

## UNOFFICIAL

**TITLE 785. OKLAHOMA WATER RESOURCES BOARD  
CHAPTER 4. RULES OF PRACTICE AND HEARINGS**

**Introduction:**

This document contains permanent amendments to Chapter 4 adopted by the Oklahoma Water Resources Board that became effective May 27, 2008. Also, this document was prepared by Oklahoma Water Resources Board staff as a convenience to the reader, and is not a copy of the official Title 785 of the Oklahoma Administrative Code. State law requires that the Secretary of State's office provide permission to copy the official Code. The rules in the official Oklahoma Administrative Code control if there are any discrepancies between the Code and this document.

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[**Authority:** 75 O.S., Section 307 and 309 et seq.; 82 O.S., Sections 1085.2 and 1085.10]

**SUBCHAPTER 1. GENERAL PROVISIONS**

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**785:4-1-1. Purpose**

The rules in this Chapter set forth the requirements and procedures for conducting hearings, issuing orders and considering post-hearing actions.

**785:4-1-2. Definitions**

The following words and terms, when used in this Chapter, shall have the following meaning, unless the context clearly indicates otherwise:

"**APA**" means and refers to the Oklahoma Administrative Procedures Act set forth in 75 O.S. 1981, 301 et seq., as amended.

"**Application**" means a formal request to the Board and the first step required by law to acquire the right to perform or engage in activities regulated by the Board.

"**Board**" means the Oklahoma Water Resources Board or any employee or agent or staff member thereof.

"**Executive Director**" means the Executive Director of the Oklahoma Water Resources Board.

"**Interested party**" means party.

"**Interested person**" means one whose interests could be adversely affected by any proceeding.

"**Party**" means a person or agency named and participating, or properly seeking and entitled

by law to participate, in hearings other than hearings on Board rules, regulations and standards.

**"Person"** means any individual, firm, partnership, association, corporation, business or public trusts, federal agency, state agency, the State or any political subdivision thereof, municipalities, and any other duly constituted legal entity.

### **SUBCHAPTER 3. BOARD HEARINGS**

#### Section

- 785:4-3-1. Conducting hearings
- 785:4-3-2. Laws governing hearings
- 785:4-3-3. Types of hearings
- 785:4-3-4. Hearing Examiners
- 785:4-3-5. Location of hearings
- 785:4-3-6. Record of hearings

#### **785:4-3-1. Conducting hearings**

The Board may hold hearings on any matter within the Board's jurisdiction. Hearings may be instituted and conducted where expressly required by law and where deemed necessary to the proper execution and discharge of any of the powers or duties conferred or imposed upon the Board by law. Hearings may be instituted by written application, petition, complaint (herein generally and collectively referred to as "application") or other similar request of an interested or aggrieved person or by the Board on its own motion.

#### **785:4-3-2. Laws governing hearings**

All hearings shall be held in accordance with the governing and applicable provisions of Title 82 of the Oklahoma Statutes, the APA and the rules of this Subchapter.

#### **785:4-3-3. Types of hearings**

The Board may conduct general or individual hearings:

- (1) General hearings include hearings on matters of general statewide, regional or area-wide interest, concern and applicability. These matters may directly or indirectly affect interests of individual persons and may result in the adoption of rules or the issuance of orders. Examples of general hearings include hearings to determine prior groundwater rights and maximum annual ground water basin yields, and hearings on the formation of special purpose water districts and hearings on Board rules, regulations and standards. Hearings on maximum annual groundwater basin yields shall be evidentiary type hearings conducted pursuant to Article II of the APA. Hearings on Board rules, regulations and standards shall be conducted according to the requirements of the APA and other applicable laws.
- (2) Individual hearings are hearings held on matters directly affecting the interests of an individual person or persons and resulting in the issuance of an Order. Examples of individual hearings include hearings on permit applications and petitions and violation hearings.

