

Oklahoma Water Resources Board 2020 Proposed Rules, Title 785

January 21, 2020



Title 785 - Chapter 5: Fees Proposed Rules

**Kent Wilkins, Division Chief
Planning and Management Division**

January 21, 2020



Summary of Significant Changes to the Fee Schedule

- **OAC 785:5-1-6**
Increases the annual administration fee for surface water permits from \$50 to \$75.
- **OAC 785:5-1-10**
Adds an additional \$250 fee for groundwater permits over sensitive sole-source groundwater basins.
- **OAC 785:5-1-11**
Updates the well driller and pump installer licensing fees.
- **OAC 785:5-1-16**
Removes a fee that is no longer used.
- **OAC 785:5-1-21**
A new section to establish fees for reviewing documents related to groundwater trapped in producing mines overlying a sensitive sole source aquifer.

Fees Justification

OAC 785:5-1-6(d)

- Fees have not been updated in over 10 years
- Increased IT maintenance cost through OMES

(d) Annual water right administration fee for the submittal of water use reports shall be \$50.00 \$75.00 for each permit or vested right, provided that the cumulative maximum water right administration fees imposed on any one permit or vested right holder shall not be more than \$500.00 per year.

Fees Justification

OAC 785:5-1-10

- Fees will help offset the additional staff time processing applications including evaluation of SB 288 requirements and buffer zone requirements related to springs and streams.

(f) Applications for groundwater use that overlie a sensitive sole-source basin shall require an additional \$250.00 fee.

Fee Justification

OAC 785:5-1-11

Well Driller and Pump Contractor Advisory Council recommended raising program fees due to several reasons:

- Fees have not increase since 2010 and current fees cover only approximately 50% of expenses
- Cost of remediating violations have increased
- Out-of-state licensing and indemnity fees should reflect the greater cost associated with resolving issues with out-of-state contractors
- New fee is projected to fund approximately 75-80% of associated costs
- New fee is aligned with modernized fees schedule in neighboring states
- Low income fee waiver

Fee Justification

Well Driller Program Fee State Comparison

| State | Annual Contractor Licensing Fee | Additional Fees (Not incl. Indemnity Fund/Surety Bond)* | Total Licensing Fee (Shown as Annual Amount) |
|-----------------------------------|---------------------------------|---|--|
| CO (In-State)** | 50 | 50 | 100 |
| TX (In-State) | 325 | 199 | 524 |
| MO (In-State) | 100 | 180 | 280 |
| AR (In-State) | 350 | 435 | 785 |
| OK (In-State) | 180 | 50 | 230 |
| OK Proposed (In-State) | 230 | 50 | 280 |
| CO (Out- of-State)** | 400 | 80 | 480 |
| TX (Out-of-State) | 325 | 199 | 524 |
| MO (Out-of-State) | 100 | 180 | 280 |
| AR (Out-of-State) | 350 | 435 | 785 |
| OK (Out-of-State) | 280 | 50 | 330 |
| OK Proposed (Out-of State) | 530 | 50 | 580 |

* Includes testing fees and drilling rig and equipment registration for a Well Drilling and Pump Installer License

** NGWA Testing Required

Fee Justification

OAC 785:5-1-16

- Removes a fee that will no longer be charged by the OWRB

OAC 785:5-1-21

- Senate Bill 597, taking and use of groundwater trapped in producing mines within a sensitive sole-source basin, was implemented since 2013 with no funding provided by the legislature
- The proposed fees would cover a portion of the costs associated with Senate Bill 597

COST ESTIMATES AND FEE REVENUE FOR PIT WATER ACTIVITIES

| <u>Document Reviewed</u> | <u>Est. Cost Per Document Item</u> | <u>Proposed Fee</u> |
|-------------------------------------|------------------------------------|---------------------|
| De Minimis Request | \$2,275 | \$2,000.00 |
| Annual Renewal of De Minimis Status | \$546 | \$250.00 |
| Annual Consumptive Use Report | \$460 | \$500.00 |
| Management Plan | \$3,033 | \$3,000.00 |

Title 785 - Chapter 25: Dams and Reservoirs Proposed Rules

**Zach Hollandsworth, PE, Dam Safety Engineer
Planning and Management Division**

January 21, 2020



Rule Change Summary

- Spelling, grammar, typo corrections
- Emergency Action Plan guidelines
 - Updated reference
- Minimum spillway performance standards
 - Moved to Appendix B
- Minimum inspection report requirements
 - Section added
- HMR 51 replaced with new study

