

## CHAPTER 740. IMPLEMENTATION OF OKLAHOMA'S WATER QUALITY STANDARDS

[Source: Codified 9-15-23]

### SUBCHAPTER 1. GENERAL PROVISIONS

#### 252:740-1-1. Purpose, scope and applicability

(a) According to 82 O.S., §1085.30, the Oklahoma Department of Environmental Quality is authorized to promulgate rules to be known as "Oklahoma Water Quality Standards" which establish classifications of uses of waters of the state, criteria to maintain and protect such classifications, and other standards or policies pertaining to the quality of such waters. [82 O.S. § 1085.30(A)]. The "Oklahoma Water Quality Standards" are codified at OAC 252:730. Section 1085.30 of Title 82 O.S. also provides for the Oklahoma Department of Environmental Quality to adopt and promulgate accompanying rules to implement the Oklahoma Water Quality Standards. Such implementation rules are set forth in OAC 252:740 and shall be enforced by all state agencies within the scope of their jurisdiction. Implementation rules promulgated by other state environmental agencies shall not be inconsistent with the implementation rules in OAC 252:740.

(b) If an affected person can demonstrate to the satisfaction of the permitting authority that scientific methods, data, or implementation procedures different than those specified in this Chapter will achieve a more appropriate or representative implementation of the Standards, then the permitting authority shall use or apply such methods, data, or procedures to implement the Standards. In those circumstances where the permitting authority does not agree that the affected person's proposed scientific methods, data, or implementation will result in a more appropriate or representative implementation of the Standards, the affected person may request a review of the proposed scientific methods, data, or implementation by the agency responsible for Standards implementation who shall determine its appropriateness.

(c) Implementation rules promulgated in this Chapter by DEQ and promulgated elsewhere by other state environmental agencies with authority for implementation provide a bridge between Water Quality Standards in OAC 252:730 and water quality management. For example, Water Quality Standards contain numerical criteria to protect aquatic life. Permits incorporating these criteria must be issued to limit effluent concentrations so that the criteria are not violated outside the mixing zone. In this case the implementation rules describe how the criteria are translated into permit limits.

[Source: Added at 40 Ok Reg 329, eff 10-25-22 (emergency); Added at 40 Ok Reg 2062, eff 9-15-23]

#### 252:740-1-2. Definitions

In addition to definitions of terms found in OAC 252:730-1-2, which are incorporated herein by reference, the following words, terms and notations, when used in this Chapter, shall have the following meanings unless the context clearly indicates otherwise:

"**7T2**" means the seven-day maximum temperature likely to occur with a 50% probability each year. The 7T2 is calculated using a moving average of seven consecutive days for each year in a given record. These seven-day receiving stream temperature values are ranked in descending order. An order number,  $m$ , is calculated based on the number of years of record,  $n$ , with a recurrence interval of 2 years, as  $m = (n+1)/2$ . The  $m^{\text{th}}$  highest average temperature is the 7T2.

"**A**" means mean annual average flow.

"**ACR**" means acute to chronic ratio.

"**Acute to chronic ratio**" means LC50/NOEC. The NOEC is the highest concentration at which no effect on test organisms is observed over a relatively long period. Quarterly biomonitoring over the life of the permit is sufficient to determine the ACR if the NOEC and LC50 may be determined. If the ACR is unknown, a default value of 10 may be used for implementation purposes.

"**Background**" means the ambient condition upstream or upgradient from a facility, practice or activity which has not been affected by that facility, practice or activity.

**"Beneficial use limitation"** means a more stringent restriction than that required to protect the beneficial use. A prohibition on new point sources is an example of a beneficial use limitation.

**"Board"** means the Environmental Quality Board.

**"BOD"** means biochemical oxygen demand.

**"C"** means maximum concentration on the mixing zone boundary.

**"C<sub>95</sub>"** means the 95th percentile maximum likelihood concentration.

**"C<sub>B</sub>"** means background concentration.

**"C<sub>e</sub>"** means effluent concentration.

**"cfs"** means cubic feet per second.

**"C<sub>mean</sub>"** means the geometric mean of all effluent concentrations analyzed for the toxicant.

**"C<sub>t</sub>"** means the appropriate criterion listed in OAC 252:730.

**"CBOD"** means carbonaceous biochemical oxygen demand.

**"Coefficient of variation"** means standard deviation divided by the mean.

**"Continuing Planning Process"** or **"CPP"** means the most recent edition of the document produced annually by the Oklahoma Department of Environmental Quality which describes water quality programs implemented within the State.

**"Continuing toxicity"** means a tendency to be toxic.

**"Control"** means test organisms exposed to 0% effluent as part of the whole effluent toxicity testing procedure.

**"Cooling water reservoir"** means a privately owned reservoir used in the process of cooling water for industrial purposes.

**"CV"** means coefficient of variation.

**"D"** means diameter of the discharge pipe in feet.

**"Dilution capacity"** means a measure of the ability of the receiving stream to dilute effluent, defined as the ratio of the regulatory effluent flow to the regulatory receiving stream flow.

**"Dilution factor"** or **"df"** means a measure of the minimum dilution that occurs on the mixing zone boundary.

**"DO"** means dissolved oxygen.

**"Drainage area"** means the area above the discharge drained by the receiving stream.

**"Event mean concentration"** means the flow-weighted average for a given storm event. The flow-weighted average is represented as the sum of the loads calculated for a series of storm samples divided by the sum of the discharges calculated for each of the storm samples.

**"EPA"** means the United States Environmental Protection Agency.

**"HQW"** means high quality waters as defined in OAC 252:730-3-2(b).

**"Implementation Plan"** means a Water Quality Standards Implementation Plan developed and promulgated by a state environmental agency as required by 27A O.S. § 1-1-202.

**"Increased load"** means the mass of pollutant discharged which is greater than the permitted mass loadings and concentrations, as appropriate, in the discharge permit effective when the SWS, SWS-R, HQW, or ORW beneficial use limitation was assigned.

**"Lake mixing zone"** means a volume extending one hundred feet from the source for implementation purposes, unless otherwise specified in OAC 252:730.

**"LC50"** means the lethal concentration as defined in OAC 252:730-1-2.

**"LMFO"** means licensed managed feeding operation as defined in 2 O.S. § 9-202.

**"Mean annual average flow"** means the annual mean flow found in "Statistical Summaries", USGS publication no. 87-4205, or most recent version thereof, or other annual mean flow as approved by the Oklahoma Water Resources Board or the permitting authority.

**"Monthly average level"** means the concentration of a toxicant in the permit which may not be exceeded by the observed effluent concentration averaged over a calendar month.

**"Naturally occurring condition"** means any condition affecting water quality which is not caused by human influence, including, but not limited to, soils, geology, hydrology, climate, wildlife, and water flow with specific consideration given to seasonal and other natural variations.

**"NLW"** means nutrient-limited watershed as defined in OAC 252:730-1-2.

**"NOEC"** means no observed effect concentration.

"NPDES" means National Pollutant Discharge Elimination System.

"Normal pool elevation" means the elevations listed in the "Oklahoma Water Atlas", Oklahoma Water Resources Board publication no. 135, or most recent version thereof.

"ORW" means Outstanding Resource Waters as defined in OAC 252:730-3-2(a).

"Outfall" means a point source which contains all the effluent being discharged to the receiving water.

"Permitting authority" means state environmental agency as defined or provided in Title 27A of the Oklahoma Statutes having jurisdiction as provided by law.

"Persistent toxicity" means toxicity due to effluent constituents which are not subject to decay, degradation, transformation, volatilization, hydrolysis, or photolysis.

"Q\*" means dilution capacity.

"Q<sub>e</sub>" means the regulatory effluent flow.

"Q<sub>el</sub>" means long-term average effluent flow.

"Q<sub>es</sub>" means short-term average effluent flow.

"Q<sub>u</sub>" means the regulatory receiving stream flow.

"Regulatory mixing zone" means the volume of receiving water described in OAC 252:730-5-26.

"Reasonable potential factor" means the 95th percentile maximum likelihood estimator for a lognormal distribution.

"SS" means sample standard as defined in OAC 252:730-1-2.

"Storm event" means precipitation, after a minimum of 72 hours has elapsed since cessation of previous precipitation, in the watershed of a stream segment that produces a 30 percent rise in stream flow over the average flow of the preceding 72 hours resulting from surface run-off.

"SWS" means Sensitive Public and Private Water Supplies.

"SWS-R" means waterbodies classified as sensitive public and private water supplies that may be augmented with reclaimed municipal water for the purpose of indirect potable reuse.

"T" means maximum temperature difference at the edge of the mixing zone boundary.

"T<sub>a</sub>" means regulatory ambient temperature.

"T<sub>c</sub>" means the temperature criterion.

"T<sub>f</sub>" means the 95th percentile maximum observed effluent temperature.

"TDS" means total dissolved solids at 180C.

"Total maximum daily load" or "TMDL" means the sum of individual wasteload allocations for point sources, safety reserves, and loads from nonpoint source and natural backgrounds.

"Trophic State Index" or "TSI" means a numerical quantification of lake productivity. The Trophic State Index shall be determined by  $TSI = 9.81 \times \ln(\text{chlorophyll-a}) + 30.6$ .

"TSS" means total suspended solids.

"USGS" means United States Geological Survey.

"W" means canal width in feet.