#### **785:4-3-4. Hearing Examiners**

(a) **Who may be Hearing Examiners.** Hearings may be conducted by authorized and designated Hearing Examiners. Any Board member, the Board Executive Director or Assistant Director, any authorized Board staff member, staff attorneys, the Attorney General or Assistant Attorney General

or any other Board authorized person may serve as Hearing Examiner.

(b) **General authority of Hearing Examiners.** Hearing Examiners are authorized to supervise, direct, preside over and conduct the hearing proceedings; to make and enter interlocutory rulings; to make and enter rulings on procedural or evidentiary questions or objections; to make and enter rulings on any other motions or objections arising during the course of the hearing; and, generally, to do all things necessary and incidental to conducting and completing the hearing and all other acts authorized under this Chapter.

(c) **Assistance.** Where deemed necessary, the Hearing Examiner may designate any Board staff member to assist the Hearing Examiner in the conduct of the proceedings or to aid the Hearing Examiner in an advisory capacity.

#### **785:4-3-5. Location of hearings**

Hearings may be held at the main offices of the Board in Oklahoma City, at any designated branch office of the Board or at such other location as may be designated by law, the rules of this Subchapter, the Hearing Examiner or the Board.

#### **785:4-3-6. Record of hearings**

(a) **Recording; transcriptions.** All testimony and evidence given at hearings shall be recorded electronically, but shall be transcribed only upon *order of the reviewing court* [75:309] pursuant to the APA or upon other proper request of an interested party of record and pre-payment of the estimated cost of transcribing. *Costs of transcription of the recordings shall be borne by the party requesting the transcription. For judicial review, electronic recordings of an individual proceeding, as certified by the Board may be submitted to the reviewing court without transcription unless otherwise required to be transcribed by the reviewing court* [75:309].

(b) **Court reporter.** Any party desiring the taking of stenographic notes by a qualified court reporter must make such request in writing to the Board and submit the name of a qualified reporter who is available on the date set for hearing. The party requesting the reporter shall bear the expense of the reporter's attendance fees. If the reporter's transcript is deemed by the Board to be the official transcript of the hearing, the party requesting the reporter shall furnish the Board a transcript free of charge.

(c) **Other electronic recording.** Electronic recording of hearings other than that provided under this rule may be made at the discretion of the hearing examiner; provided that any such recording or transcript thereof shall not be made a part of the official record of proceedings nor shall such recording be used in any way to challenge or impeach the official record of the proceedings.

[Source: Amended at 10 Ok Reg 3271, eff 6-25-93; Amended at 11 Ok Reg 2907, eff 6-13-94]

### **SUBCHAPTER 5. PRE-HEARING ACTIONS AND PROCEEDINGS**

#### Section

- 785:4-5-1. Pre-hearing discovery
- 785:4-5-2. Pre-hearing conferences
- 785:4-5-3. Witnesses and subpoenas
- 785:4-5-4. Application protests; comments and objections
- 785:4-5-5. Pre-hearing continuances, informal disposition by stipulation, agreed settlement or consent order
- 785:4-5-6. Electronic mail notice
- 785:4-5-7. Copies of motions, requests and orders

**785:4-5-1. Pre-hearing discovery**

When deemed necessary and proper for the purposes of a hearing, pre-hearing discovery by an interested party may be allowed by the Hearing Examiner as provided under the APA and the rules in this Chapter. Depending upon the nature of the hearing, pre-hearing discovery may be made at any time subsequent to the filing (and acceptance for filing) of an application or petition, or otherwise, at any time subsequent to the institution of proceedings on the application. Requests for pre-hearing discovery must be timely made and the Hearing Examiner may impose reasonable and necessary limitations on the scope of discovery and the period of time within which discovery requests may be presented and entertained.

**785:4-5-1.1. Mediation**

After receipt of a protest that meets the requirements of section 785:4-5-4(b), the Board staff may schedule a mediation meeting with the parties to attempt a compromise and settlement of the protest. A statement concerning the outcome of the mediation meeting if one is held will be prepared and placed into the record by the person conducting the mediation. If the protest is not settled, the person conducting the mediation for the Board should not be designated as hearing examiner for further proceedings on the matter unless the parties agree.