Chapter 25-7-7: Emergency Action Plan

- Chapter 25-7-7 was changed to refer to the latest FEMA guidelines for Emergency Action Plans
- The new guidelines were published in 2013 as an update to the earlier 2004 version
- Federal guidelines for Emergency Action Planning for Dams (FEMA Publication No. P-64)
- <https://www.fema.gov/media-library/assets/documents/3357>

Chapter 25-3-6: Minimum Spillways Performance Standards

- Chapter 25-3-6(b) table of design flood and freeboard for dams based on size and hazard classification
- Removed from the body of the rules and placed in Appendix B
- No changes were made to required design floods

Chapter 25 Appendix B: Minimum Spillway Performance Standards

| SIZE FREEBOARD | HAZARD | DESIGN FLOOD | MIN. |
|-------------------|-------------|--------------|--------|
| Small | Low | 25% PMF | 0 Feet |
| Small | Significant | 40% PMF | 0 Feet |
| Small | High | 50% PMF | 1 Foot |
| Intermediate | Low | 25% PMF | 1 Foot |
| Intermediate | Significant | 50% PMF | 1 Foot |
| Intermediate | High | 75% PMF | 3 Feet |
| Large | Low | 50% PMF | 1 Foot |
| Large | Significant | 75% PMF | 1 Foot |
| Large | High | 100% PMF | 3 Feet |

Chapter 25-9-1: Inspection of Dams

- Chapter 25-9-1(b): Language moved to 25-9-1(g)
- Chapter 25-9-1(b)(5): Clarification on scheduling inspections
- Chapter 25-9-1(c) and (d): Clarification language
- Chapter 25-9-1(g): Minimum standards
 - Except for low hazard potential dams
 - Written report describing any dam safety deficiencies observed and outline remedial actions to be taken

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- **Chapter 25-9-1(g): Minimum standards**
 - **Except for low hazard potential dams**
 - **Written report describing any dam safety deficiencies observed and outline remedial actions to be taken**

Chapter 25-9-1: Inspection of Dams(g): Minimum Standards

- 1) Engineering inspection reports shall be prepared for each inspection completed and submitted to the Board within 30 days
 - Originally in sub-section (c) Expense of inspections
- 2) Shall include photos of the dam, auxiliary spillway, principal spillway inlet and outlet, and potential safety concerns with notes in written report

Chapter 25-9-1: Inspection of Dams(g): Minimum Standards

3. Inspection reports shall include a schedule of corrective actions to be taken to address dam safety deficiencies
4. Shall include review of the Emergency Action Plan and of the operation and maintenance manual to assure they are still accurate and applicable
 - Moved from 25-9-1(b)
 - Changes in downstream development or other conditions noted if applicable

Chapter 25-3-6(c): Replacing HMR Number 51 - Background

- OWRB (along with Arkansas, Louisiana, and Mississippi) contracted with Applied Weather Associates to provide an update to the Probable Maximum Precipitation Maps
- PMPs for three different storm types (**local**, **tropical**, and **general**) were identified separately
- Updates precipitation values originally defined in 1978 by National Weather Service

