

RULE IMPACT STATEMENT

TITLE 460: DEPARTMENT OF MINES

CHAPTER 12. WATER QUALITY STANDARDS IMPLEMENTATION PLAN

Subchapter 1. General Provisions [NEW]

460:12-1-1.	Purpose and scope
460:12-1-2.	Authority
460:12-1-3.	Definitions
460:12-1-4.	Oklahoma's Water Quality Standards
460:12-1-5.	Required elements of the Water Quality Standards Implementation Plan
460:12-1-6.	Jurisdictional areas by statute
460:12-1-7.	Agency jurisdictional area
460:12-1-8.	Regulation elements of the Water Quality Standards Implementation Plan by jurisdictional area

- (a) The proposed permanent rules in OAC 460: Chapter 12 comprise the Oklahoma Department of Mines' (ODM) most recent Water Quality Standards Implementation Plan (WQSIP). While this WQSIP was formulated and amended in conjunction with the Oklahoma Water Resources Board (OWRB) many years ago, the promulgation of this chapter is needed for statutory compliance with Title 27A of the Oklahoma Statutes, Section 1-1-202 and 1-3-101, as enacted by Senate Bill 549 [1999 O.S.L. § 413, SB 549]. SB 549 established ODM as a State Environmental Agency, listed ODM's jurisdictional areas of environmental responsibility, and mandated that ODM to develop and promulgate a Water Quality Standards Implementation Plan for ODM's jurisdictional areas of environmental responsibility. The required elements of the WQSIP are dictated by 27A O.S. Section 1-1-202.

As required by Title 27A of the Oklahoma Statutes, the proposed chapter generally describes the processes, procedures, and methodologies ODM will utilize to ensure that the programs listed within ODM's jurisdictional areas of environmental responsibility comply with anti-degradation standards. The WQSIP includes the procedures to be utilized in the application of use support protocols to make impairment determinations and explain how the plan will be integrated into the water quality activities within the jurisdictional areas of environmental responsibility. The new chapter makes no substantive changes to the WQSIP developed and amended by ODM in conjunction with OWRB.

Chapter 12 sets out ODM's WQSIP as follows:

1. Oklahoma Administrative Code (OAC) 460:12-1-3 lists and defines certain words, terms, or acronyms used within Chapter 12.

2. OAC 460:12-1-4, Oklahoma's Water Quality Standards, this section lists the elements of surface water quality standards, pursuant to Section 303 of the Clean Water Act and as promulgated by the OWRB and the elements of groundwater quality standards as promulgated by the OWRB.
 3. OAC 460:12-1-5 lists the elements required by Title 27A of the Oklahoma Statutes to be in a WQSIP.
 4. OAC 460:12-1-6 lists ODM's jurisdictional areas of responsibility as explained by Section 1-3-101 of Title 27A of the Oklahoma Statutes, are listed within 460:12-1-6. OAC 460:12-1-7 lists ODM's jurisdictional areas otherwise provided by law.
 5. OAC 460:12-1-8 identifies the WQSIP regulation elements by jurisdictional area with the ODM. Subsection (a) of OAC 460:12-1-8 identifies the coal mining and reclamation operations regulatory elements. Subsection (b) of OAC 460:12-1-8 identifies the non-coal mining and reclamation operation elements. Finally, Subsection (c) identifies the coal combustion by-product placement elements.
- (b) The proposed chapter will not change implementation methods currently employed by ODM following development and amendment of the WQSIP approved by OWRB. However, because the WQSIP was not previously promulgated in ODM's administrative rules, it is appropriate to describe possible effects of a WQSIP on classes of certain entities and individuals within the state. The classes most affected by this proposed chapter would be as follows:
1. The state's mining industry, in that the WQSIP provides the mining companies with a specific chapter containing definitions and explanations of the required elements of the water quality standards within their operational areas. The proposed chapter should help the companies understand where the water standards developed, how the standards are measured, and their implementation within the companies mining and reclamation plans that are part of their approved mining permit.
 2. The Department of Mines, in having a promulgated WQSIP will better enable the ODM, the mining industry, and concerned citizens to keep abreast of the trends and amendments or changes in water quality standards and other water issues within Oklahoma and among other states and federal regulatory agencies. The review will encourage up to date dialogues and keep ODM's WQSIP current and applicable.
 3. No public or private entities have submitted a cost analysis or other information as to the cost impact of this proposed chapter. ODM is proposing this permanent chapter pursuant to a legislative mandate and any enforcement costs will be absorbed by the Department of Mines.

- (c) Those benefiting from this proposed chapter would be:
 - 1. Persons who are concerned with the protection of existing beneficial uses and the preservation of the state's surface and ground water, along with other mining related water issues, will benefit by having access to ODM's current WQSIP.
- (d) There should be no direct economic impact on the affected classes or to any political subdivision resulting from the promulgation of the proposed chapter.
- (e) There should be minimal probable compliance costs to ODM or any other agency as a result of this proposed permanent chapter. Because this proposed chapter adds no additional requirements to existing regulations, the implementation and enforcement costs associated with this proposed amendment should be those currently ongoing and can be absorbed by ODM. There is no net loss or gain in revenue projected by ODM. No other agency is involved with the implementation and enforcement of this proposed amendment.
- (f) This proposed chapter was mandated by SB 549 [1999 O.S.L. § 413, SB 549], therefore the Oklahoma Small Business Regulatory Flexibility Act does not apply to the promulgation of this chapter. *See* 75 O.S. § 504(B).
- (g) The chapter does not economically impact any subdivisions or require their cooperation in implementing or enforcing the chapter. There are no less costly, non-regulatory, or less intrusive methods that can be applied for the requirements of this proposed amendment.
- (h) There are minimal costs associated with the promulgation and implementation of this proposed chapter. There are no less costly, non-regulatory, or less intrusive methods that can be applied for the requirements of this proposed chapter or in achieving its initial purpose.
- (i) In order to provide for the health, safety, and welfare of its citizens, its resources, and to advance water quality in the state, the Oklahoma legislature declared ODM, by and through SB 549 [1999 O.S.L. § 413, SB 549] to be a State Environmental Agency, and as such mandated that ODM develop a WQSIP within the agency's jurisdictional responsibility areas, and after the development, to promulgate the WQSIP. This proposed chapter consists of the promulgation of the developed and approved WQSIP.
- (j) The detrimental effect on the public health, safety and environment should this proposed chapter not be promulgated would be that ODM would not be in compliance with enacted state law [Section 1-1-202 et seq. of Title 27A of the Oklahoma Statutes] for the purpose of advancing water quality in Oklahoma through the promulgation of WQSIPs by certain state environmental agencies.
- (k) This Rule Impact Statement was prepared November 30, 2020.