**785:4-5-2. Pre-hearing conferences**

(a) **Directing appearance; notice.** In any hearing proceeding, the Hearing Examiner may direct, on the Examiner's own motion or at the request of an interested party, that the parties appear for a pre-hearing conference. Interested parties of record shall be notified of such conferences in advance.

(b) Matters subject of pre-hearing conference. Pre-hearing conferences may be held to facilitate and expedite notice and simplification of issues presented; admissions and stipulations; the identification of documents and witnesses proposed to be offered; discovery and production of relevant documents and other information; and any other matters as may aid in the conducting of the hearing.

**785:4-5-3. Witnesses and subpoenas**

The Hearing Examiner, on the Examiner's own motion or at the request of an interested party, may, in the name of the Board, issue subpoenas for witnesses and/or the production of books, records, papers or other information or objects. Subpoenas may be personally served by any Board staff member or by certified mail, return receipt requested. Subpoenas must be served no less than three (3) days prior to the date of the hearing. The issuance of subpoenas or subpoenas duces tecum or requests to quash the same shall be governed by provisions of the APA.

[Source: Amended at 10 Ok Reg 3271, eff 6-25-93]

**785:4-5-4. Application protests; comments and objections**

(a) **Who may file.** Any interested person may file a written protest, objection or comment to any permit application, petition or other matter subject of a hearing. Persons signing form letters, multiple letters containing substantially similar or duplicate text or information, or persons signing written submittals in petition format containing multiple signatures, may not be considered parties to a proceeding unless all requirements specified in subsection b are set forth for each person signing such letters or petitions.

(b) **Requirements for protests; standing.** Protests must be filed with the Board in writing and must contain the following information:

- (1) Name, telephone number, e-mail (if available) and postal address of the interested person;
- (2) The application to which the protest relates;
- (3) Specific information to show how approval of the application, petition or action proposed may directly and adversely affect legally protected interests of the person filing the protest; and
- (4) A statement of the relief sought by the interested person.

(c) **Protest required for party status.** To become a party and to facilitate reasonable notice to the applicant or petitioner, all protests must contain the information as set forth in paragraphs (1) through (4) of subsection (b) and be filed with the Board, and a copy must be provided to the applicant or petitioner, within the time period stated in the notice. In enforcement actions initiated by Board staff, all respondents named in the notice of hearing shall be deemed parties for purposes of participation in the proceedings. A person who fails to provide a copy of the protest with the applicant or petitioner within the time period stated may not be considered a party unless otherwise determined by the Hearing Examiner.

(d) **Hearing examiner discretion on allowing presentation of protest.** If an interested person appears at the hearing for purposes of presenting a protest to the application without first meeting the requirements set forth above, the Hearing Examiner may at the Examiner's discretion, reject the protest, receive the protest, orally or in writing, and proceed with the hearing; or may defer receiving such protest and direct a continuance of the hearing in order to allow the interested person an opportunity to file the protest in compliance with the requirements set forth above. In the last described instance, the Examiner may take into consideration the wishes of the applicant or petitioner with respect to proceeding with or continuing the hearing. The Hearing Examiner may allow any interested person to make a statement in support of or in opposition to an application or petition without cross examination if the statement is not intended as evidence, provided the Hearing Examiner may limit such presentations to avoid duplication.

(e) **Record of protests, comments and objections.**

- (1) All correspondence relating to an application, including all protest, objection and comment letters, shall be retained in the permanent application file.
- (2) Persons who submit objections or comments to an application or petition will not be deemed to be parties, but, as described in subsection (d), may be allowed to make statements at the hearing.
- (3) Abbreviated notice, including but not limited to notice by electronic mail, of further proceedings or of the availability of proposed findings, conclusions and order prepared after a hearing may be given to a person who files objections and comments or who makes a statement at a hearing.

