

**TITLE 785. OKLAHOMA WATER RESOURCES BOARD**  
**CHAPTER 46. IMPLEMENTATION OF OKLAHOMA'S WATER QUALITY STANDARDS**

**RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

**PROPOSED RULES:**

Subchapter 1. General Provisions

785:46-1-6. Determination of regulatory low flow [AMENDED]

Subchapter 9. Implementation of Criteria to Protect the Agriculture Beneficial Use

785:46-9-3. Regulatory flows [AMENDED]

Subchapter 15. Use Support Assessment Protocols

785:46-15-7. Assessment of Public and Private Water Supply support [AMENDED]

Subchapter 19. Implementation of Dissolved Oxygen Criteria to Protect Fish and Wildlife Propagation

785:46-19-3. Reasonable potential determination [AMENDED]

**SUMMARY:**

The Oklahoma Water Resources Board ("OWRB") is proposing to amend, or is considering amending, various provisions of Oklahoma Administrative Code ("OAC") 785:46 as follows.

OAC 785:46-1-6, Determination of regulatory low flow, is proposed to be amended in (b) to be updated to the latest version of the United States Geological Survey (USGS) publication entitled "Statistical Summaries of Streamflow in and near Oklahoma through 2007". The circumstance which created the need for this amendment is that the currently cited version is out of date. The intended effect of this amendment is to allow application of the most current information for implementing the criteria. Section (c) (2) is also proposed to be revised such that if additional daily flow data have been collected, a new regulatory flow may be calculated. The circumstance which created the need for this amendment is that the current rule does not allow update of the regulatory flow when new data are available. The intended effect of this amendment is to allow application of the most current information for implementing the applicable water quality standards.

OAC 785:46-9-3, Regulatory flows, is proposed to be amended in at least two ways. The first is by restoring default regulatory low flows proposed in a corresponding revision to OAC 785:45. The circumstance which created the need for this amendment is that revisions to the Oklahoma Water Quality Standards in 1997 removed the default low flow. The intended effect of this amendment is to restore the default low flow such that protection for the Agriculture beneficial use at low flow is consistent with implementation for toxic substances. The second amendment is to update references to the latest version of the USGS publication entitled "Statistical Summaries of Streamflow in and near Oklahoma through 2007". The circumstance which created the need for this amendment is that the currently cited version is out of date. The intended effect of this amendment is to allow application of the most current information for implementing the criteria.

OAC 785:46-15-7, Assessment of Public and Private Water Supply support, is proposed to be amended in (b) to correct conflicting language between (b)(1) and (b)(2). The intended effect of this amendment is to clarify that data should be evaluated based upon frequency when a criterion is exceeded rather than duration.

OAC 785:46-19-3, Reasonable potential determination for dissolved oxygen, is proposed to be amended by clarifying that the appropriate seasonal temperatures prescribed in Table 1 of Appendix G of OAC 785:45 are appropriate for calculating biochemical oxygen demand (BOD) load. The circumstance which created the need for this amendment is that the Oklahoma Department of Environmental Quality has encountered problems implementing the existing language. The intended effect of this amendment is to eliminate this ambiguity that causes problems in the permitting process.

Other amendments may be considered as a result of public comments.

**AUTHORITY:**

Oklahoma Water Resources Board, 82 O.S., § 1085.30; 27A O.S., § 1-3-101; and 82 O.S., § 1085.2.

**COMMENT PERIOD:**

Persons wishing to present data, views, or arguments orally or in writing may do so at 3800 North Classen, Oklahoma City, Oklahoma 73118 before 5:00 P.M. on January 14, 2013.

**PUBLIC HEARING:**

A public hearing will be held January 15, 2013 during the monthly meeting of the OWRB which will begin at 9:30 A.M. in the Board Room of the OWRB's offices located at 3800 North Classen, Oklahoma City, Oklahoma.

**REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:**

The OWRB requests that any business entities affected by these proposed rules provide the OWRB, within the Comment Period from November 15, 2012 through January 14, 2013, in dollar amounts if possible, the increase in the level of direct costs such as fees, and indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by a particular entity due to compliance with the proposed rules. Business entities may submit this information in writing to Phillip Moershel at 3800 North Classen, Oklahoma City, Oklahoma 73118 before 5:00 P.M. on January 14, 2013.

**COPIES OF PROPOSED RULES:**

Copies of the proposed amendments may be reviewed at the OWRB's office location at 3800 North Classen, Oklahoma City, Oklahoma 73118, or may be obtained from the "Contact Person" identified below upon prepayment of the copying charge. The proposed amendments may also be viewed on the OWRB web site at <http://www.owrb.ok.gov>.

**RULE IMPACT STATEMENT:**

Pursuant to 75 O.S., § 303(D), a Rule Impact Statement is available for review at the OWRB's office, 3800 North Classen, Oklahoma City, Oklahoma. The Rule Impact Statement may also be viewed on the OWRB web site at <http://www.owrb.ok.gov>.

**CONTACT PERSON:**

Phillip Moershel, Water Quality Standards Section Head, 405/530-8800.