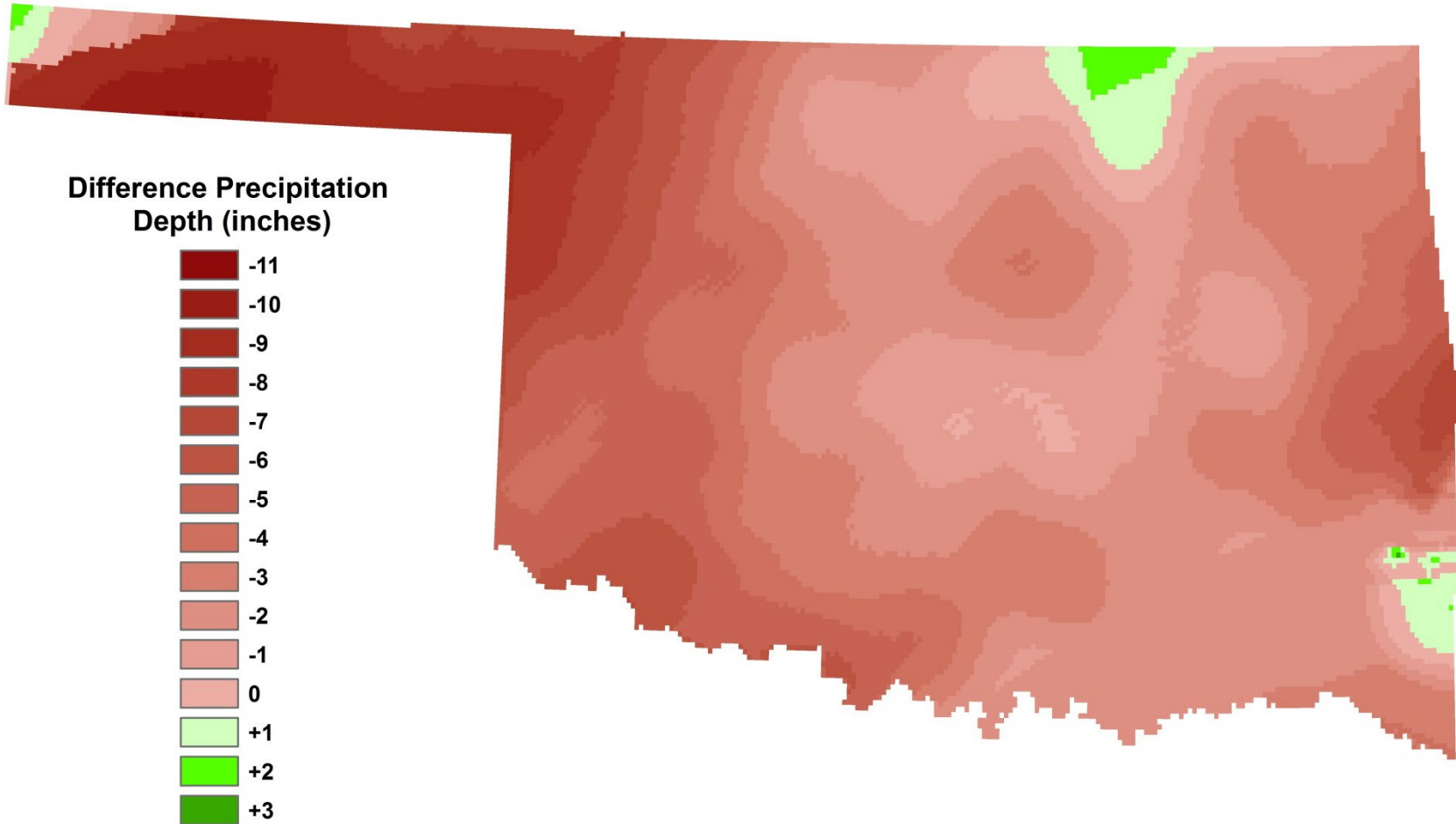
Chapter 25-3-6: Probable Maximum Flood (PMF)

- Chapter 25-3-6-(c)(1): defines PMF as the flood that may be expected from the most severe combination of critical meteorological conditions, as defined as the Probable Maximum Precipitation (PMP), and critical hydrologic conditions that are reasonably possible in the region.
 - Removes reference to Hydrometeorological Report No. 51, National Weather Service, 1978

