

**Project :** 7

**Title:** Scenic Rivers Phosphorus Criterion Review

**Agency:** Oklahoma Water Resources Board (OWRB)

**Project Location:** Illinois River Watershed

### Background:

In 2003, Oklahoma and Arkansas signed a “Statement of Joint Principles and Actions” stating that “Oklahoma periodically reevaluates all of its water quality standards. In particular, Oklahoma will reevaluate Oklahoma’s .037 mg/l criterion for total phosphorus in Oklahoma’s Scenic Rivers by 2012, based on the best scientific information available at that time, and with the full, timely inclusion of officials from the State of Arkansas representing both point and non point source dischargers.” To complete reevaluation by 2012, the process must be initiated no later than the spring of 2011.

### Objectives:

The objective of this project will be to reevaluate the Oklahoma Scenic Rivers phosphorus criterion to reaffirm its appropriateness or to advise if a revised phosphorous criterion might better serve to restore and protect the integrity of Oklahoma’s Scenic Rivers. The process embodied in this work plan will facilitate review of the best scientific information available utilizing a technical advisory group that includes appropriate technical staff designated by officials from EPA, Cherokee Nation and the States of Oklahoma and Arkansas representing both point and non point source dischargers. Staff of the OWRB will compile summaries of the information reviewed and recommendations made by the technical advisory group, then advise the Oklahoma Water Resources Board regarding whether it should separately pursue promulgation of a revised criterion or other alternatives.

If a revised criterion is ultimately pursued by the OWRB, revisions to the Oklahoma Water Quality Standards (OWQS) and Implementation Rules would be made following the procedures for rulemaking and public participation established in the Oklahoma Administrative Procedures Act and the Clean Water Act. Revision of the OWQS must be initiated with publication of formal notice of rule making intent. A rule impact statement must be drafted and along with a 45 day comment period, a formal hearing must be held. Proposed revisions must be approved by the Board and Governor and pass a 30 day legislative review period. The whole process must be certified by the Oklahoma Attorney General as compliant with state law. The revision process culminates with a 60 day EPA review and approval.

The outcome of this project will be reevaluation of the Oklahoma Scenic Rivers Criterion, which meets guidance measures 2.2.1 WQ-1a, 2.2.1 WQ-1b, 2.2.1 WQ-3a and 2.2.1 WQ-4a as listed in FY 09 National Water Program Guidance. The environmental result of this project will be to

satisfy the joint principles and actions to allow full implementation of a criterion protective of Oklahoma's six Scenic Rivers.

## Project Tasks:

### I. Establish Technical Advisory Group (TAG),

The reevaluation process will involve a Technical Advisory Group (TAG) including relevant technical staff from the State of Oklahoma, EPA, Cherokee Nation and the State of Arkansas representing both point and non point source dischargers. The TAG will review relevant best scientific information available regarding the phosphorus criterion and develop final recommendations to OWRB staff regarding whether additional action should be taken to revise the phosphorus criterion. The role of the TAG will be to:

1. Advise OWRB staff regarding the type of information necessary to reevaluate the criterion.
2. Recommend to OWRB staff sources of information to be reviewed
3. Assist OWRB staff in establishing the information review process including:
  - a. information validation
  - b. information ranking
  - c. appropriate DQOs and QAPP processes for the review process
4. Review the validated and ranked information to advise OWRB staff on whether additional criteria development is necessary.

The following individuals are tentatively targeted to serve on the TAG, although final membership will be based upon assignments made by the participating agencies:

Shellie Chard-M<sup>c</sup>Clary – ODEQ  
Shanon Phillips – OCC  
Derek Smithee – OWRB  
Amanda Storck – OSE  
Earl Smith – ANRC  
Steve Drown – ADEQ  
Jane Watson – EPA  
Environmental representative – Cherokee Nation

**Time frame: October 2010 – November 2010**

### II. Prepare Secondary Data QAPP

OWRB staff will prepare a Secondary Data Quality Assurance Project Plan (QAPP) that will establish reevaluation processes based upon "best scientific information available". Data Quality Objectives (DQOs) can be established in 2-3 TAG meetings in early 2011. Data Quality Objectives will be established to support one of three recommendations regarding the criterion:

1. No change due to lack of adequate information.
2. No change necessary because collected information indicate that the criterion is protective.

