

OKLAHOMA WATER RESOURCES BOARD

RULE IMPACT STATEMENT

for Rule Amendments in OAC Title 785 Chapter 30
Proposed for Adoption During 2025

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

The staff of the Oklahoma Water Resources Board ("OWRB") is proposing or is considering promulgation of amended or new rules in Oklahoma Administrative Code ("OAC") 785:30 as follows:

OAC 785:30-3-1(c)(1) is proposed to strike out the language referring to the application being in Appendix A, since that appendix was previously removed from the rules.

OAC 785:30-3-1(e) is proposed to be added to tie in directly to the Intent-to-Drill rules implemented in OAC 785:35 in FY23.

OAC 785:30-3-3(b) is proposed to be amended to provide six (6) months of application processing time that starts after the applicant is last instructed by the Board as opposed to when the Board is last contact by the applicant.

OAC 785:30-5-4(a) is proposed to be amended to add language clarifying that 90-day provisional temporary permits may be renewable for the oil and natural gas industry.

OAC 785:30-7-4(a)(2) is proposed to drop the language referring to Appendix A, since that appendix was previously removed from the rules.

OAC 785:30-7-4(b) is being proposed to remove language allowing a permit holder to drill a replacement well without notifying the OWRB. This language change is a result of the addition of an intent-to-drill process in FY23 requiring well drillers to notify the OWRB when a well requiring a water right is intended to be drilled. Language is proposed to be added to emphasize the intent of a replacement well is to service the same area of use as the well that is authorized on the permit.

OAC 785:30-7-8 is proposed to be revoked, which has allowed permit holders to report all their water use on one permit instead of the location where the water was withdrawn.

OAC 785:30-13-5(c) proposes to take out the 600-ft spacing requirement from municipal lands for drilling municipal wells as a result of a change in 82 O.S. 1981, §§1020.1 et seq.

OAC 785:30 Appendix D is being proposed to add and update locations of springs in the Arbuckle-Simpson Groundwater Basin.

Other amendments may be considered or proposed as a result of public comments.

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.

There are no classes of persons anticipated to be negatively affected by the proposed changes in OAC 785:30-3-1(c)(1) and OAC 785:30-7-4(a)(2), since Appendix A was previously removed from the rules.

There are no classes of persons anticipated to be negatively affected by the proposed changes in OAC 785:30-3-1(e) as the Intent-to-Drill rule it references was already implemented in OAC 785:35 in FY23.

For OAC 785:30-3-3(b) the proposed amendment would affect non-responsive applicants in requiring that application corrections be completed within six (6) months after last instructed by the Board.

For OAC 785:30-5-4(a) there are no classes of persons anticipated to be negatively affected by the proposed change.

There are no classes of persons anticipated to be negatively affected by the proposed changes in OAC 785:30 Appendix D as the changes would correct known spring location errors and add known spring locations for administering the well spacing requirements of OAC 785:30-3-6(c) for groundwater applications in sole-source groundwater basins.

OAC 785:30-7-4(b) may negatively affect the well drilling community and entities with permits wanting to drill a replacement well by adding time to complete a new well. However, if the well driller and permit holder anticipate drilling a new well in a timely manner, the increased time should be minimal.

OAC 785:30-7-8 is being proposed to require a permit holder to report water use from the permit from which the water has been withdrawn. This would require the permit holder to keep more accurate records for reporting purpose. Most persons and entities already keep accurate records; the language is proposed to require more accurate record-keeping from those who have multiple permits and report cumulatively.

OAC 785:30-13-5(c) should provide relief to municipalities drilling wells within their municipal limits by allowing them the freedom to place a well closer to or outside of their municipal boundary.

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

For OAC 785:30-3-1(c)(1), OAC 785:30-7-4(a)(2), and OAC 785:30-13-5(c), applicants and water right holders will benefit as these changes will allow processes to run more efficiently for both the applicant/permit holder and OWRB staff.

For OAC 785:30-3-1(e), applicants and water right holders will benefit as it makes them aware of a direct tie in with Intent-to-Drill rules (OAC 785:35).

For OAC 785:30-3-3(b), would benefit OWRB staff by decreasing the time spent on processing perpetually inadequate applications. This also benefits responsive applicants by allowing OWRB staff to spend more time reviewing their applications.

For OAC 785:30-5-4(a) the oil and natural gas industry will benefit by allowing the Executive Director of the OWRB to approve up to four (4) consecutive 90-day provisional temporary permits in situations where long term use of water is unnecessary.

OAC 785:30-7-4(b) will benefit other permit holders as well as the citizens of Oklahoma by protecting water resources from being illegally taken without proper notice. The language

change will ensure that replacement wells are drilled in the required locations outlined in the water right permit and to service the same area of use as the well that is authorized on the permit.

