

OKLAHOMA WATER RESOURCES BOARD

RULE IMPACT STATEMENT

for Rule Amendments in OAC 785:4

Proposed for Adoption During 2008

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

The purpose of the proposed rules are to clarify the intent and interpretations of the Oklahoma Water Resources Board (OWRB) relating to the statutes that create the OWRB by amending existing rule 785:4-5-1.1 to require parties to participate and attempt to settle through mediation conducted by staff other than the hearing examiner as an alternative method to reduce controversy at Board meetings.

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.

The class of persons most likely affected are persons who apply for permits to use groundwater or stream water, and persons who wish to object or protest the granting of requested permits to use stream water and groundwater.

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

The persons most likely affected will be the most likely to benefit by having an opportunity to resolve disputes before they move to the formal hearing level at additional expense and time.

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 of the proposed rules will include the additional agency staff time to conduct required mediation meetings with the parties to contested permit application proceedings. Persons applying for permits that are protested and the protesting parties will expend additional expense to attend or otherwise participate in mediation. There is no fee proposed for participation in the mediation.

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.

A minimal additional cost to the OWRB is anticipated, but to the extent matters are resolved through mediation rather than through formal hearings, the cost should be offset by savings of costs otherwise expended on conducting formal hearings. 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.

To the extent that a political subdivision applies for a permit that is protested, or if a political subdivision protests an application, there may be an indeterminate additional cost involved to participate in mediation.

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.

To the extent a small business applies for a permit that is protested, or if the small business protests an application, there may be an indeterminate minor additional cost involved to participate in mediation.

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 Board attempts to minimize issues that may be protested to ensure compliance with all requirements to obtain a permit, but any interested person may protest an application for a permit to use water. Rules were adopted a few years ago to increase the burden on protestants to provide more specificity to support the protest, but protests still must be heard unless pre-hearing resolution of issues can be achieved.

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.

There should be no impact on the public health, safety and environment.

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

There should be no effect on the public health, safety and environment if the proposed rules are not implemented.

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 15, 2007 by:

**Dean A. Couch
General Counsel
Oklahoma Water Resources Board**