"YMS" means yearly mean standard as defined in OAC 252:730-1-2.

[Source: Added at 40 Ok Reg 329, eff 10-25-22 (emergency); Added at 40 Ok Reg 2062, eff 9-15-23; Amended at 41 Ok Reg, Number 23, effective 9-15-24]

### **252:740-1-3. Procedural and substantive authority**

The rules in OAC 252:740 provide for implementation of the "Oklahoma Water Quality Standards". The rules in this Chapter are promulgated as rules by DEQ pursuant to the procedures specified in the Oklahoma Administrative Procedures Act, 75 O.S. Section 250 et. seq., and pursuant to the substantive law provided in 82 O.S. Section 1085.30.

[Source: Added at 40 Ok Reg 329, eff 10-25-22 (emergency); Added at 40 Ok Reg 2062, eff 9-15-23]

### **252:740-1-4. Testing procedures**

All methods of sample collection, preservation, and analysis used in implementing OAC 252:730 shall be in accordance with "The Guidelines Establishing Test Procedures for the Analysis of Pollutants" as provided by 40 CFR Part 136 or other procedures approved by the Oklahoma Laboratory Accreditation Program of the Oklahoma Department of Environmental Quality or practices that are institutionally recognized and appropriate for the parameter of concern and documented in accordance with OAC 252:740-15-3(e) and (g).

[Source: Added at 40 Ok Reg 329, eff 10-25-22 (emergency); Added at 40 Ok Reg 2062, eff 9-15-23; Amended at 41 Ok Reg, Number 23, effective 9-15-24]

#### **252:740-1-5. Errors and separability**

- (a) Any errors in OAC 252:740 resulting from inadequate and erroneous data or human or clerical oversight will be subject to correction by DEQ. Discovery of any such errors does not render the remaining and unaffected implementation rules in OAC 252:740 invalid.
- (b) If any implementation rule in OAC 252:740 is held to be invalid, the application of such rule to other circumstances and the remainder of OAC 252:740 shall not be affected thereby.

[Source: Added at 40 Ok Reg 329, eff 10-25-22 (emergency); Added at 40 Ok Reg 2062, eff 9-15-23]

#### **252:740-1-6. Determination of regulatory low flow**

##### **(a) General.**

(1) **7Q2.** The 7Q2 is calculated as a moving average of seven consecutive days for each year in a given record. These seven-day low flow values are ranked in ascending order. An order number ( $m$ ) is calculated based upon the number of years of record ( $n$ ), with a recurrence interval ( $R$ ) of two years, as  $m = (n+1)/R$ , where  $R =$  two years. A value of flow corresponding to the  $m^{\text{th}}$  order is taken as the seven-day, two-year low flow for those historical data.

(2) **Seasonal 7Q2.** The seasonal 7Q2 is calculated as a moving average of seven consecutive days for the applicable dates specified in Table 1 of Appendix G of OAC 252:730 in a given period of record. These seven-day low flow values are ranked in ascending order. An order number ( $m$ ) is calculated based upon the number of seasons ( $n$ ) specified in Table 1 of OAC 252:730 Appendix G during the period of record, with a recurrence interval ( $R$ ) of two years, as  $m = (n+1)/R$ , where  $R =$  two years. A value of flow corresponding to the  $m^{\text{th}}$  order is taken as the seasonal seven-day, two-year low flow for those historical data.

(b) **Primary method for determination.** If the 7Q2 or seasonal 7Q2 for a given stream or stream segment is determinable from the United States Geological Survey publication entitled "Statistical Summaries of Streamflow in and near Oklahoma Through 2007" or the latest version of the Water Quality Management Plan published by the Department of Environmental Quality, then that 7Q2 and seasonal 7Q2 shall be conclusive except as provided otherwise in this section.

##### **(c) Alternative methods for determination of 7Q2 or seasonal 7Q2.**

(1) In lieu of determining the 7Q2 or seasonal 7Q2 as provided in (b) of this Section, the 7Q2 for a given stream or stream segment may be determined by an affected person or the permitting authority if all of the following conditions are satisfied:

(A) A hydrological modification affecting the flow in the stream is documented to the satisfaction of DEQ and the permitting authority;

(B) At least 10 years of daily flow data comporting with the requirements of this section are available; and

(C) Data from the entire period of record for the stream, unless a different time frame of record is approved by the Board and the permitting authority, are used in the calculation.

(2) If the 7Q2 or seasonal 7Q2 for a given stream or stream segment is not determinable as provided in (b) or (c)(1) of this Section or if additional daily flow data have been collected, then the 7Q2 or seasonal 7Q2 for that stream or stream segment may be determined by an affected person or the permitting authority using the calculations provided in (a) of this Section, provided at least 10 years of daily flow data are available for that stream.

(3) If the flow is affected by contributions from gaged tributaries or other permitted discharges, then the 7Q2 or seasonal 7Q2 for a given stream or stream segment may be determined taking those contributions at 7Q2 or seasonal 7Q2, or both, into account on a case-by-case basis if approved by either DEQ or the permitting authority.

(4) If the 7Q2 or seasonal 7Q2 for a given stream or stream segment is not determinable as provided in (b), (c)(1), (c)(2) or (c)(3) of this Section, then the 7Q2 or seasonal 7Q2 for that stream or stream segment may be determined by an affected person or the permitting authority using an estimate based upon limited data only if both the method for estimating, and the estimate itself, are approved by both the Board and permitting authority.

**(d) Additional rules for 7Q2 and seasonal 7Q2 determinations.**

(1) Any 7Q2 or seasonal 7Q2 determined with a period of record less than 20 years shall be invalid for any purpose except the issuance of the permit or establishment of the site-specific criteria based upon and developed contemporaneously with such 7Q2 or seasonal 7Q2. Any subsequent renewal of such permit must be based upon a fresh determination of the 7Q2 or seasonal 7Q2 until the pertinent period of record equals or exceeds 20 years.

(2) Any subsequent renewal of a permit based upon a 7Q2 or seasonal 7Q2 determined pursuant to (c)(3) or (c)(4) of this Section must be based upon a fresh determination of the 7Q2 or seasonal 7Q2 that takes into account all discharge and flow data from the time the 7Q2 or seasonal 7Q2 was previously determined.

(3) Any subsequent renewal of a permit based upon a 7Q2 or seasonal 7Q2 determined pursuant to (c)(1) of this Section must be based upon a fresh determination of the 7Q2 or seasonal 7Q2 that takes into account whether the hydrological modification continues to exist.

**(e) Alternative method for determination of regulatory low flow.** In stream segments where dams or other structures have substantially affected the historic flow regime of the stream segment, including but not limited to the portions of the Verdigris and Arkansas Rivers constituting the McClellan-Kerr Arkansas River Navigation System, on a site-specific basis a properly designed and implemented hydrologic study approved by the permitting authority and OWRB may be used to determine the appropriate regulatory low flow.

[Source: Added at 40 Ok Reg 329, eff 10-25-22 (emergency); Added at 40 Ok Reg 2062, eff 9-15-23]

### **SUBCHAPTER 3. IMPLEMENTATION OF NARRATIVE TOXICS CRITERIA TO PROTECT AQUATIC LIFE USING WHOLE EFFLUENT TOXICITY (WET) TESTING**

#### **252:740-3-1. Applicability and scope**

(a) The rules in this Subchapter provide a portion of the framework for implementing narrative criteria in OAC 252:730 which prohibit toxicity to aquatic life in waters of the state. This framework is based upon a testing method known as whole effluent toxicity (WET) testing. WET testing is to be used to address point source activities which have the potential for persistent effluent toxicity. The rules in this Subchapter prescribe the method for determining regulatory flow, dilutions required for WET tests, and the method for determining whether there is a reasonable potential to exceed the narrative criteria for the Fish and Wildlife Propagation beneficial use.

(b) If it is determined that toxicity is related to a particular chemical constituent, a numerical permit limit may be imposed for that toxicant.

(c) Toxicity from halogens (e.g. chlorine, bromine and bromo-chloro compounds) will be controlled by dehalogenation rather than WET testing. However, use of dehalogenation shall not exempt an effluent from the WET testing requirements of this Subchapter.

[Source: Added at 40 Ok Reg 329, eff 10-25-22 (emergency); Added at 40 Ok Reg 2062, eff 9-15-23]

#### **252:740-3-2. Dilutions for whole effluent toxicity testing**

(a) **General.** Generally, two whole effluent toxicity tests shall be used to implement the narrative criteria to protect fish and wildlife propagation. The 48-hour acute test will be used to protect against acute toxicity in

receiving water, and the 7-day or 21-day chronic test will be used to protect against chronic toxicity outside the chronic regulatory mixing zone.

**(b) Differing requirements for WET tests.**

(1) Three different toxicity testing requirements exist. Each is based upon dilution capacity, represented by  $Q^*$ .

(2) When  $Q^*$  is less than 0.054, acute testing only shall be required.

(3) When  $Q^*$  is greater than 0.33, chronic testing only shall be required.

(4) When  $Q^*$  is greater than or equal to 0.054 and less than or equal to 0.33, both acute and chronic testing shall be required.

(5) For a discharge directly to a lake, acute testing only shall be required.

