

**OKLAHOMA WATER RESOURCES BOARD**

**RULE IMPACT STATEMENT**

for Rule Amendments in OAC Title 785, Chapter 20  
Proposed for Adoption During 2021

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

The Oklahoma Water Resources Board ("OWRB") is proposing to amend, or is considering amending, various provisions of Oklahoma Administrative Code ("OAC") 785:20 as follows:

OAC 785:20-3-1 is proposed to be revoked since the rule offers little substantive guidance on stream water application preparation or processing. Accordingly, the rule is obsolete and unnecessary and its removal will simplify the entire chapter.

OAC 78:20-3-2 is proposed to be amended to remove language related to an outdated stream water application form that is proposed to be revoked and removed.

OAC 785:20-3-8, 785:20-3-9, 785:20-5-3, and 785:20-9-4 are proposed to be amended to make minor language modifications to the notice provisions of these sections to match the language of the proposed stream water notice amendments recommended in OAC 785:20-5-1.

OAC 785:20-3-10 is proposed to be revoked since the rule offers little substantive guidance on stream water application preparation or processing. Accordingly, the rule is obsolete and unnecessary and its removal will simplify the entire chapter.

OAC 785:20-5-1 is proposed to be amended to add additional notice requirements on all stream water permit applications. In addition to publishing notice in a newspaper of general circulation, it is proposed that notice of all stream water permits should also be sent to landowners adjacent to the stream, current stream water permit holders, and to any person or entity with a pending stream water permit application within a one-mile radius of the proposed diversion point. This change is intended to provide greater due process protections to potentially interested landowners and permit holders.

OAC 785:20-5-5 is proposed to be amended to remove a reference to an outdated technical report and replace it with the report currently used by the Board.

OAC 785:20 Appendix A is proposed to be revoked since Appendix A contains an outdated version of the Board's stream water permit application form that is no longer being utilized by the Board to process stream water applications. The current form can be found on the Board's website.

**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 permit to use stream water are the most likely affected classes. The changes proposed are necessary to conform the administrative rules to a recent decision of the Oklahoma Supreme Court regarding the OWRB's stream water notice statute. Cost of the application fee will be incurred by the applicant when providing notice of an application to use stream water.

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

Those who use stream water for domestic or permitted purposes will benefit from the additional notice requirements. The new requirements will give additional notice, including personal service of the notice of application, to existing users of stream water. The new rules will also provide more certainty to applicants.

**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 proposed changes to the stream water notice rules. Applicants will be responsible for the cost of certified mail to other water users within the prescribed area. There should be no probable economic impacts to affected classes, persons or political subdivisions for the other amendments.

**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 include the cost of additional staff time to determine the permitted water uses within the prescribed area. No other state agency will be required to assist in implementing or enforcing the proposed rules amendments.

**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 political subdivisions are likely to be impacted by the proposed changes. 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 require a stream water permit will be responsible for the additional research and mailing costs.

**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. The costs associated with additional notice are unlikely to have an adverse economic effect on small business within the meaning of the Oklahoma Small Business Regulatory Flexibility Act.

**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.

**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 would be no detrimental effect on the public health, safety and environment.

**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 30, 2020 by Sara Gibson, General Counsel, Oklahoma Water Resources Board.