

OKLAHOMA WATER RESOURCES BOARD
RULE IMPACT STATEMENT
for Rule Amendments in OAC 785: Chapter 30
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") 785:30 as follows:

OAC 785:30-1-2 is proposed to be amended to add certain definitions.

OAC 785:30-3-1 is proposed to remove certain restrictions.

OAC 785:30-5-5 is proposed to add certain requirements for Marginal water permits.

OAC 785:30-5-7 is proposed to add certain requirements for Marginal water.

OAC 785:30-5-10 is proposed to create a new Marginal water permit and associated requirements.

Appendix D is proposed to be amended to change errors in latitude and longitude coordinates and legal descriptions of springs in the Arbuckle-Simpson Groundwater Basin.

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 or entities that wish to obtain a groundwater permit to use Marginal Quality groundwater are the most likely affected classes. The changes proposed are necessary to conform the administrative rules to recent statutory changes authorizing the Board to monitor and regulate use of water from marginal water wells. This proposed change will establish a new Marginal water permitting system and allow the use of a previously unused source of water for water users in the State. Cost of the application fee will be incurred by the applicant or the user of the Marginal water (OAC Sections 785:30-1-2).

Persons or entities that wish to obtain groundwater permits that that require more than three wells per 100 acre-feet of allocated groundwater will be affected in that they no longer be required to meet the restrictive well requirement. The amendment to 785:30-3-1 will allow applicants to apply for the number of wells necessary to place the groundwater to beneficial use. No additional costs should be incurred by the affected classes.

Concerning the amendment to Appendix D to correct the latitude and longitude and legal locations of springs flowing greater than 50 gallons per minute in the Arbuckle-Simpson groundwater Basin, the OWRB does not anticipate any additional costs to classes of persons affected by these rules. Correcting the location of springs will provide clarity in the water rights permitting process, which will reduce costs to the classes of persons.

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

Owners or users of Marginal Quality groundwater will benefit from the regulatory framework of 785:30-1-2, 785:30-5-5, 785:30-5-7 and 785:30-5-10 by utilizing a previously unused source of water for oil and gas, public supply or other beneficial purpose.

Revoking certain restrictive language in 785:30-3-1, which contained provisions regarding restrictions on the number of wells allowed, will benefit all groundwater users needing more than three wells per 100 acre-feet of allocated water.

Under the proposed amendment to Appendix D, classes of persons who apply for a groundwater right in the Arbuckle-Simpson Groundwater Basin will benefit from the location clarification of springs emanating from the groundwater basin and will lead to more efficient water planning and permitting process.

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 impacts should be relatively minor for all 785:30 proposed changes. Marginal water users or permit holders would be required to submit a higher fee than current freshwater users due to the level of review required. There should be no probable economic impacts to affected classes, persons or political subdivisions by removing certain restrictive language regarding the maximum number of wells based on allocation by amending 785:30-3-1 to allow applicants of groundwater permits to apply for the number of wells necessary to place the groundwater to beneficial use.

Concerning the amendment to 785:30 Appendix D, the OWRB does not anticipate any additional economic impact to classes of persons applying for a groundwater right in the Arbuckle-Simpson Groundwater Basin.

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 little to no effect on state revenues. Probable costs to the OWRB may include actions to enforce the water use permit requirements. No other state agency will be required to assist in implementing or enforcing the proposed rules amendments.

The proposed amendment to Appendix D will clarify the location of springs emanating from the Arbuckle-Simpson Groundwater Basin and will potentially reduce costs by reducing

processing time of groundwater right applications and prevent misinformation that could lead to a protest of a water right application.

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 785:30-1-2, 785:30-3-1, 785:30-5-5, 785:30-5-7, 785:30-5-10, 785:30 Appendix D. 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.

However, political subdivisions that partake in the use of marginal quality groundwater well would be required to submit fees under OAC Sections 785:5-1-10 and 785:5-1-11. State statutes provide that other state agencies or state institutions are exempt from fee requirements.

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.

Small businesses are not expected to be impacted by the proposed changes to OAC Sections 785:30-1-2, 785:30-3-1, 785:30-5-5, 785:30-5-7, 785:30-5-10, 785:30 Appendix D. Marginal Quality groundwater permit fees are unlikely to have an adverse economic effect on small business within the meaning of the Oklahoma Small Business Regulatory Flexibility Act. Use of Marginal water should be more cost effective than using fresh groundwater.

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 non-regulatory 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.

The proposed rules should have very little to no negative effect on the public health, safety and environment. Section 785:30-5-10 will provide protection for existing groundwater

users. Proper administration of the Marginal Quality permitting program under Section 785:30-1-2 may reduce the risk of groundwater contamination due to marginal quality water wells that are not permitted and constructed according the State's minimum standards.

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 could be minimal detrimental effect on the public health, safety and environment. With respect to the proposed changes to Section 785:30-1-2 for Marginal water, users of this type of water may have an insufficient amount of water available for private and public use causing fresh water sources to be utilized instead. If droughts or other issues arise and sufficient water supplies cannot be obtained, adverse consequences to the public health and safety are possible.

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

This rule impact statement was reviewed and approved on November 20, 2019 by Kent Wilkins, Chief, Planning and Management Division, Oklahoma Water Resources Board. This rule impact statement was updated on January 17, 2020.