

OKLAHOMA WATER RESOURCES BOARD
RULE IMPACT STATEMENT
for Rule Amendments in OAC 785: Chapter 25
Proposed for Adoption During 2023

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”) 785:25 DAMS AND RESERVOIRS as follows:

OAC 785:25-3-2 is proposed to be amended by including a seller’s responsibility for the notification of transfer of ownership of a dam.

OAC 785:25-3-6 is proposed to require that if a spillway which was originally constructed prior to June 13, 1973, is proposed to be enlarged, modified, or reconstructed, that the spillway standards described in OAC 785-25-3-6(a) shall be used in its design.

OAC 785:25-3-7 modifies the language to refer to dam “valley floor drains” in place of “outlet conduits” to remove the ambiguity between other dam appurtenances of similar name.

OAC 785:25-5-1 clarifies that an *Application to Construct, Enlarge, Repair or Alter Dam and/or Spillway* be submitted to and approved by the Board prior to the commencement of dam construction activities with the exception of some site preparation.

OAC 785:25-5-1 is also proposed to be amended in regard to the application requirements for the modification of an existing agriculture-exempt dam. If the proposed modification is not being prepared with the assistance of a local conservation district or federal agriculture related agency, the owner shall submit an application in accordance with 785-25-5 for the modification.

OAC 785:25-7-6 would apply a 30-day time limit to file a Notice of Completion of Works upon dam completion.

OAC 785:25-7-7 would require that a dam Emergency Action Plan be submitted to the Board, at minimum, once every five years.

OAC 785:25-9-1 would be reorganized for clarity. Subsection (c) would be given a more descriptive title. The minimum standards for dam inspections would have an additional requirement to assign a condition rating of all dam appurtenances in accordance with the Board’s dam inspection guidelines.

OAC 785:25 Appendix A for the correction of the appendix title.

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.

Dam owners who do not meet current spillway capacity requirements could have the increased cost associated with engineering requirements and increased cost of construction for the modification of some existing dam spillways or other outlet works. Engineering and construction costs to dam owners will depend on the current and proposed design of the dam. Dam owners who wish to modify existing agriculture-exempt dams without further assistance from local

conservations districts or agricultural agencies could have the increase cost associated with engineering and construction. There should be no cost impacts to the agency.

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

Persons who will benefit from the proposed rules are those individuals who live downstream of dams or own structures or property downstream of dams. Owners of dams will benefit from the rule changes by maintaining safe impoundments and limiting the liabilities that arise from dam failures.

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.

There are potential economic impacts to dam owners that would be incurred for the modification of some existing dam spillways or other outlet works. Engineering and construction costs to dam owners will depend on the current and proposed design of the dam.

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.

The agency is not anticipated to incur additional costs through increased engineering plan reviews or increased enforcement action. Additional costs will be borne by the dam owner. No additional costs are anticipated to be incurred by other agencies. The proposed amendments will have no 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.

The proposed rules are not anticipated to have an economic impact on any political subdivision or require the cooperation of political subdivisions in implementing or enforcing the rules. If a political subdivision owns a dam that has not been maintained in a safe condition, it may bear the cost of repair, removal, or additional inspections.

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.

There should be no adverse economic impact on small businesses unless the small business owns a dam that was built without agency approval of plans and specifications or that has not been maintained in a safe condition.

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 known less costly or non-regulatory methods or less intrusive methods for achieving the purpose of the proposed rules, which is protection of life and property.

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 will result in increased safety for those persons who live downstream from an unpermitted dam or a dam that is in an unsafe or poor condition. Dam failures can result in loss of life and property damage.

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 is an increased risk of harm to persons living downstream from dams. Loss of life and extensive or irreparable environmental and property damages could occur. Economic losses would be significant.

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 16, 2023, by Yohanes Sugeng, Chief, Engineering and Planning Division, Oklahoma Water Resources Board.