

OKLAHOMA WATER RESOURCES BOARD

**RULE IMPACT STATEMENT**

for Rule Amendments in OAC 785:46  
Proposed or Considered for Adoption during 2016

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

Oklahoma Water Resources Board (OWRB) staff are proposing to amend provisions of the Oklahoma Water Quality Standards (OWQS) codified in Oklahoma Administrative Code (OAC) 785:46 as presented below.

Technical documentation supporting the proposed amendments/rules outlined below is posted on the OWRB website ([http://www.owrb.ok.gov/util/rules/wqs\\_revisions.php](http://www.owrb.ok.gov/util/rules/wqs_revisions.php)). The OWRB hosted informal public meetings to discuss the proposed amendments on August 26, 2015, October 1, 2015, and October 27, 2015. During and since these meetings, OWRB staff received a limited amount of specific information/comments regarding the proposed rules and subjects B through J below. However, in all cases OWRB staff worked to be responsive to the comments/information received from both other state environmental agencies and/or interested parties. In the absence of specific information from other state environmental agencies and/or interested parties, OWRB staff evaluated subjects B through J in a broad manner.

**Proposed Sensitive Water Supply (SWS) Reuse Antidegradation Classification**

The proposed amendment creates a portion of the companion implementation language that accompanies the new discretionary antidegradation classification for SWS lakes: SWS-Reuse (SWS-R) [785:45-5-25(8)]. The current SWS antidegradation classification for reservoirs is a Tier 2 classification under the WQS Antidegradation Policy, which provides additional protection to certain public water supply reservoirs and their watersheds [785:46-13-4(b)]. The SWS waterbody additional protections include prohibitions on new point source discharges and increased loading from existing discharges. However, since the SWS provisions were originally adopted and due to prolonged drought conditions the need has arisen for the state to explicitly balance the combined goals of water quality protection and reliable water supplies. Thus, the creation of a new antidegradation classification SWS-R establishes a regulatory pathway for parties to implement water reuse projects to augment water supply, while still protecting water quality and public health.

New language is proposed (785:46-13-1 & 13-4) to allow for implementation of the SWS-R policy. The new language includes a definition of SWS-R, as well as the SWS-R name an acronym in the appropriate locations of OAC 785:46-13. Additionally, a paragraph has been reserved [785:46-13-4(e)] for future implementation language that is applicable to the new SWS-R antidegradation policy. The anticipated future implementation rules will be developed in coordination with the Oklahoma Department of Environmental Quality's rules for indirect potable reuse.

**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.**

Proposed Sensitive Water Supply Reuse Antidegradation Classification

This proposed action simply establishes some implementation language for the SWS-R classification; the SWS-R classification is not self implementing and does not automatically create a regulatory obligation for any class of persons. The class of persons most likely to be affected by the proposed rule would be municipal wastewater treatment operations and/or water supply providers if they seek to reclassify a waterbody from SWS to SWS-R in order to implement a future water reuse project. No class of persons will bear a cost due to OWRB creating the SWS-R classification.

OWRB did not receive any cost information from any private or public entity.

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

Proposed Sensitive Water Supply Reuse Antidegradation Classification

The class of persons most likely to benefit from the proposed rule would be municipal wastewater treatment operations and/or water supply providers if they seek to reclassify a waterbody from SWS to SWS-R in order to implement future water reuse projects. Additionally, Oklahoma residents benefit from sound public policy balancing the combined goals of water quality protection and reliable water supplies.

**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.**

Proposed Sensitive Water Supply Reuse Antidegradation Classification

This proposed action simply establishes some implementation language for the SWS-R classification; the SWS-R classification is not self implementing and does not automatically create a regulatory obligation for any class of persons or political subdivision. Creation of the SWS-R classification is not expected to cause a direct economic impact.

There are no fee changes included in the proposed rules.

**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.**

## Proposed Sensitive Water Supply Reuse Antidegradation Classification

Oklahoma's state environmental agencies, including OWRB, currently implement and/or enforce water quality standards under their respective jurisdictions. Because SWS-R is a wholly new waterbody classification new or revised implementation programs may be necessary. This proposed rule was drafted cooperatively between the OWRB, ODEQ, and the Water Reuse Workgroup and in response to legislative direction. It is expected by both OWRB and ODEQ that subsequent planning and other actions will be necessary in order for interested parties to utilize the new SWS-R provision and realize water reuse projects in the future. Specifically, OWRB anticipates additional rulemaking to adopt general implementation procedures related to the proposed rules. In this case, some additional costs will be borne by the OWRB. However, this potential rulemaking action would provide an overall benefit to OWRB, other state agencies, and the regulated community by providing a transparent and consistent approach to implementing SWS-R provisions.

OWRB did not receive any information on probable costs and benefits to implement and enforce the proposed rules from any agency. The proposed rules are not expected to have any 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.**

## Proposed Sensitive Water Supply Reuse Antidegradation Classification

Political subdivisions are not expected to have implementation or enforcement responsibilities associated with the proposed rules. This proposed action simply establishes some implementation language for the SWS-R classification; the SWS-R classification is not self implementing and does not automatically create a regulatory obligation for any political subdivision. The proposed rule is not expected to cause an economic impact on political subdivisions. However, in the future if a political subdivision seeks to reclassify a waterbody from SWS to SWS-R in order to implement a water reuse project, they will have responsibilities and cooperation would be beneficial.

### **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.**

## Proposed Sensitive Water Supply Reuse Antidegradation Classification

This proposed action simply establishes some implementation language for the SWS-R classification; the SWS-R classification is not self implementing and does not automatically create a regulatory obligation for any small business (defined in 75 O.S. § 502) or other party. The proposed rule is not expected to have an adverse economic impact on any small business.

### **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.**

Proposed Sensitive Water Supply Reuse Antidegradation Classification

This proposed action simply establishes some implementation language for the SWS-R classification; the SWS-R classification is not self implementing and does not automatically create a regulatory obligation for any party. Thus, there are not expected to be compliance costs associated with creating SWS-R antidegradation classification. Additionally, this proposed rule will benefit parties seeking to reclassify a waterbody from SWS to SWS-R in order to implement future water reuse projects. Also, Oklahoma residents will benefit from sound public policy balancing the combined goals of water quality protection and reliable water supplies.

**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.**

Proposed Sensitive Water Supply Reuse Antidegradation Classification

This proposed action simply establishes some implementation language for the SWS-R classification; the SWS-R classification is not self implementing and does not automatically create a regulatory obligation for any party. The creation of a new antidegradation classification, SWS-R establishes a pathway for parties to implement future water reuse projects to augment water supply, while still protecting water quality and public health.

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

Proposed Sensitive Water Supply Reuse Antidegradation Classification

This proposed action simply establishes some implementation language for the SWS-R antidegradation classification. There are no anticipated adverse effects to public health, safety or the environment if this proposed action is not implemented. However, the creation of a new antidegradation classification SWS-R establishes a regulatory pathway for parties to implement water reuse projects to augment water supply, while still protecting water quality and public health. Without this action parties seeking to implement a water reuse project on SWS waterbodies will need to attain the more stringent protections associated with the existing SWS classification.

**K. THE DATE THE RULE IMPACT STATEMENT WAS PREPARED AND IF MODIFIED, THE DATE MODIFIED:**

This rule impact statement was prepared and approved on December 1, 2015 by Monty Porter, Section Head, Water Quality Standards Section, Water Quality Programs Division, Oklahoma Water Resources Board.