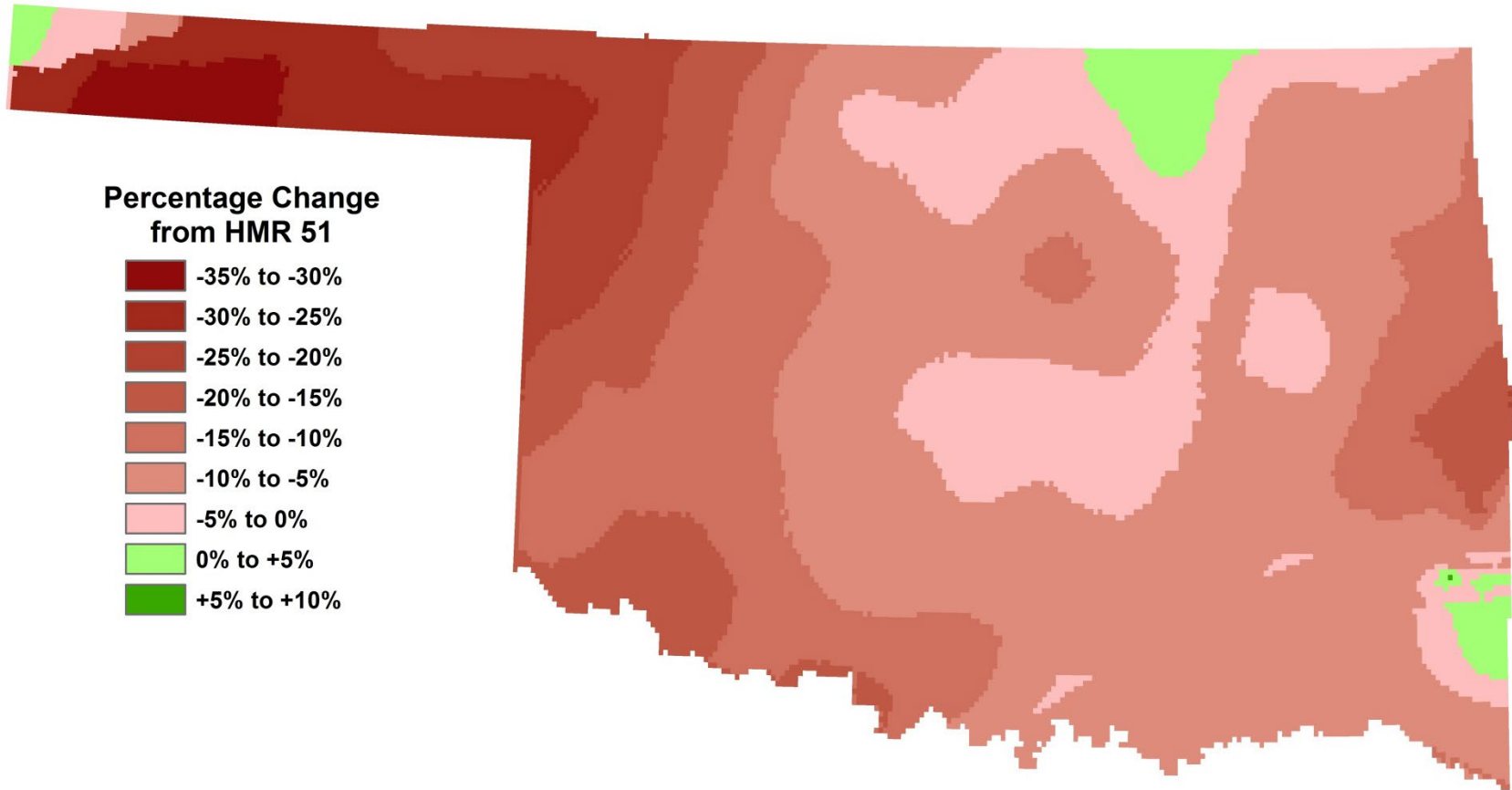
Chapter 25-3-6: Probable Maximum Flood (PMF)

- Chapter 25-3-6-(c)(3): requires that the most conservative PMP storm type be used
- Chapter 25-3-6-(c)(4): Regional Probable Maximum Precipitation Study for Oklahoma, Arkansas, Louisiana, and Mississippi (Applied Weather Associates, 2019) shall be used in determining precipitation depth, area, and duration relationships for the PMP.
- Study and data are posted on OWRB Dam Safety website

PMP CHANGE – 24 HR-10 SQ MI



PERCENT CHANGE – 24 HR-10 SQ MI



Title 785 - Chapter 30: Taking and Use of Groundwater Proposed Rules

**Chris Neel, Assistant Division Chief
Planning and Management Division**

January 21, 2020



2018 Oklahoma HB 3405

Amended 82 O.S. 2011, Section 1020.1, which relates to groundwater; modifying and expanding definitions

1. “Groundwater” means fresh water and marginal water under the surface of the earth regardless of the geologic structure in which it is standing or moving outside the cut bank of any definite stream

10. “Marginal water” means water which has at least five thousands (5,000) and less than ten thousand (10,000) parts per million total dissolved solids.

2019 Oklahoma SB 998

Amended 82 O.S. 2011, Section 1020.15, which relates to waste prohibitions; clarifying language; declaring the taking and use of marginal water as a beneficial use; specifying application of act to taking and use of marginal water; requiring Oklahoma Water Resources Board to promulgate certain rules; construing provision; providing for codification; and providing an effective date.

The word “fresh” was stricken from Section 1020.15 where “fresh groundwater” had previously been used.

Chapter 30-3-1: General Application Requirements

30-3-1(a): A reference to a form in Appendix A was removed, the form in Appendix A was removed in 2019

30-3-1(c): A restrictive sentence was revoked regarding having a maximum of three wells authorized for each 100 acre-feet of groundwater withdrawn per year, which will benefit all groundwater users needing more than three wells per 100 acre-feet of allocated water

Chapter 30-5-5; 30-5-7; 30-5-9

- The phrase “marginal water” was added to 30-5-5, Contents of Permits.
- Marginal water was added to 30-5-7(a), Cancellation or Suspension of Permits, with additional language in 30-5-7(c) referencing permit terms and limitations that will be outlined in 30-5-10.
- Marginal water was added to 30-5-9 for requiring (a) Annual Reports of Water Use, including language requiring (e) marginal water permits user to submit meter logs

Chapter 30-5-10: Marginal Water Permits

- 30-5-10(b): Wells used for marginal water permits must meet well construction rules specified in 785:35-7-3(b)(2)
- 30-5-10(c): Wells used for marginal water permits shall be metered with properly calibrated meters
- 30-5-10(d): If marginal water permit applicant can provide sufficient evidence of expected volume of marginal water underlying the proposed acreage, the applicant may request the entire volume with no annual limitation on withdrawal amount, until the total volume is used.