**(c) Dilutions for chronic WET tests for streams.** Whole effluent chronic toxicity testing requires that test organisms be subjected to various effluent dilutions. The dilution series for chronic toxicity testing is based on the critical dilution (CD). The chronic critical dilution equations are as follows:  $CD = (1.94Q^*) / (1 + Q^*)$  when  $Q^*$  is less than or equal to 0.1823, or  $CD = 1 / (6.17 - 15.51Q^*)$  when  $Q^*$  is greater than 0.1823 and less than 0.3333, or  $CD = 1$  when  $Q^*$  is greater than or equal to 0.3333.  $Q^* = Q_e / Q_u$ .  $Q_e$  is the largest thirty-day average flow for an industrial discharge, if known, and the design flow otherwise.  $Q_u$  is 1 cfs or the 7Q2 receiving stream flow, if known to be larger.

**(d) Dilutions for acute WET tests.** The acute critical dilution is 100%.

[Source: Added at 40 Ok Reg 329, eff 10-25-22 (emergency); Added at 40 Ok Reg 2062, eff 9-15-23]

**252:740-3-3. Sampling for whole effluent toxicity testing**

(a) Discharges with overlapping mixing zones may be combined, at the discretion of the permitting agency, and whole effluent toxicity tests may be required on the combined effluent. Samples shall be combined in proportion to the flow for each outfall. If some of the discharges are not toxic, combining discharges may allow intermittent instream toxicity if the discharge rates fluctuate. In these cases, combined discharge testing will be disallowed. If the outfall originates from a lagoon with a retention time greater than 24 hours, composite samples may not be necessary. The permitting agency may determine that a grab sample near the discharge is sufficient.

(b) The toxicity test must be initiated within 36 hours after sample collection. No sample may be held for more than 72 hours prior to use.

[Source: Added at 40 Ok Reg 329, eff 10-25-22 (emergency); Added at 40 Ok Reg 2062, eff 9-15-23]

**252:740-3-4. Reasonable potential to exceed narrative toxicity criterion for fish and wildlife propagation**

Reasonable potential to exceed the narrative criterion to protect the beneficial use of Fish and Wildlife Propagation against toxicity exists whenever persistent lethality is demonstrated. A permitting authority may deem reasonable potential to be demonstrated whenever intermittent lethality or persistent sublethality occurs. Reasonable potential is assumed to exist when a known toxicant is present, or expected to be present, in a discharge in toxic amounts.

[Source: Added at 40 Ok Reg 329, eff 10-25-22 (emergency); Added at 40 Ok Reg 2062, eff 9-15-23]

**252:740-3-5. Regulatory flow determination**

(a) The regulatory flow for a receiving stream is determined according to OAC 252:730-5-12(f)(6)(G) and OAC 252:740-1-6.

(b) No regulatory flow determination is required for a lake.

[Source: Added at 40 Ok Reg 329, eff 10-25-22 (emergency); Added at 40 Ok Reg 2062, eff 9-15-23]

**SUBCHAPTER 5. IMPLEMENTATION OF NUMERICAL CRITERIA TO PROTECT FISH AND WILDLIFE FROM TOXICITY DUE TO CONSERVATIVE SUBSTANCES**

### 252:740-5-1. Applicability and scope

Rules in this Subchapter prescribe the method for determining regulatory flow and the method for determining whether there is a reasonable potential to exceed the criteria, all in order to implement numerical criteria identified in OAC 252:730-5-12(f)(6)(G) and Table 2 of OAC 252:730 Appendix G for protection of the beneficial use of Fish and Wildlife Propagation.

[Source: Added at 40 Ok Reg 329, eff 10-25-22 (emergency); Added at 40 Ok Reg 2062, eff 9-15-23]

### 252:740-5-2. Regulatory flow determination

(a) **Regulatory receiving stream flow.** Section 252:730-5-12(f)(6)(G) of the OAC defines the regulatory receiving stream flow upstream of the discharge,  $Q_u$ , to be used in implementing fish and wildlife propagation criteria. The  $Q_u$  is the greater of the 7Q2 or 1 cfs. 7Q2 shall be determined according to OAC 252:740-1-6.  $Q_u$  is assumed to be 1 cfs if the 7Q2 is unknown or the permittee chooses not to develop an actual 7Q2.

(b) **Regulatory flow for lakes.** No regulatory flow determination is required for lakes.

(c) **Regulatory effluent flows.** The regulatory effluent flow,  $Q_e$ , is the highest monthly averaged flow over the previous two years for industrial discharges if the permitting authority determines that sufficient data are available. For other dischargers (e.g. municipalities),  $Q_e$  is the design flow. If a significant daily or seasonal variability in effluent flow is present, a regulatory effluent flow should take this variability into account.

[Source: Added at 40 Ok Reg 329, eff 10-25-22 (emergency); Added at 40 Ok Reg 2062, eff 9-15-23]

### 252:740-5-3. Reasonable potential

(a) **General.** The need for a permit limit will be determined, on a pollutant-by-pollutant basis, after determination of reasonable potential, which considers assimilation capacity of the receiving water and effluent variability.

(b) **Use of reasonable potential factor; relationship with wasteload allocation process.**

(1) The technical report produced by the Oklahoma Water Resources Board entitled "The Incorporation Of Ambient Concentration With That Due To Effluent For Wasteload Allocation" shall be used to determine if there is a reasonable potential for a criterion exceedance outside the mixing zone.  $C_{95} = 2.13C_{\text{mean}}$  is used for effluent concentration in the reasonable potential calculation.  $C_{\text{mean}}$  is the geometric mean of all effluent concentrations analyzed for the toxicant. If the geometric mean cannot be determined, an arithmetic mean may be substituted. If a large dataset of effluent concentrations is available, the permitting authority may not need to estimate  $C_{95}$ ; the 95th percentile value can be calculated from the data.

(2) The wasteload allocation process is used to determine reasonable potential.  $C$  is the reasonable potential concentration on the chronic regulatory mixing zone boundary.  $C$  is calculated for chronic criteria in streams as:  $C = C_B + (1.94Q^*(C_{95} - C_B)) / (1 + Q^*)$  when  $Q^*$  is less than or equal to 0.1823, or  $C = C_B + (C_{95} - C_B) / (6.17 - 15.51Q^*)$  when  $Q^*$  is greater than 0.1823 and less than 0.3333, or  $C = C_{95}$  when  $Q^*$  is greater than or equal to 0.3333.  $Q^* = Q_e/Q_u$ .  $Q^*$  is the dilution capacity.  $C$  is calculated for lakes as: *pipe*:  $C = C_B + (D(C_{95} - C_B)) / 20.15$  when  $D$  is greater than or equal to 3 feet, or *canal*:  $C = C_B + (W^{1/2}(C_{95} - C_B)) / 4.2$  when  $W$  is greater than or equal to 3 feet.  $D$  is the diameter of the discharge pipe in feet and  $W$  is the width of the canal in feet.  $D$  and  $W$  shall not be less than three feet for implementation purposes. When  $C$  is the concentration on the acute regulatory mixing zone boundary it is calculated as  $C = C_B + (Q_e(C_{95} - C_B) / 100)$ . If  $Q_e$  is greater than 100 cfs, then 100 cfs shall be substituted for  $Q_e$ .

(3) For regulatory purposes, there is a reasonable potential for chronic toxicity if concentrations of ammonia outside the chronic regulatory mixing zone exceed 6 mg/L.

[Source: Added at 40 Ok Reg 329, eff 10-25-22 (emergency); Added at 40 Ok Reg 2062, eff 9-15-23; Amended at 41 Ok Reg, Number 23, effective 9-15-24]

#### **252:740-5-4. pH and hardness dependent toxicity**

The criteria for some of the substances listed in OAC 252:730-5-12(f)(6) are hardness or pH dependent. The segment-averaged pH in Appendix B of this Chapter shall be used to determine the criterion if there is insufficient site-specific data to determine receiving stream pH. The mean hardness of the receiving stream, collected near the outfall but not affected by the discharge (as CaCO<sub>3</sub>) may be used if at least 10 monthly samples were collected over a ten-month period. The segment-averaged hardness in Appendix B of this Chapter shall be used in the determination of the criterion if there is insufficient site-specific data to determine receiving stream hardness. If the required pH or hardness is not specified for a particular waterbody segment, appropriate data from surrounding waterbody segments may be used.

[Source: Added at 40 Ok Reg 329, eff 10-25-22 (emergency); Added at 40 Ok Reg 2062, eff 9-15-23]

### **SUBCHAPTER 7. IMPLEMENTATION OF NUMERICAL CRITERIA TO PROTECT HUMAN HEALTH FROM TOXICITY DUE TO CONSERVATIVE SUBSTANCES**

#### **252:740-7-1. Applicability and scope**

(a) **General.** Rules in this Subchapter prescribe the method for determining regulatory flow and to determine whether there is a reasonable potential to exceed the criteria, all in order to implement numerical criteria to protect human health for consumption of fish flesh and/or water.

(b) **Applicable Public and Private Water Supply criteria.** Applicable criteria for waters designated Public and Private Water Supplies are found in OAC 252:730-5-10(1) and OAC 252:730-5-10(6) and OAC 252:730 Appendix G.

(c) **Applicable Fish Consumption criteria.** Applicable criteria for waters designated Warm Water Aquatic Community and/or Cool Water Aquatic Community and/or Trout Fisheries are found in OAC 252:730-5-20 and OAC 252:730 Appendix G.