[Source: Amended at 11 Ok Reg 2907, eff 6-13-94; Amended at 16 Ok Reg 2680-2681, eff 4-1-99; Amended at 23 Ok Reg \_\_\_\_, eff 7-17-2006]

#### **785:4-5-5. Pre-hearing continuances, informal disposition by stipulation, agreed settlement or consent order**

(a) Continuances may be requested not more than five (5) days prior to the hearing by telephone, followed by a written request, and may be granted by the Hearing Examiner if all parties of record agree or otherwise at the discretion of the Hearing Examiner.

(b) In enforcement actions initiated by Board staff, informal disposition of the matter subject of the hearing may be made by stipulation, agreed settlement or consent order. A proposed stipulation, agreed settlement or consent order, acceptable to Board staff and respondent, shall be presented

to the Hearing Examiner for recommendation to the Board. The recommendation of the Hearing Examiner, along with the proposed stipulation, agreed settlement or consent order, shall be forwarded to the Board for consideration without further hearing or findings of fact and conclusions of law (see also 785:4-9-1).

**785:4-5-6. Electronic mail notice**

(a) The Board may allow protests, comments and objections to applications to be submitted through electronic mail to an e-mail address specified in the notice of application.

(b) Unless a request is made to provide notice to a U.S. Postal Service address, persons who submit protests, comments or objections by electronic mail will be given notice to the electronic mail address from which the protest, comment or objection was received, unless another electronic mail address is provided.

(c) Hard copies of electronic mail messages and attachments sent or received by the Board relating to applications, protests, comments and objections and will be made and placed in the application file.

[Source: Added at 23 Ok. Reg. \_\_\_\_, eff 7-17-2006]

**785:4-5-7. Copies of motions, requests and orders**

(a) Any person filing a motion or other request to the Board shall mail a copy of the motion or request to all parties of record. A certificate of such mailing shall be filed with the motion or request.

(b) Unless otherwise directed within the interlocutory order, a copy of the interlocutory order relating to the motion or request shall be provided by the Board to the person filing the motion or request. That person shall mail a copy of the interlocutory order to all parties of record.

(c) A written copy of the proposed final order of the Board prepared by the Hearing Examiner after the conclusion of any hearing shall be provided to the applicant, and the applicant shall be required to serve all other parties at least fifteen (15) days prior to Board meeting at which the proposed final order is scheduled to be considered.

[Source: Added at 23 Ok Reg \_\_\_\_, eff 7-17-2006]

**SUBCHAPTER 7. CONDUCT OF HEARINGS**

Section

- 785:4-7-1. Opening of hearings and general supervision of hearings
- 785:4-7-2. Proper notice
- 785:4-7-3. Appearances
- 785:4-7-4. Presentation of evidence and examination of witnesses
- 785:4-7-5. Evidence
- 785:4-7-6. Waiving necessity of oral testimony
- 785:4-7-7. Evidence by reference and official notice
- 785:4-7-8. Evidentiary objections and exceptions
- 785:4-7-9. Hearing continuances, adjournments and leaving the record open
- 785:4-7-10. Proposed order of parties
- 785:4-7-11. Closing the record and submission of cause for ruling

**785:4-7-1. Opening of hearings and general supervision of hearings**

(a) The Hearing Examiner shall open the hearing at the time and place scheduled by the Hearing Examiner. The Hearing examiner shall state the purpose of the hearing and read and admit into

evidence and the record the following:

- (1) The application which initiated the proceeding;
- (2) The notice of application;
- (3) The affidavit of publication or other proof of service of notice required by law;
- (4) All other pleadings and documents submitted; and
- (5) Any protests which have been filed.

(b) Hearing Examiners shall have general supervision over the manner in which the hearings are held, requiring the degree of formality necessary to provide due process for all parties. Hearing Examiners may limit or prohibit distractions, such as cameras, lights, posters, vocal outbursts, etc. as deemed appropriate under the circumstances.