Chapter 30-5-10: Marginal Water Permits

- 30-5-10(e): If applicant cannot provide sufficient evidence of marginal water volume, the applicant will be allowed to dedicate land overlying the same geologic formation, containing marginal water
 - If a geologic unit is not identified, the Board may allow the applicant to dedicate lands within the same county or contiguous county.
- 30-5-10(f): Marginal water permits dedicated to lands based on geology or county will be permitted a minimum of two acre-feet per acre

Chapter 30-5-10: Marginal Water Permits

- 30-5-10(g): Total dissolved solids shall be measured and results submitted to the Board after every 100 acre-feet withdrawn to verify marginal water status
- 30-5-10(h): The Board may approve annual sampling after two years of sampling between 5,000-10,000 parts per million TDS
- 30-5-10(i): If TDS falls below 5,000 parts per million, permit holder must report to the Board within 48 hours

Title 785 – Chapter 35: Well Drilling & Pump Installer Licensing Proposed Rules

**Charles O'Malley, Well Drilling and Pump Contracting Program
Planning and Management Division**

January 21, 2020

2019 Oklahoma SB 670

Amended Section 1, Chapter 226, O.S.L. 2012 and Section 8, Chapter 226, O.S.L. 2012, which relate to the Post-Military Service Occupation, Education and Credentialing Act

Grants occupational licenses, promulgate rules allowing military personnel and their spouses to receive expedited and reciprocal occupational licenses

Chapter 35-3-1.2: Military Service Occupation, Education and Credentialing

- Expedited licensing for military and spouses as required by Oklahoma Senate Bill 670
 - Licensed in another state w/ reasonably equivalent requirements
 - Transfer orders or honorable discharge
 - May submit application in advance of actual transfer
- Issue reciprocal license w/in 30 days
 - Applicant must submit affidavit stating that they have read and understand Oklahoma's rules and regs

Chapter 35-3-1.2: Military Service Occupation, Education and Credentialing

- Work on military bases
 - Active duty military personnel are not required to be licensed or credentialed while employed and performing their occupation only on the premises of an assigned military base
- Fees
 - The Board shall waive the application and license fees for the first period of issuance for such license or certificate

Chapter 35-3-1.2: Military Service Occupation, Education and Credentialing

- Applicant still must meet eligibility standards, criteria, and qualifications for the license
- Not an automatic license or certificate
 - Examination still required
 - Consideration from Board still required

Nothing in the Military Service Occupation, Education and Credentialing Act shall be construed to require the issuance of any license or certificate to an applicant who does not otherwise meet the stated eligibility standards, criteria, qualifications or requirements for licensure or certification, nor shall the provisions be construed to automatically allow issuance of any license or certificate without testing or examination, without proper consideration by the licensing and examination board, or without proper verification that the applicant is not subject to pending criminal charges or disciplinary actions, has not been convicted of any offense prohibiting licensure or certification, and has no other impairment which would prohibit licensure or certification in this state.

Chapter 35-11-1: Plugging and capping requirements

- Plugging of groundwater wells that are contaminated, or located on UST sites, or within 300 feet of an existing or proposed wastewater lagoon.
- Currently requires removing the upper 20 feet of casing in all instances unless a variance is requested.
- The proposed change will allow for the upper 20 feet to be left in place if the well meets standards for surface seal.

Chapter 35-11-1: Plugging and capping requirements

(5) If the well or water well test hole is contaminated, or if the well or test hole is located at an underground tank site or within 300 feet of the outside perimeter of an existing wastewater lagoon or is located on a tract of land where a wastewater lagoon is proposed, the casing shall be removed or perforated from the bottom of the casing to twenty (20) feet below land surface. ~~The casing shall be removed from twenty (20) feet below land surface to the surface, then~~ The well or test hole shall be plugged with cement grout from the bottom to within four (4) feet of the land surface. If the total depth of the well is in excess of twenty feet (20') below land surface, the cement grout shall be placed by pumping from the bottom of the hole to within four (4) feet of the land surface. If the well does not meet current minimum construction standards for grouting and sealing the annulus, the casing shall be removed from twenty (20) feet below land surface to the surface.

Thank You

Planning and Management Division

January 21, 2020

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