(d) **Appropriate criterion.** If several criteria apply to human health implementation, the most stringent is used for implementation purposes.

(e) **Applicable receiving waters.** The human health criteria apply in receiving waters designated as Public and Private Water Supplies and certain designated sub-categories of Fish and Wildlife Propagation. Some streams in Appendix A of OAC 252:730 are designated Habitat Limited Aquatic Communities and are not designated for the Public and Private Water Supply beneficial use. Therefore, human health criteria do not apply to these streams. For implementation purposes these streams are considered conduits to the downstream water body. Human health criteria must be implemented on the first downstream water body to which they apply.

[Source: Added at 40 Ok Reg 329, eff 10-25-22 (emergency); Added at 40 Ok Reg 2062, eff 9-15-23]

#### **252:740-7-2. Determination and use of regulatory flow**

(a) **General.** OAC 252:730-5-10(1), OAC 252:730-5-10(6)(B), and OAC 252:730-5-20(b) require that long-term average receiving stream flows shall be used to implement water column numerical criteria to protect human health.

(b) **Long-term average flow on gaged receiving streams.** Mean annual average flow as determined in the technical report produced by the Oklahoma Water Resources Board entitled "Estimation of Mean Annual Average Flows" shall be used for long-term average flow in receiving streams which are or have been measured by USGS gages.

(c) **Mean annual average flows on ungaged receiving streams.** Mean annual average flow may be estimated on streams where flow is not routinely measured. This method for estimation is demonstrated in the technical report produced by the Oklahoma Water Resources Board entitled "Estimation Of Mean Annual Average Flows". Other scientifically defensible methods of long-term average flow estimation are permissible if approved by the permitting authority.



(d) **Long-term average flow in lakes.**  $Q_u$  cannot be estimated in a lake as easily as it can be for a stream. Therefore, mean annual average discharge from the lake shall be used for  $Q_u$ .

(e) **Long-term effluent flow.** The regulatory effluent flow,  $Q_e$ , is long-term average effluent flow over the previous two years for industrial discharges if the permitting authority determines that sufficient data are available. For other discharges,  $Q_e$  is the design flow.

[Source: Added at 40 Ok Reg 329, eff 10-25-22 (emergency); Added at 40 Ok Reg 2062, eff 9-15-23]

### **252:740-7-3. Reasonable potential**

(a) **General.** Complete mixing of effluent and receiving water shall be used to determine appropriate permit limits. A mass balance model shall be used for implementation purposes.

#### **(b) Determination of reasonable potential factor.**

(1) The mass balance equation will be used in the determination of human health reasonable potential:  $C = (C_e Q^* + C_B) / (Q^* + I)$ .  $Q^* = Q_e / Q_u$ , where  $Q_e$  is the regulatory effluent flow.  $C$  must be considered a long-term average concentration after complete mixing.  $C_B$  is the background concentration. To determine if there is a reasonable potential to exceed the criterion after complete mixing, choose  $C_e = 2.13 C_{\text{mean}}$ , where  $C_{\text{mean}}$  is a geometric mean of all effluent concentrations analyzed for the toxicant. If the geometric mean cannot be determined, an arithmetic mean may be used instead.

(2) Representative background concentrations will be used if available. Such representative data should reflect long-term average pollutant concentrations for implementation purposes. Otherwise,  $C_B$  is assumed zero.

(3)  $C$  must be compared with the applicable water quality criterion to determine if there is a reasonable potential for the pollutant discharge to cause a criterion exceedance. If concentration after complete mixing is greater than the human health criterion, a permit limit will be required.

[Source: Added at 40 Ok Reg 329, eff 10-25-22 (emergency); Added at 40 Ok Reg 2062, eff 9-15-23; Amended at 41 Ok Reg, Number 23, effective 9-15-24]

## **SUBCHAPTER 9. IMPLEMENTATION OF CRITERIA TO PROTECT THE AGRICULTURE BENEFICIAL USE**

### **252:740-9-1. Applicability and scope**

Rules in this Subchapter prescribe the method for determining whether there is a reasonable potential to exceed the criteria identified in OAC 252:730-5-13(h) and OAC 252:730 Appendix F for protection of the beneficial use of Agriculture. Included are criteria for chlorides, sulfates and total dissolved solids.

[Source: Added at 40 Ok Reg 329, eff 10-25-22 (emergency); Added at 40 Ok Reg 2062, eff 9-15-23]

### **252:740-9-2. Applicable mineral criteria**

(a) **General.** OAC 252:730 Appendix F contains yearly mean standards and sample standards for protection of the Agriculture beneficial use. Historical values for chlorides, sulfates and TDS for water quality segments identified in OAC 252:730 Appendix F will not be updated. Data from surrounding segments shall be used by the permitting authority to develop yearly mean standards and sample standards for those segments with inadequate historical data.

(b) **Segment averages.** Segment averages of yearly mean standards and sample standards or more appropriate determinations as prescribed in (e) and (f) of OAC 252:730-5-13 or (a) of 252:740-9-2 shall be the criteria for chlorides, sulfates and TDS to protect the Agriculture beneficial use.

[Source: Added at 40 Ok Reg 2062, eff 9-15-23; Added at 40 Ok Reg 329, eff 10-25-22 (emergency)]

### 252:740-9-3. Regulatory flows

- (a) **General.** Six regulatory flows are required for implementation of yearly mean standards and sample standards. They include stream flows, regulatory flows for lakes and regulatory effluent flows.
- (b) **Long-term average flows for streams.** The greater of 1.47 cfs or mean annual average flow, A, will be used by the permitting authority for long-term average flows to implement yearly mean standards. Mean annual average flows may be obtained from the USGS publication entitled "Statistical Summaries of Streamflow in and near Oklahoma Through 2007". They may also be estimated on streams without gages using the Oklahoma Water Resources Board publication entitled "Estimation of Mean Annual Average Flows" (OWRB Technical Report 96-2).
- (c) **Long-term average flow for lakes.** Mean annual average discharge from the lake, A, shall be used to implement the Agriculture beneficial use.
- (d) **Regulatory long-term effluent flows.** If the permitting authority determines that sufficient data is available to calculate the mean annual effluent discharge, then such discharge shall be the long-term effluent flow,  $Q_{e1}$ . If the permitting authority determines insufficient data is available to calculate the mean annual effluent discharge, then the design flow shall be the long-term effluent flow,  $Q_{e1}$ .
- (e) **Short-term average flow for streams.** OAC 252:730-5-4(d) requires that short-term average flow,  $Q_s$ , be used to implement sample standards. The short-term average flow is determined so that short-term and long-term wasteload allocations are equally likely to be more stringent, depending on the historical concentration distribution for a particular segment.  $Q_s$  shall equal the greater of 1.0 cfs or  $0.68 A$ , where A is mean annual average stream flow.
- (f) **Short-term average flows for lakes.** Short-term average flows for lakes are also determined by the formula in OAC 242:740-9-3(e). In this case A is the mean annual average lake discharge.
- (g) **Short-term average effluent flows.** If the permitting authority determines that sufficient data is available to calculate the highest monthly average discharge for industrial discharges, then such discharge shall be the short-term average effluent flow,  $Q_{es}$ . If the permitting authority determines insufficient data is available to calculate the highest monthly average discharge for industrial discharges, then the design flow shall be the short-term average effluent flow,  $Q_{es}$ .

[Source: Added at 40 Ok Reg 329, eff 10-25-22 (emergency); Added at 40 Ok Reg 2062, eff 9-15-23]

### 252:740-9-4. Reasonable potential

- (a) **General.** The need for a permit limit will be determined on a mineral constituent basis, after application of the reasonable potential equation specified in (b) of this Section, which considers assimilation capacity of the receiving water and effluent variability.
- (b) **Reasonable potential equation.** OAC 252:730-5-13(d) requires that complete mixing of effluent and receiving water be taken into account in the reasonable potential equation. The use of mass balance to obtain wasteload allocations for complete mixing is codified at OAC 252:740-7-3(a). Therefore, the reasonable potential equation for mineral constituents is  $C = (Q_u C_B + Q_e C_{95}) / (Q_u + Q_e)$ , where  $C_{95} = 2.13 C_{\text{mean}}$ , where  $C_{\text{mean}}$  is the geometric mean of all effluent concentrations analyzed for the mineral. If the geometric mean cannot be determined, an arithmetic mean may be used. If sufficient effluent concentration observations exist as determined by the permitting authority, then the permitting authority may compute the 95th percentile concentration and use it as  $C_{95}$ , in accordance with OAC 252:740-5-3(b)(1).
- (c) **Reasonable potential to exceed yearly mean standard.**  $Q_u = A$  and  $Q_e = Q_{e1}$  in OAC 252:740-9-4(b) to obtain a long-term average concentration in-stream after complete mixing. If C is greater than the higher of the YMS or 700 mg/L for TDS or 250 mg/L for chlorides and sulfates, there is a reasonable potential to exceed an Agriculture beneficial use criterion, and a permit limit is required.
- (d) **Reasonable potential to exceed sample standard.**  $Q_u = 0.68A$  and  $Q_e = Q_{es}$  in OAC 252:740-9-4(b) to obtain a short-term average concentration in-stream after complete mixing. If C is greater than the higher of the SS or 700 mg/L for TDS or 250 mg/L for chlorides and sulfates, there is a reasonable potential to exceed an Agriculture beneficial use criterion, so a permit limit is required.