[Source: Amended at 11 Ok Reg 2907, eff 6-13-94]

#### **785:4-7-2. Proper notice**

After opening the hearing, the Hearing Examiner shall determine whether notice of the application was properly given as required by law. If a proof of publication affidavit by the newspaper publisher is not available at the hearing, the Hearing Examiner may at the Hearing Examiner's discretion leave the record open for late-filing of such proof of publication, provided that the matter subject of the hearing shall not be presented to the Board for consideration until such proof of publication showing that notice was properly published is filed. If the notice given is inaccurate as to matters to be considered at the hearing, the Hearing Examiner shall recess the hearing and consult with the Executive Director, Assistant Director and/or General Counsel concerning the inaccuracy and related matters of due process in determining whether the notice is materially, substantially or prejudicially defective in form or content. Should it be determined that the required notice was not given or is materially, substantially or prejudicially defective in form or content, the Hearing Examiner shall adjourn the hearing, set a new hearing date and a new and proper notice thereof shall be given. In addition to the required notice, all interested parties of record shall be given written notice of the new hearing date by the Hearing Examiner.

[Source: Amended at 10 Ok Reg 3271, eff 6-25-93; Amended at 11 Ok Reg 2907, eff 6-13-94]

#### **785:4-7-3. Appearances**

(a) After opening the hearing and making a determination on notice, the Hearing Examiner shall require that all interested parties enter their appearances for the record by indicating on the attendance sheet or stating their names, addresses, who they represent if other than themselves and whether they are appearing in support of or in opposition to the application.

(b) Interested parties may appear personally, by authorized representative and/or by legal counsel, provided, attorneys appearing as legal counsel for and in behalf of an interested party must be duly licensed to practice law by the Oklahoma Supreme Court.

(c) In protested proceedings including enforcement actions initiated by Board staff and unless otherwise waived by the Board, the applicant and protestants or respondents, as the case may be, must appear at the hearing, either personally, by representative or by legal counsel. The failure of an interested party to appear shall be deemed to constitute default and abandonment of interest by the party failing to appear and shall preclude the party from being heard further unless good cause for such failure to appear is shown within five (5) days from the date of the hearing.

(d) If a respondent party fails to appear without good cause shown, the allegations set forth in the Board's notice and supplemental statement thereto, if any, shall be deemed confessed, and the Hearing Examiner may recommend a default order based thereon to the Board without further

notice to such defaulting respondent.

**785:4-7-4. Presentation of evidence and examination of witnesses**

After all interested parties have entered their appearances, the Hearing Examiner shall proceed to admit into evidence any additional statements filed and then proceed to entertain presentation of evidence and testimony. The testimony of a witness shall be taken only upon oath or affirmation. Witnesses may be sworn individually or as a group. Each party shall have the right to call and examine witnesses, to introduce exhibits, to cross-examine opposing witnesses on any matter relevant to the issues even though that matter was not covered in the direct examination, to object to the introduction of evidence, to impeach any witness regardless of which party called him first to testify, to rebut evidence presented, and to call and examine an adverse party or witness as if under cross-examination. Board members and staff may participate as appropriate, using their technical knowledge and experience for the primary purpose of developing a full, fair, accurate and complete hearing on all issues relevant to the hearing. Questioning of witnesses will generally be permitted only by the attorneys of parties so represented, or by parties appearing on their own behalf, or by members of the Board or its staff.

**785:4-7-5. Evidence**

(a) As provided under the APA, the strict and formal rules of evidence and pleadings such as are applied and prevail in a court of law need not be observed in Board hearings.

(b) All evidence and testimony offered must be relevant and material to the matter subject of the application and hearing. Evidence and testimony which is clearly irrelevant, immaterial, incompetent or unduly repetitious or cumulative may be excluded or limited.

