

OKLAHOMA WATER RESOURCES BOARD
RULE IMPACT STATEMENT
for Rule Amendments in OAC 785: Chapter 25
Proposed for Adoption During 2020

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

The staff of the Oklahoma Water Resources Board (“OWRB”) is proposing or is considering promulgation of amended or new rules in Oklahoma Administrative Code (“OAC”) 785:25 DAMS AND RESERVOIRS as follows:

OAC 785:25-1-3(a) is proposed to be amended to correct a spelling error.

OAC 785:25-3-2(a)(2) is proposed to be amended to correct a grammatical error.

OAC 785:25-3-6(d) is proposed to be amended by replacing a reference to an older hydrometeorological study (HMR No. 51, National Weather Service, 1978) that was previously used in determining design floods for dams in Oklahoma; with a reference to a newer, regional study for probable maximum precipitation in Oklahoma. The proposed change also provides reference to an updated version of OWRB guidelines for acceptable methods to be used for the determination of the design flood.

OAC 785:25-5-4 is proposed to be amended to correct a spelling error.

OAC 785:25-7-7(a) is proposed to be amended to refer to the most recent publication of “Federal Guidelines for Dam Safety, Emergency Action Planning for Dams” (FEMA, 2013).

OAC 785:25-9-1 is proposed to be amended to clarify the requirements for the inspection of dams. Several minor amendments are proposed to move language from their current sub-sections to more appropriate sub-sections based on their content. The review of Emergency Action Plans and operations manuals was moved from sub-section (b):Periodic inspections to sub-section (g):Minimum standards. One proposed change clarifies the required scheduling of periodic inspections. Another proposed change clarifies the training and experience requirements for dam inspectors. The time requirement for the submittal of inspection reports after the inspection has been completed was moved from sub-section (c): Expense of periodic inspections to sub-section (g): Minimum requirements. The final change to Section 9 is the addition of sub-section (g) Minimum standards, which outlines and adds detail to the requirements for written inspection reports. The addition of sub-section (g) is being proposed in response to issues that have arisen with inspection report submittals lacking in detailed information.

OAC 785:25-9-3(b) is proposed to be amended to correct a spelling error.

OAC 785:25-9-5(b) is proposed to be amended to correct a grammatical error.

Appendix A is proposed to be amended to improve image clarity.

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.

Persons who are applying to construct or repair a dam may have an increased cost associated with the engineering requirements to use the updated precipitation data for dam design. No cost impacts have been received by the agency.

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

Persons who will benefit from the proposed rules are those individuals who live downstream of dams or own structures or property downstream of dams. Owners of dams will benefit from the rule changes by maintaining safe impoundments and limiting the liabilities that arise from dam failures. Owners of dams and their consultants will benefit from the proposed rule changes that clarify rule language for easier comprehension.

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.

While there are no fee changes, there are potential economic impacts to dam owners that would be incurred for providing engineering plans and specifications for dams. Engineering and construction costs to dam owners will depend on the design of the dam. In many cases, construction cost savings are anticipated to exceed engineering cost increases. Proposed rule changes that clarify rule language for easier comprehension are not anticipated to have any economic impacts.

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.

The agency may incur additional costs through increased engineering plan reviews. Clarifying language changes of the proposed rules are anticipated to benefit the agency by having more clearly defined requirements without any substantive changes to those requirements. No additional costs are anticipated to be incurred by other agencies. 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.

The proposed rules are not anticipated to have an economic impact on any political subdivision or require the cooperation of political subdivisions in implementing or enforcing the rules. If a political subdivision files an application to construct or repair a dam, it may bear the cost of required engineering plans and specifications.

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 should be no adverse economic impact on small businesses unless the small business files an application to construct or repair a dam, it may bear the cost of required engineering plans and specifications.

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.

The agency has, through the proposed rules, allowed dams to be designed according to the dam owners' consulting engineers' specifications as long as minimum standards are met. There are no known less costly or non-regulatory methods or less intrusive methods for achieving the purpose of the proposed rules, which is protection of life and property from potential dam failures.

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.

The proposed rules will result in increased safety for those persons who live downstream from a dam. The proposed rules will require more accurate design information to be utilized, reducing the risk of failure due to improper design. Dam failures can result in loss of life and property damage.

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

If the proposed rules are not implemented, there is an increased risk of harm to persons living downstream from dams. Loss of life and extensive or irreparable environmental and property damages could occur. Economic losses would be significant.

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

This rule impact statement was prepared on November 15, 2019.