## **SUBCHAPTER 11. IMPLEMENTATION OF TEMPERATURE CRITERIA TO PROTECT FISH AND WILDLIFE PROPAGATION BENEFICIAL USE**

### **252:740-11-1. Applicability and scope**

- (a) OAC 252:730-5-12(f)(2) provides that at no time shall heat be added in excess of the amount that will raise receiving water temperature more than 2.8 °C outside the mixing zone. Therefore, the temperature criterion will be implemented with respect to regulatory flow and reasonable potential at the maximum temperature on the edge of the mixing zone.
- (b) OAC 252:730-5-26 provides generally to the effect that in streams the mixing zone encompasses 25% of the total flow. The mixing zone in lakes may be designated by the permitting authority on a case-by-case basis. To be consistent, the mixing zone used for numerical criteria implementation to protect fish and wildlife propagation from toxicity will be employed for temperature implementation in lakes. This mixing zone is defined to extend 100 feet into the lake from the source.
- (c) Temperature implementation does not apply to privately owned cooling water reservoirs. Such reservoirs are specifically exempted in OAC 252:730-5-12(f)(2)(F) from implementation of temperature criteria to protect aquatic life. However, implementation of the antidegradation policy includes a maximum temperature (52 °C) which applies to all waters of the state including privately owned cooling water reservoirs. Privately owned cooling water reservoirs, however, that demonstrate no reasonable potential to exceed the antidegradation temperature shall not be limited in permits by such temperature.
- (d) All calculations to implement temperature criteria shall be done in degrees Celsius (°C) at critical temperature conditions.

[Source: Added at 40 Ok Reg 329, eff 10-25-22 (emergency); Added at 40 Ok Reg 2062, eff 9-15-23]

### **252:740-11-2. Applicable temperatures**

- (a) **General.** OAC 252:730-5-12(f)(2) governs what the applicable temperature criteria are.
- (b) **Habitat Limited and Warm Water Aquatic Community.**
- (1) In waters which are designated in OAC 252:730 to be Habitat Limited Aquatic Community and/or Warm Water Aquatic Community, no heat of artificial origin shall be added that causes the receiving water to exceed the critical temperature plus 2.8 °C outside the mixing zone.
  - (2) The temperature criterion for Habitat Limited Aquatic Community and/or Warm Water Aquatic Community,  $T_c$ , is the critical temperature plus 2.8 °C. In the absence of data,  $T_c$  is 32.24 °C. Where data exist, the critical temperature is the higher of 29.44 °C or the seven-day maximum temperature likely to occur with a 50% probability each year, 7T2. The 7T2 is calculated using a moving average of seven consecutive days for each year in a given record. These seven-day receiving stream temperature values are ranked in descending order. An order number,  $m$ , is calculated based on the number of years of record,  $n$ , with a recurrence interval of 2 years, as  $m = (n+1)/2$ . The  $m^{\text{th}}$  highest average temperature is the 7T2. Provided, in the segment of the Arkansas River from Red Rock Creek to the headwaters of Keystone Reservoir, the maximum temperature outside the mixing zone shall not exceed 34.4 °C.
  - (3) To implement the temperature criterion for Habitat Limited Aquatic Community and/or Warm Water Aquatic Community protection, the critical temperature also is the regulatory ambient temperature,  $T_a$ .
- (c) **Cool Water Aquatic Communities.** In waters designated in OAC 252:730 to be Cool Water Aquatic Community,  $T_c$  is 28.9 °C. To be consistent with implementation for Warm Water and Habitat Limited Aquatic Communities, the regulatory ambient temperature must be 2.8 °C less than  $T_c$ . Therefore,  $T_a = 26.1$  °C or Cool Water Aquatic Communities.
- (d) **Trout Fisheries.** In waters designated in OAC 252:730 to be Trout Fishery, no artificial heat shall be added such that the temperature in the receiving water exceeds 20 °C outside the mixing zone. However, water temperatures regularly reach in excess of 20 °C in Oklahoma's summers. When background levels

exceed this criterion, the effluent level should equal the criterion. Therefore, the wasteload allocation for Trout Fisheries is 20 °C.

[Source: Added at 40 Ok Reg 329, eff 10-25-22 (emergency); Added at 40 Ok Reg 2062, eff 9-15-23]

### **252:740-11-3. Regulatory flows**

(a) Regulatory receiving stream flow to protect the Fish and Wildlife Propagation beneficial use,  $Q_u$ , is the greater of the 7Q2 or 1 cfs.  $Q_u$  is assumed to be 1 cfs if the 7Q2 is unknown.

(b) The regulatory effluent flow,  $Q_e$ , is defined as the highest monthly averaged flow in cfs over the past two years for industrial discharges with adequate data.  $Q_e$  is the design flow in cfs for other dischargers.

[Source: Added at 40 Ok Reg 329, eff 10-25-22 (emergency); Added at 40 Ok Reg 2062, eff 9-15-23]

### **252:740-11-4. Reasonable potential**

A permit limit for temperature is required if there is a reasonable potential that the temperature increase at the edge of the mixing zone is greater than 2.8 °C. EPA Region 6 uses a reasonable potential factor to determine if there is a reasonable potential that concentration of a given substance will exceed the criterion. An analogous reasonable potential factor,  $T_f$ , will be used to determine if there is a reasonable potential that temperature will exceed the criterion by 2.8 °C at the edge of the mixing zone.  $T_f$  is determined such that only approximately 5% of the observed temperatures are higher. Therefore,  $T_f$  is the upper 95th percentile of the effluent temperature distribution.

[Source: Added at 40 Ok Reg 329, eff 10-25-22 (emergency); Added at 40 Ok Reg 2062, eff 9-15-23]

### **252:740-11-5. Reasonable potential equations**

(a) The maximum temperature difference on the mixing zone boundary must be computed using the following equation to determine if there is a reasonable potential to exceed 2.8 °C outside the mixing zone:  $T' = (T_f - T_a) / df$ . The dilution factor,  $df$ , must be that which yields the maximum temperature difference on the mixing zone boundary.

(b) Substituting for  $df$ , the following equations shall be used for discharges to streams:  $T' = (1.94Q^* (T_f - T_a)) / (1 + Q^*)$  when  $Q^*$  is less than or equal to 0.1823, or  $T' = (T_f - T_a) / (6.17 - 15.51Q^*)$  when  $Q^*$  is greater than 0.1823 and less than 0.3333, or  $T' = T_f - T_a$  when  $Q^*$  is greater than or equal to 0.3333.  $Q^* = Q_e / Q_u$  (the dilution capacity).

(c) The following equations shall be used for discharges to lakes:  $T' = (D(T_f - T_a)) / 20.15$  when is greater than or equal to 3 feet.  $D$  is pipe diameter, and  $T' = (W^{1/2}(T_f - T_a)) / 4.2$  when  $W$  is greater than or equal to 3 feet.  $W$  is canal width.

(d) There is a reasonable potential that the effluent may cause a criterion exceedance at the maximum concentration on the mixing zone boundary if  $T' > 2.8C$ .

[Source: Added at 40 Ok Reg 329, eff 10-25-22 (emergency); Added at 40 Ok Reg 2062, eff 9-15-23]

## **SUBCHAPTER 13. IMPLEMENTATION OF ANTIDegradation POLICY**

### **252:740-13-1. Applicability and scope**

(a) The rules in this Subchapter provide a framework for implementing the antidegradation policy stated in OAC 252:730-3-2 and OAC 252:730-5-25 for all waters of the state. This policy and framework includes four tiers, or levels, of protection.

(b) The four tiers of protection are as follows:

- (1) Tier 1. Attainment or maintenance of an existing or designated beneficial use.
- (2) Tier 2. Maintenance and protection Sensitive Water Supply-Reuse waterbodies.

(3) Tier 2.5 Maintenance and protection of High Quality Waters, Sensitive Public and Private Water Supply waters.

(4) Tier 3. No degradation of water quality allowed in Outstanding Resource Waters.

(c) In addition to the four tiers of protection, this Subchapter provides rules to implement the protection of waters in areas listed in Appendix B of OAC 252:730. Although Appendix B areas are not mentioned in OAC 252:730-3-2, the framework for protection of Appendix B areas is similar to the implementation framework for the antidegradation policy.

(d) In circumstances where more than one beneficial use limitation exists for a waterbody, the most protective limitation shall apply. For example, all antidegradation policy implementation rules applicable to Tier 1 waterbodies shall be applicable also to Tier 2, Tier 2.5 and Tier 3 waterbodies or areas, and implementation rules applicable to Tier 2 waterbodies shall be applicable also to Tier 2.5 and Tier 3 waterbodies.

(e) Publicly owned treatment works may use design flow, mass loadings or concentration, as appropriate, to calculate compliance with the increased loading requirements of this section if those flows, loadings or concentrations were approved by the Oklahoma Department of Environmental Quality as a portion of Oklahoma's Water Quality Management Plan prior to the application of the ORW, HQW, SWS, or SWS-R limitation.