3. Revise criterion because of clear and convincing information/data that the river's uses and downstream uses will be protected with an alternative criterion.

The types of information to be solicited for the information validation process will be established in the Secondary Data QAPP. Information/data sources may include:

- Peer reviewed literature search
- Water quality data
- TMDL model predictions and endpoints
- Compliance data NPDES permits
- NPS Implementation
- EPA guidance
- Academic input
- Data and information from litigation and
- NSTEPS review (EPA nutrient criteria development support program)

The QAPP will document how "best scientific information available" will be validated. Acquired information will be preliminarily reviewed by OWRB staff and categorized according to:

- A. Information Quality:
  - Relevance
  - Technical rigor and defensibility
- B. Performance Endpoints
  - Acceptable periphyton levels
  - Acceptable seston chlorophyll levels.
  - Acceptable turbidity
  - Beneficial uses protected (including those downstream)

The review and recommendation process used by the TAG will be established in the QAPP. The TAG recommendations will be presented to OWRB staff for appropriate action.

**Time frame: October 2010 – January 2011**

***Deliverables: Secondary Data QAPP***

### **III. Solicit Best Scientific Information Available**

Notice shall be published soliciting public input of scientific information regarding the phosphorus criterion. The request shall specify the need for technical information to retain the existing criterion or to revise the criterion to accomplish the performance endpoints established in the data quality objectives. The notice should be published in June of 2011 with at least a 45 day period after publication allowing information to be submitted.

A public hearing regarding Scenic Rivers Criterion will be held at the end of the information solicitation period on approximately July 15, 2011 (the Public Hearing to possibly be held in Tahlequah, Oklahoma). Pending DQOs, OWRB staff shall conduct:

- Literature search
- Data review
- TMDL review
- Compliance review
- NPS Implementation review
- EPA guidance review
- Target and request input from academics
- Review data and information from litigation.
- NSTEPS review

**Time frame: February 2011 – June 2011**

***Deliverables: Public Notice***

#### **IV. Information Review:**

All information submitted as result of the public notice solicitation or acquired by OWRB staff shall be reviewed and ranked by OWRB staff for its quality, relevance and technical basis following procedures established in Task II. Information meeting DQOs, will be compiled into a Data and Information Report for the TAG's review.

**Time frame: July 2011 – September 2011**

***Deliverables: Data and Information Report***

#### **V. Criteria Reevaluation with “full, timely inclusion of officials from the State of Arkansas”**

The Data and Information Report regarding the Scenic Rivers phosphorus criterion will be reviewed by the Technical Advisory Group. The TAG review should produce one of 3 recommendations:

1. No change due to lack of adequate information
2. No change necessary because of supporting information
3. Revise criterion because of clear and convincing information/data that the river's uses and downstream uses will be protected with an alternative criterion

The reevaluation process should culminate in a report including recommendation for OWRB staff consideration that take into account State and Federal requirements for modifying water quality standards.

**Time frame: July 2011 – October 2011**

***Deliverables: Final Report presenting recommendations by TAG***

#### **Measures of Success:**

The overall measure of success for this project is to satisfy the reevaluation process embodied in the 2003 “Statement of Joint Principles and Actions” endorsed by the States of Oklahoma and Oklahoma's FY 09/10 604b C6-400000-48 Project 7 approved 8/10

Arkansas and EPA. Recommendations could either reaffirm the current criterion or provide a recommendation for further action that with timely implementation will restore and protect Oklahoma’s six Scenic Rivers.

**Outputs:**

1. Secondary Data QAPP
2. Public Notice
3. Data and Information Report.
4. Final Report to OWRB staff presenting recommendations by the technical advisory group

**Project Management:**

The OWRB will be the lead agency and manage project activities for this project and will provide oversight for all project activities.

**Project Duration:**

The project will be approximately 12 months in duration. Outside of the scope of this project, additional activities could include Board action, additional criteria development and standards revision. These additional activities may extend well past the 12 month duration allotted for this project.

**Project Milestones:**

Secondary Data QAPP	October 2010 – January 2011
Data Solicitation	February 2011 – June 2011
Public Hearing	July 15th, 2011
Information Review	July 2011 – September 2011
Final TAG Recommendations	July 2011 – October 2011