OAC 785:30-7-8 will benefit OWRB staff, other state and federal agencies, academic institutions, and the citizens of Oklahoma by having more precise and concise water use data reported on water use reports. Water use data is one of the OWRB's most requested data sets and often times, the data is convoluted to the point that it is rendered unusable.

Appendix D will benefit the natural beauty of the Arbuckle-Simpson groundwater basin as well as those who use the water that emanates from the area.

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.

For OAC 785:30-3-3(b), the economic impact would be if an applicant does not initiate further proceedings for six (6) months after last instructed by the Board that the application shall be deemed withdrawn and the filing fee forfeited.

For OAC 785:30-5-4(a), the economic impact on the oil and natural gas industry will be beneficial as it will allow the Executive Director of the OWRB to approve up to four (4) consecutive 90-day provisional temporary permits in situations where long term use of water is unnecessary.

OAC 785:30-7-4(b) emphasizes the intent of a replacement well is to service the same area of use as the well that is authorized on the permit. There potentially would be an economic impact if the permit holder planned to significantly change well locations to supply water to a different area of use.

Otherwise, there are no economic impacts anticipated with any other of the proposed changes in Chapter 30. No fee changes are being proposed.

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.

For OAC 785:30-7-4(b) the cost to the OWRB would be in the review and processing time for applications or application materials.

Several of the changes will benefit the agency with having better quality data (OAC 785:30-7-8) and decreased permit processing times (OAC 785:30-3-3(b)).

For OAC 785:30-5-4(a) the cost to the OWRB would be minimal. A benefit to OWRB staff would be in not having to process prospective long-term applications that would have likely been necessary if 90-day provisional temporary applications could not be renewed for the oil and natural gas industry. Long term applications require significantly more review time than 90-day provisional temporary applications.

Otherwise, there are no other anticipated costs to the agency regarding any of the proposed rules other than staff time through the rule-making process.

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 economically impacted by the proposed changes to OAC 785:30. The proposed changes are minor and don't affect core processes or functions within the agency or the day-to-day activities of groundwater right holders.

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.

For OAC 785:30-3-3(b), the adverse economic effect on small business would be if an applicant is a small business and does not initiate further proceedings for six (6) months after last instructed by the Board that the application shall be deemed withdrawn and the filing fee forfeited.

OAC 785:30-7-4(b) emphasizes the intent of a replacement well is to service the same area of use as the well that is authorized on the permit. If the permit holder is a small business, there would potentially be an economic impact if the permit holder planned to significantly change well locations to supply water to a different area of use.

Otherwise, small businesses are not likely to be economically impacted by the remainder of the proposed changes to OAC 785:30. The proposed changes are minor and don't affect core processes or functions within the agency or the day-to-day activities of groundwater right holders.

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.

Several of the proposed changes are likely to cut compliance costs or have no effect (OAC 785:30-3-1(c)(1), OAC 785:30-3-3(b), OAC 785:30-5-4(a), and OAC 785:30-7-4(a)(2)).

With respect to OAC 785:30-7-8, this rule was originally meant to cut compliance costs and make reporting groundwater use easier, however it created more costs than it saved; specifically, consolidating reported use by a permit holder takes more staff time sorting out reported groundwater use, entering use into databases, and additional confusion when communicating with the permit holder.

Regarding OAC 785:30-3-1(e) and OAC 785:30-7-4(b), this ties in directly to the Intent-to-Drill rules implemented in 785:35 in FY23. The Intent-to-Drill systems does add compliance cost, which was outlined in the rule-impact statement last year; however, these costs were deemed

necessary for the public health and safety of the citizens of Oklahoma. Although there is a cost associated with filing an intent-to-drill notice to the OWRB, it is to ensure that public health and safety takes precedent. This rule change would not exempt a replacement well from the intent-to-drill notification system.

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.

Of the proposed rule changes, only OAC 785:30-7-4(b) has a direct effect on public health and safety. The proposed language change ensures that a replacement well will be vetted by OWRB staff, including well location, depth, area of use, and possible sources of pollution.

Indirectly, the addition of spring locations in Appendix D will help protect public health and safety by helping ensure a safe and reliable water source for those entities that rely on spring water sourced from the groundwater basin.

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 of OAC 785:30-7-4(b) are not implemented, there would be no oversight on locations where replacement wells are located. If a replacement well is drilled outside of the 250-ft spacing limit without prior approval, appropriate notice and due process would be neglected. Without being vetted by OWRB staff, replacement wells have the potential to commingle water zones (which may include cross contaminating polluted groundwater resources) and well as interfere with the rights of nearby landowners.

If the proposed additions to Appendix C are not implemented, the additional springs and streams emanating from the Arbuckle-Simpson groundwater basin will not be adequately protected, which will have an adverse effect to downstream users.

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 14, 2024 by Christopher R. Neel, Chief, Water Rights Administration Division, Oklahoma Water Resources Board.