[Source: Added at 40 Ok Reg 329, eff 10-25-22 (emergency); Added at 40 Ok Reg 2062, eff 9-15-23]

### **252:740-13-2. Definitions**

The following words and terms, when used in this Subchapter, shall have the following meaning, unless the context clearly indicates otherwise:

**"Specified pollutants"** means:

- (A) Oxygen demanding substances, measured as Carbonaceous Biochemical Oxygen Demand (CBOD) and/or Biochemical Oxygen Demand (BOD);
- (B) Ammonia Nitrogen and/or Total Organic Nitrogen;
- (C) Phosphorus;
- (D) Total Suspended Solids (TSS); and
- (E) Such other substances as may be determined by DEQ or the permitting authority.

[Source: Added at 40 Ok Reg 329, eff 10-25-22 (emergency); Added at 40 Ok Reg 2062, eff 9-15-23]

### **252:740-13-3. Tier 1 protection; attainment or maintenance of an existing or designated beneficial use**

#### **(a) General.**

(1) Beneficial uses which are existing or designated shall be maintained and protected.

(2) The process of issuing permits for discharges to waters of the state is one of several means employed by governmental agencies and affected persons which are designed to attain or maintain beneficial uses which have been designated for those waters. For example, Subchapters 3, 5, 7, 9 and 11 of this Chapter are rules for the permitting process. As such, the latter Subchapters not only implement numerical and narrative criteria, but also implement Tier 1 of the antidegradation policy.

(b) **Thermal pollution.** Thermal pollution shall be prohibited in all waters of the state. Temperatures greater than 52 °C shall constitute thermal pollution and shall be prohibited in all waters of the state.

(c) **Prohibition against degradation of improved waters.** As the quality of any waters of the state improves, no degradation of such improved waters shall be allowed.

[Source: Added at 40 Ok Reg 329, eff 10-25-22 (emergency); Added at 40 Ok Reg 2062, eff 9-15-23]

### **252:740-13-4. Tier 2 protection; maintenance and protection of sensitive water supply-reuse and other tier 2 waterbodies**

#### **(a) General rules for Sensitive Water Supply - Reuse (SWS-R) Waters.**

(1) Classification of SWS-R Waters. DEQ may consider classification of a waterbody as an SWS-R waterbody based upon required documentation submitted by any interested party. The interested

party shall submit documentation presenting background information and justification to support the classification of a waterbody as SWS-R including, but not limited to, the following:

(A) Determination of the waterbody's assimilative capacity pursuant to OAC 252:740-13-8, including all supporting information and calculations.

(B) Documentation demonstrating that municipal wastewater discharge for the purpose of water supply augmentation has been considered as part of a local water supply plan or other local planning document.

(C) Any additional information or documentation necessary for DEQ's consideration of a request for the classification of a waterbody as SWS-R.

(D) Prior to consideration by DEQ, any interested party seeking the classification of a waterbody as SWS-R shall submit documentation to DEQ staff demonstrating that local stakeholders, including those that use the waterbody for any designated or existing beneficial uses, have been afforded notice and an opportunity for an informal public meeting, if requested, regarding the proposed classification of the waterbody as SWS-R at least one hundred eighty (180) days prior to DEQ consideration. In addition, all information or documentation submitted pursuant to this subsection shall be available for public review.

(2) The drought of record waterbody level shall be considered the receiving water critical condition for SWS-R waterbodies.

(A) All beneficial uses shall be maintained and protected during drought of record conditions.

(B) Drought of record shall be determined with the permitting authority approved monthly time step model using hydrologic data with a minimum period of record from 1950 to the present. If empirical data are not available over the minimum period of record, modeled data shall be included in the analysis, if available.

(3) In accordance with OAC 252:730-5-25(c)(8)(D), SWS-R waterbodies with a permitted discharge shall be monitored and water quality technically evaluated to ensure that beneficial uses are protected and maintained and use of assimilative capacity does not exceed that prescribed by permit. Prior to any monitoring and/or technical analysis, the permittee shall submit a Receiving Water Monitoring and Evaluation Plan to the permitting authority for review and approval.

(A) The Receiving Water Monitoring and Evaluation Plan shall include, at a minimum, the following sections:

(i) Monitoring section that meets the required spatial, temporal, and parametric coverage of this subchapter, OAC 252:740-15, and OAC 252:628-11.

(ii) Analysis and reporting section that meets the requirements of this subchapter, OAC 252:740-15, and OAC 252:628-11.

(iii) Quality Assurance Project Plan that meets the most recent requirements for United States Environmental Protection Agency Quality Assurance Project Plans.

(B) The monitoring section of the Receiving Water Monitoring and Evaluation Plan, at a minimum shall:

(i) Include parametric, temporal (including frequency of sampling events), and spatial sampling design adequate to characterize water quality related to limnological, hydrologic, seasonal, and diurnal influences and variation.

(ii) Include nutrient monitoring adequate to characterize both external and internal loading and nutrient cycling.

(iii) Include algal biomass monitoring consistent with this sub-paragraph (B) and phytoplankton monitoring sufficient to evaluate general shifts and/or trends in phytoplankton community dynamics over time.

(iv) Include in-situ monitoring of dissolved oxygen, temperature, and pH adequate to characterize diurnal changes and fluctuations during periods of thermal stratification and complete mix.

(v) Include monitoring of pollutants with a permit effluent limit and/or permit monitoring requirements.

(C) The Receiving Water Monitoring and Evaluation Plan may include special studies, as necessary.

(D) At least biennially and prior to permit renewal, the permittee shall submit a Receiving Water Monitoring and Evaluation Report to the permitting authority that includes, at a minimum:

- (i) Summarized review of monitoring objectives and approach.
- (ii) Presentation and evaluation of monitoring results, including an analysis of both short-term and long-term trends.
- (iii) An assessment of beneficial use attainment that is at a minimum in accordance with OAC 252:740-15.
- (iv) Summarized assessment of data quality objectives, including an explanation of any data quality issues.
- (v) All monitoring data shall be submitted electronically.

(E) If the report documents nonattainment of a beneficial use(s) resulting from the discharge, the permitting authority shall consider actions including, but not limited to, additional permit requirements, cessation of the discharge, and/or a recommendation to DEQ to revoke the SWS-R waterbody classification.

**(b) General rules for other Tier 2 Waterbodies.** General rules for other Tier 2 waterbodies shall be developed as waters are identified.

[Source: Added at 40 Ok Reg 329, eff 10-25-22 (emergency); Added at 40 Ok Reg 2062, eff 9-15-23]

### **252:740-13-5. Tier 2.5 protection; maintenance and protection of high quality waters, sensitive water supplies, and other tier 2.5 waterbodies**

**(a) General rules for High Quality Waters.** New point source discharges of any pollutant after June 11, 1989, and increased load or concentration of any specified pollutant from any point source discharge existing as of June 11, 1989, shall be prohibited in any waterbody or watershed designated in Appendix A of OAC 252:730 with the limitation "HQW". Any discharge of any pollutant to a waterbody designated "HQW" which would, if it occurred, lower existing water quality shall be prohibited. Provided however, new point source discharges or increased load or concentration of any specified pollutant from a discharge existing as of June 11, 1989, may be approved by the permitting authority in circumstances where the discharger demonstrates to the satisfaction of the permitting authority that such new discharge or increased load or concentration would result in maintaining or improving the level of water quality which exceeds that necessary to support recreation and propagation of fishes, shellfishes, and wildlife in the receiving water.

**(b) General rules for sensitive public and private water supplies.** New point source discharges of any pollutant after June 11, 1989, and increased load of any specified pollutant from any point source discharge existing as of June 11, 1989, shall be prohibited in any waterbody or watershed designated in Appendix A of OAC 252:730 with the limitation "SWS". Any discharge of any pollutant to a waterbody designated "SWS" which would, if it occurred, lower existing water quality shall be prohibited. Provided however, new point source discharges or increased load of any specified pollutant from a discharge existing as of June 11, 1989, may be approved by the permitting authority in circumstances where the discharger demonstrates to the satisfaction of the permitting authority that such new discharge or increased load will result in maintaining or improving the water quality in both the direct receiving water, if designated SWS, and any downstream waterbodies designated SWS.

**(c) Stormwater discharges.** Regardless of subsections (a) and (b) of this Section, point source discharges of stormwater to waterbodies and watersheds designated "HQW", "SWS" may be approved by the permitting authority.

**(d) Nonpoint source discharges or runoff.** Best management practices for control of nonpoint source discharges or runoff should be implemented in watersheds of waterbodies designated "HQW", or "SWS" in Appendix A of OAC 252:730.