(c) Evidence may be received by stipulation and agreement of all interested parties. Documentary evidence may be received in the form of copies or excerpts if the original is not readily available and upon request, an interested party may be given the opportunity to compare the copy submitted to the Hearing Examiner. Documentary exhibits should not exceed eight and one-half (8 1/2) by fourteen (14) inches. The size of maps and drawings which are entered as exhibits should be limited or copies reduced in size in order to not unduly encumber the record. Each exhibit offered shall be tendered for identification and placed on file. No exhibit shall be filed after the conclusion of the hearing unless provision is made for holding the record open.

**785:4-7-6. Waiving necessity of oral testimony**

The Hearing Examiner may waive presentation of oral testimony in uncontested proceedings where all evidence required for the issuance of an order has been sworn under oath or verified and any other evidence or facts necessary to the proceedings is a matter of which the Hearing Examiner may properly take official notice.

**785:4-7-7. Evidence by reference and official notice**

Files and records of the Board which pertain to the subject of the hearing, and books, reports, and other papers or writings which have been prepared and published by any governmental or public agency may, at the discretion of the Hearing Examiner, be officially noticed and received into evidence as exhibits and incorporated by reference without the necessity of supplying copies to the Board and other parties, providing, the original or a copy is in the possession of the Board and available for inspection by any party. The parties offering same shall designate the particular portions on which they rely. Each such matter shall be appropriately identified and designated by number in the record as an exhibit of the party offering same or of the Board or its staff.



Certification of such files and records may be waived when it appears there is no valid reason to doubt the authenticity of the document presented. Official notice may also be taken of judicially cognizable facts and of any generally recognized technical or scientific facts within the Board's specialized knowledge.

**785:4-7-8. Evidentiary objections and exceptions**

Objections to evidence may be made and "sustained" or "overruled" by the Hearing Examiner. If a party objects to the introduction of certain evidence and is overruled by the Hearing Examiner, formal exception to such ruling is not necessary. Evidence excluded may be identified and included in the record and offers of proof may be made for the purpose of preserving the objection to the exclusion.

**785:4-7-9. Hearing continuances, adjournments and leaving the record open**

(a) The Hearing Examiner may, at the Examiner's discretion, continue or adjourn a hearing to another date. Hearing continuances may be granted at the request of an interested party for good cause shown or by agreement of all interested parties or may be ordered on motion of the Hearing Examiner. Continuances or adjournments for further hearing shall be to a date, time and place certain announced in open session of the hearing. The party at whose request the continuance was granted or ordered shall notify all other interested parties of record of the date, time and place for further hearing.

(b) At the conclusion of a hearing, the Hearing Examiner may, at the Examiner's discretion for good cause shown and without prejudice to any interested party, leave the hearing record open to allow presentation of additional material or information necessary to a full, fair and complete submission and disposition of the matter subject of the hearing.

**785:4-7-10. Proposed order of parties**

Upon conclusion of a hearing interested parties may, upon request, be allowed to file legal memorandums, briefs and proposed findings of fact, conclusions of law and Board Order for review and consideration by the Hearing Examiner. Unless otherwise allowed or ordered by the Hearing Examiner any such memoranda, briefs or proposed Orders of an interested party must, to be given consideration, be submitted to the Hearing Examiner within five (5) days from the date of the hearing.

**785:4-7-11. Closing the record and submission of cause for ruling**

After all interested parties have had an opportunity to be heard and present evidence, and after expiration of any additional time allowed, the hearing shall be deemed completed and submitted for Final Order and ruling and the hearing record shall be deemed closed unless otherwise ordered by the Hearing Examiner. The subject matter of the hearing shall thereupon be taken under advisement for final decision and Order by the Board.

[Source: Amended at 10 Ok Reg 3271, eff 6-25-93]

**SUBCHAPTER 9. POST-HEARING ACTIONS AND PROCEEDINGS**

Section

- 785:4-9-1. Hearing Examiner's proposed order and exceptions
- 785:4-9-2. Board consideration and action
- 785:4-9-3. Reconsideration and appeals

**785:4-9-1. Hearing Examiner's proposed order and exceptions**

(a) As expeditiously as possible after completion of the hearing, the Hearing Examiner shall review, consider and evaluate all matters presented and relevant to the hearing issues, and, based thereon, the Hearing Examiner shall prepare a proposed Final Order containing necessary findings of fact and conclusions of law. (b) The Examiner's proposed Order shall be presented to the Board in regular and open session, for its review, consideration and action.

