to be taken to minimize compliance costs, and there are no less costly or nonregulatory methods or less intrusive methods for achieving the purpose of the proposed rules.

I. A DETERMINATION OF THE EFFECT OF THE PROPOSED RULES ON THE PUBLIC HEALTH, SAFETY AND ENVIRONMENT AND, IF THE PROPOSED RULES 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 RULES WILL REDUCE THE RISK.

Inadequate and unclear rules for the well drillers program may cause an increased risk of groundwater contamination.

J. A DETERMINATION OF ANY DETRIMENTAL EFFECT ON THE PUBLIC HEALTH, SAFETY AND ENVIRONMENT IF THE PROPOSED RULES ARE NOT IMPLEMENTED.

As indicated in item I above, if the proposed changes in OAC Section 785:35 are not implemented, there could be an increased risk of ground water contamination due to inadequate and unclear rules.

K. THE DATE THE RULE IMPACT STATEMENT WAS PREPARED AND IF MODIFIED, THE DATE MODIFIED:

This rule impact statement was prepared on November 29, 2018.