[Source: Added at 40 Ok Reg 329, eff 10-25-22 (emergency); Added at 40 Ok Reg 2062, eff 9-15-23]

### **252:740-13-6. Tier 3 protection; prohibition against degradation of water quality in outstanding resource waters**

- (a) **General.** New point source discharges of any pollutant after June 11, 1989, and increased load of any pollutant from any point source discharge existing as of June 11, 1989, shall be prohibited in any waterbody or watershed designated in Appendix A of OAC 252:730 with the limitation "ORW" and/or "Scenic River", and in any waterbody located within the watershed of any waterbody designated with the limitation "Scenic River". Any discharge of any pollutant to a waterbody designated "ORW" or "Scenic River" which would, if it occurred, lower existing water quality shall be prohibited.
- (b) **Stormwater discharges.** Regardless of OAC 252:740-13-6(a), point source discharges of stormwater from temporary construction activities to waterbodies and watersheds designated "ORW" and/or "Scenic River" may be permitted by the permitting authority. Regardless of OAC 252:740-13-6(a), discharges of stormwater to waterbodies and watersheds designated "ORW" and/or "Scenic River" from point sources existing as of June 25, 1992, whether or not such stormwater discharges were permitted as point sources prior to June 25, 1992, may be permitted by the permitting authority; provided, however, increased load of any pollutant from such stormwater discharge shall be prohibited.
- (c) **Nonpoint source discharges or runoff.** Best management practices for control of nonpoint source discharges or runoff should be implemented in watersheds of waterbodies designated "ORW" in Appendix A of OAC 252:730, provided, however, that development of conservation plans shall be required in sub-watersheds where discharges or runoff from nonpoint sources are identified as causing or significantly contributing to degradation in a waterbody designated "ORW".
- (d) **LMFO's.** *No licensed managed feeding operation (LMFO) established after June 10, 1998 which applies for a new or expanding license from the State Department of Agriculture after March 9, 1998 shall be located...[w]ithin three (3) miles of any designated scenic river area as specified by the Scenic Rivers Act in 82 O.S. Section 1451 and following, or [w]ithin one (1) mile of a waterbody [2:9-210.3(D)] designated in Appendix A of OAC 252:730 as "ORW".*

[Source: Added at 40 Ok Reg 329, eff 10-25-22 (emergency); Added at 40 Ok Reg 2062, eff 9-15-23]

#### **252:740-13-7. Protection for Appendix B areas**

- (a) **General.** Appendix B of OAC 252:730 identifies areas in Oklahoma with waters of recreational and/or ecological significance. These areas are divided into Table 1, which includes national and state parks, national forests, wildlife area, wildlife management areas and wildlife refuges; and Table 2, which includes areas which contain threatened or endangered species listed as such by the federal government pursuant to the federal Endangered Species Act as amended.
- (b) **Protection for Table 1 areas.** New discharges of pollutants after June 11, 1989, or increased loading of pollutants from discharges existing as of June 11, 1989, to waters within the boundaries of areas listed in Table 1 of Appendix B of OAC 252:730 may be approved by the permitting authority under such conditions as ensure that the recreational and ecological significance of these waters will be maintained.
- (c) **Protection for Table 2 areas.** Discharges or other activities associated with those waters within the boundaries listed in Table 2 of Appendix B of OAC 252:730 may be restricted through agreements between appropriate regulatory agencies and the United States Fish and Wildlife Service. Discharges or other activities in such areas shall not substantially disrupt the threatened or endangered species inhabiting the receiving water.
- (d) **Nonpoint source discharges or runoff.** Best management practices for control of nonpoint source discharges or runoff should be implemented in watersheds located within areas listed in Appendix B of OAC 252:730.

[Source: Added at 40 Ok Reg 329, eff 10-25-22 (emergency); Added at 40 Ok Reg 2062, eff 9-15-23]

#### **252:740-13-8. Antidegradation review in surface waters**

- (a) **General.** The antidegradation review process below presents the framework to be used when making decisions regarding the intentional lowering of water quality, where water quality is better than the minimum necessary to protect beneficial uses. OWRB technical guidance TRWQ2017-01 provides additional information.
- (b) **Determination of Assimilative Capacity in Tier 2, Tier 2.5, and Tier 3 Waters.**



- (1) All water quality monitoring and technical analyses necessary to determine receiving waterbody assimilative capacity for all applicable numeric and narrative criteria and associated parameters protective of waterbody beneficial uses shall be conducted by the interested party.
- (2) Prior to initiating any monitoring or technical analysis to support determination of waterbody assimilative capacity, the interested party shall submit a workplan for review and approval by DEQ staff.
- (3) As part of an approved workplan, the interested party shall characterize existing water quality of the receiving waterbody for each applicable criteria and associated parameters and evaluate if there is available assimilative capacity. Characterization of existing water quality shall address, at a minimum:

- (A) Measurement of load and or concentration for all applicable criteria and associated parameter(s) in the receiving water; and
- (B) The measurement of both existing and proposed point and nonpoint source discharge concentrations and/or loadings; and
- (C) The critical low flow or critical lake level of the receiving waterbody, including drought of record in waterbodies receiving IPR discharges; and
- (D) The limnological, hydrologic, seasonal, spatial and temporal variability and critical conditions of the waterbody; and
- (E) Volumetric determination of anoxic dissolved oxygen condition consistent with OAC 252:730 and OAC 252:740; and
- (F) The bioaccumulative nature of a pollutant shall be considered when determining assimilative capacity; and
- (G) The 303(d) List as contained in the most recently approved Integrated Water Quality Assessment Report shall be reviewed and any difference between the water quality assessment information and the characterization of existing water quality shall be reconciled.

(4) Assimilative capacity shall be determined by comparing existing water quality, as determined consistent with subsection (a)(3) above to the applicable narrative and numeric criteria. In Tier 2 waters, assimilative capacity shall be determined and used with a margin(s) of safety (OAC 252:740-13-8(d)(1)(D)), which takes into account any uncertainty between existing or proposed discharges and impacts on receiving water quality.

(5) When existing water quality does not meet the criterion or associated parameter necessary to support beneficial use(s) or is identified as impaired on Oklahoma's 303(d) List as contained in the most recently approved Integrated Water Quality Assessment Report, no assimilative capacity shall exist for the given criterion.

**(c) Use of Assimilative Capacity in Tier 1 Waters.** Available assimilative capacity may be used in Tier 1 waters such that water quality is maintained to fully protect all designated and existing beneficial uses.

**(d) Use of Assimilative Capacity in Tier 2 Waters.**

(1) If it is determined that assimilative capacity is available, the consumption of assimilative capacity may be allowed in a manner consistent with the requirements in 40 CFR 131.12(a)(2) and this subchapter. In allowing the use of assimilative capacity, the state shall assure that:

- (A) Water quality shall be maintained to fully protect designated and existing beneficial uses.
- (B) Assimilative capacity shall be reserved such that all applicable narrative criteria in OAC 252:730 are attained and beneficial uses are protected.
- (C) Fifty percent (50%) of assimilative capacity shall be reserved for all applicable water quality criteria listed in OAC 252:730, Appendix G, Table 2.
- (D) In order to preserve a margin of safety, in no case shall any activity be authorized without the application of margin(s) of safety specified below:
  - (i) A twenty percent (20%) margin of safety shall be applied to an applicable numeric criterion for chlorophyll-a, total phosphorus, and total nitrogen. If numeric criteria are not available, the narrative nutrient criterion (OAC 252:730-5-9(d)) shall be applied and a twenty percent (20%) margin of safety shall be applied to the parameters listed in the criterion.

(ii) No more than forty-five percent (45%) of the lake volume shall be less than the dissolved oxygen criterion magnitude in OAC 252:730-5-12(f)(1)(C)(ii).

(iii) If the existing value of a criterion is within the margin of safety, no assimilative capacity is available and existing water quality shall be maintained or improved.

(E) When existing water quality does not satisfy the applicable criterion and support beneficial use(s) or has been designated as impaired in Oklahoma's 303(d) List as contained in the most recently approved Integrated Water Quality Assessment Report, the applicable criterion shall be met at the point of discharge. If a TMDL has been approved for the impairment, loading capacity for the parameter may be available if TMDL load allocations include the proposed load from the discharge.

(2) An analysis of alternatives shall evaluate a range of practicable alternatives that would prevent or lessen the water quality degradation associated with the proposed activity. When the analysis of alternatives identifies one or more practicable alternatives, the State shall only find that a lowering is necessary if one such alternative is selected for implementation.

(3) After an analysis of alternatives and an option that utilizes any or all of the assimilative capacity is selected, the discharger must demonstrate that the lowering of water quality is necessary to accommodate important economic or social development in the area in which the waters are located.

(e) **Use of Assimilative Capacity in Tier 2.5 or 3.0 Waters.** Consistent with OAC 252:730-3-2(a) - (c), 252:730-5-25(a), 252:730-5-25(b), and 252:730-5-25(c)(1) - (c)(6) all available assimilative capacity shall be reserved in waterbodies classified as Tier 2.5 or 3.0 waters.

(f) **Public Participation.** Agencies implementing subsection 8(d) shall conduct all activities with intergovernmental coordination and according to each agency's public participation procedures, including those specified in Oklahoma's continuing planning process.

[Source: Added at 40 Ok Reg 329, eff 10-25-22 (emergency); Added at 40 Ok Reg 2062, eff 9-15-23; Amended at 41 Ok Reg, Number 23, effective 9-15-24]

## SUBCHAPTER 15. USE SUPPORT ASSESSMENT PROTOCOLS

### 252:740-15-1. Scope and applicability

(a) **General.** The rules in this Subchapter provide protocols which shall be used on and after October 1, 2000, to determine whether certain beneficial uses of waters of the state designated in OAC 252:730 are being supported. Such determinations shall be made only to the extent that pertinent provisions of OAC 252:730 apply to a waterbody or its designated uses. The rules in this Subchapter are not intended and should not be construed to limit any actions by federal or state agencies or citizens to prevent pollution or to limit remedies to abate pollution from a single incident or activity or series of incidents or activities.

(b) **Significance of assessment that a use is other than fully supported.** A determination based upon application of the rules in this Subchapter that a waterbody's beneficial use is not supported or is partially supported creates a presumption that the use is impaired or not attained for that waterbody and that the waterbody segment is a water quality limited segment.