(c) All interested parties of record shall be served a copy of the Examiner's proposed Order at least fifteen (15) days prior to the regular Board meeting at which the Order is to be presented for Board consideration and action. For purposes of this subsection, service shall be deemed to occur upon delivery of the proposed order to the U.S. mail or other carrier.

(d) Each party who would be adversely affected by the order as proposed shall have opportunity to file exceptions thereto, provided that said exceptions shall be filed no later than three days before the regular meeting of the Board at which the proposed order is to be considered.

(e) In uncontested matters, informal summary disposition may be made by placing such matters on the Board's agenda without the necessity of preparing proposed Final Orders.

[Source: Amended at 10 Ok Reg 3271, eff 6-25-93]

**785:4-9-2. Board consideration and action**

(a) At the regular meeting of the Board in which an Examiner's proposed Order or recommended summary disposition is to be considered and acted upon by the Board, no new testimony or evidence may be presented or entertained. Upon request, briefs and oral arguments on the Examiner's proposed Order may be presented, but a reasonable time limit for argument shall be fixed.

(b) Upon a motion by one of the Board members the matter will be voted on. The minutes of the meeting pertaining thereto, including the motion and vote thereon, shall be recorded in the permanent minute records of the Board. In cases where an application for a permit has been duly considered and granted by the Board, under such terms and conditions as the Board may prescribe, the formal permit so granted shall forthwith be issued by the Executive Director pursuant to and in accordance with the Board Order. All parties of record shall be furnished a copy of the approved Final Order of the Board either personally or by certified mail, return receipt requested.

[Source: Amended at 10 Ok Reg 3271, eff 6-25-93]

**785:4-9-3. Reconsideration and appeals**

(a) As allowed by and subject to compliance with the requirements imposed under the APA, any interested party may request rehearing, reopening or reconsideration of any final Board action, decision or Order. The Board may, at any time and on its own motion, order rehearing, reopening or reconsideration of any Board action, decision or Order.

(b) Appeals from any final Board action, decision or ruling may be taken as allowed and provided by and subject to the requirements of the APA. Subject to the provisions of the APA and unless otherwise directed or ordered by the Board, no Board action, decision or Order shall be stayed or deemed stayed pending rehearing, reopening, reconsideration or appeal.

(c) In any action other than an appeal in which a challenge to the Board's jurisdiction to issue an order or decision is made, the Board's jurisdiction shall be determined by the face of the proceedings which shall consist of:

- (1) The application or other document initiating the proceedings.
- (2) Process given, including proof of publications and affidavits of mailing.

(3) The Board's order or approved minutes reflecting the decision.

(4) The permit, rules or other document issued pursuant to such order or decision.

[Source: Amended at 9 Ok Reg 1671, eff 5-11-92]

## SUBCHAPTER 11. MEDIATIONPROCEDURES

Section

785:4-11-1. Mediation

### 785:4-11-1. Mediation

(a) The Board is authorized to *review disputes involving service areas or territories, rates for raw or treated water, and abrogation clauses in contracts among municipalities and rural water districts or not-for-profit rural water corporations; to recommend mediation and refer parties in appropriate disputes to mediators and provide technical information to such mediators; and to recommend other means of resolving disputes....*[82:1085.2(16)]

(b) As soon as possible after receiving notice of a dispute, the Board staff shall attempt to contact the appropriate representatives of the parties to the dispute to schedule a meeting with such representatives. From information obtained at such meetings or otherwise, staff shall present a recommendation about resolution of the dispute to the Board.

[Source: Added at 12 Ok Reg 2665, eff 7-1-95]