(c) **Agency discretion to consider additional data.** An agency with jurisdiction may consider other relevant data meeting the requirements of this Subchapter in addition to that required by the rules in this Subchapter for any particular parameter to determine full support or non-support.

[Source: Added at 40 Ok Reg 329, eff 10-25-22 (emergency); Added at 40 Ok Reg 2062, eff 9-15-23]

### 252:740-15-2. Definitions

The following words and terms, when used in this Subchapter, shall have the following meaning, unless the context clearly indicates otherwise:

**"303(d) List"** means the list of waterbodies with uses that are either threatened or impaired, developed for the State of Oklahoma in accordance with Section 303(d) of the federal Clean Water Act.

**"305(b) Report"** means the report of water quality in the State of Oklahoma developed in accordance with Section 305(b) of the federal Clean Water Act.

**"Ecoregion"** means a geographical area within which ecosystems and the type, quality and quantity of environmental resources are generally similar, as more specifically described in EPA's 1997 revision of Omernick, "Ecoregions of the Conterminous United States", Annals of the Association of American Geographers.

**"Impaired"** means one or more designated beneficial uses are not being attained.

**"MQL"** means minimum quantification level.

**"Non-wadable"** means a stream which is not wadable.

**"Rolling average"** means the mathematical average of data values across a fixed length of time that incrementally changes its starting point but retains a fixed length of time by also incrementally changing its end point for each recalculation of the average. This term is also known as "moving average".

**"Screening level"** means an evaluation threshold based upon criteria prescribed in OAC 252:730 to protect a designated beneficial use.

**"Seasonal base flow"** means the sustained or fair-weather runoff, which includes but is not limited to groundwater runoff and delayed subsurface runoff.

**"Trophic State Index"** means the results of the calculation for chlorophyll-a concentration using both Carlson, R.E. 1977, A Trophic State Index For Lakes, Limnology and Oceanography, 22:361-369 and the methods outlined in the Board guidance document "Guidance For Determining Lake Trophic State For Determination Of Nutrient Limited Waters Status".

**"Wadable"** means a stream or segment thereof, at least 10 percent of which under seasonal base flow conditions is:

(A) less than 1.25 meters deep at its thalweg, and

(B) has an instantaneous discharge of less than 10 cubic feet per second, or has a velocity of less than 10 centimeters per second.

**"Waterbody"** means a body of waters of the state.

[Source: Added at 40 Ok Reg 329, eff 10-25-22 (emergency); Added at 40 Ok Reg 2062, eff 9-15-23]

### **252:740-15-3. Data requirements**

(a) **General.** In order to determine whether a given beneficial use of a waterbody is supported, scientific data from the waterbody shall be used as prescribed in this Section. Data shall be collected and analyzed in a manner consistent with testing procedures provided in OAC 252:730-1-4 or practices that are institutionally recognized and appropriate for the parameter of concern and documented in accordance with OAC 252:740-15-3(g). All existing data available for a waterbody shall be used in the analysis, subject to the spatial, temporal and other requirements of this Section.

#### **(b) Spatial coverage.**

(1) **General for streams.** The spatial extent of assessment of use support in terms of stream miles shall be determined after taking into account existing data, spatial distribution of monitoring sites, sources of pollution and influence of tributaries. Major hydrological features, such as the confluence of a major tributary or a dam, may limit the spatial extent of an assessment based on one station.

(2) **Non-wadable streams.** Unless it is demonstrated to the contrary, a single monitoring site shall be considered representative of no more than 25 stream miles for non-wadable streams.

(3) **Wadable streams.** Unless it is demonstrated to the contrary, a single monitoring site shall be considered representative of no more than 10 stream miles for wadable streams.

(4) **Lakes.** The spatial extent of assessment of use support in terms of lake surface acres shall be estimated based on the spatial distribution of monitoring sites having the requisite number of samples, sources of pollution, influence of tributaries and best professional judgment. Arms or portions of lake may be treated separately from the main body of a lake. Unless it is demonstrated to the contrary, a single site shall be considered representative of an entire lake or an arm of no more than two hundred and fifty surface acres in size.

(5) **Spatial limitation for sampling sites.** For purposes of this Subchapter, observations, samples, and other data shall not be taken within any regulatory mixing zone.

#### **(c) Temporal coverage.**

- (1) **General.** Observations, samples or other data collected for purposes of assessing use support shall be taken to avoid temporal bias, and seasonality shall be represented in the sampling scheme.
- (2) **Streams.** Data no older than five years old shall be utilized in assessing use support for a stream unless:

- (A) the data available from the preceding five-year period is insufficient to satisfy the requirements of OAC 252:740-15-3(d) or other more specific minimum requirements provided in this Subchapter, in which case data older than five years old may be utilized, or
- (B) the provisions of OAC 252:740-15-4(b)(3) or OAC 252:740-15-4(c)(3) apply.

- (3) **Lakes.** Data no older than ten years old shall be utilized in assessing use support for a lake unless

- (A) the data available from the preceding ten-year period is insufficient to satisfy the requirements of OAC 252:740-15-3(d) or other more specific minimum requirements provided in this Subchapter, in which case data older than ten years old may be utilized, or
- (B) the provisions of OAC 252:740-15-4(b)(3) or OAC 252:740-15-4(c)(3) apply.

**(d) Minimum number of samples.**

- (1) Except when (f) of this Section applies, or unless otherwise noted in subchapter OAC 252:740-15 for a particular parameter, a minimum number of samples shall be required to assess beneficial use support.

- (A) For streams and rivers, a minimum of 10 samples shall be required.
- (B) For lakes greater than 250 surface acres, a minimum of 20 samples shall be required.
- (C) For lakes 250 surface acres or smaller, a minimum of 10 samples shall be required.
- (D) For toxicants for the protection of the Fish and Wildlife Propagation and Public and Private Water beneficial uses, a minimum of 5 samples shall be required.

- (2) In order to satisfy the minimum sample requirements of this sub-section, samples may be aggregated consistent with the spatial and temporal requirements prescribed in (b), (c), and (d) of this Section.

- (3) The prescribed minimum samples shall not be necessary if the available samples already assure exceedance of the applicable percentage for beneficial use assessment.

- (4) If a mathematical calculation including, but not limited to, a mean, median, or quartile, is required for assessment, a minimum of ten samples shall be required, regardless of the parameter type.

- (5) Additional samples for the calculation of temperature, pH and hardness dependent acute and chronic criteria shall be collected as required by OAC 252:740-5-4.

**(e) Application of PQL.**

**(1) Criteria above PQL.**

- (A) If sample values are below the PQL for a parameter whose criterion is above the PQL, appropriate nonparametric statistical measures shall be used to determine the reporting value.

- (B) For waterbodies identified as impaired on the current 303(d) List or 305(b) Report, if sample values are nondetectable for a parameter whose criterion is above the PQL, then such value shall be deemed to be one-half (1/2) of the parameter PQL.

- (C) All sample values that are above the PQL shall be the reported values.

**(2) Criteria equal to or below PQL.**

- (A) If sample values are below the PQL for a criterion which is less than one-half (1/2) of the PQL, then the values shall be deemed to be zero (0) until the first test result above the PQL appears. After that time, sample values which are below the PQL shall be deemed to be equal to the criterion value until four (4) subsequent contiguous samples are shown to be below the PQL. Any subsequent sample values which are nondetectable may be treated as zero (0) until the next test result appears above the PQL.

- (B) For those parameters whose criteria are at least two (2) orders of magnitude below the PQL, evidence considered with respect to assessment of use support shall include fish tissue analysis, biological community analysis, biological thresholds wherever available, or other holistic indicators which are appropriate for the beneficial use in question.

(C) If sample values are below the PQL for a criterion which is greater than or equal to one-half (1/2) of the PQL but less than the PQL, then the values shall be deemed to be one-half (1/2) of the criterion value until the first test result above the PQL appears. After that time, sample values which are below the PQL shall be deemed to be equal to the criterion value until four (4) subsequent contiguous samples are shown to be below the PQL. Any subsequent sample values which are nondetectable may be treated as equal to one-half (1/2) of the criterion value until the next test result appears above the PQL.

(D) For waterbodies identified as impaired on the current 303(d) List or 305(b) Report, if sample values are nondetectable for a parameter whose criterion is below the PQL, then such value shall be deemed to be one-half (1/2) of the criterion value.

(E) All sample values that are above the PQL shall be the reported values.

**(f) Magnitude of criteria exceedance.**

(1) **General.** The magnitude of exceedance, as well as frequency of exceedances, shall be used in determining beneficial use support. Samples shall be taken only during conditions when criteria apply.

(2) **Toxicants.** If two or more concentrations of toxicants exceed criteria or screening levels to protect human health or aquatic life by two orders of magnitude or more, the associated beneficial use shall be deemed to be not supported.

(3) **Dissolved oxygen.** If more than two concentrations of DO in a stream are observed to be below 2 mg/L in any given year, the Fish and Wildlife Propagation beneficial use shall be deemed to be not supported.

(4) **Other parameters.** The magnitude and frequency of exceedances to be used for determining beneficial use support for parameters other than toxicants and DO shall be as prescribed in the rules elsewhere in this Subchapter.

**(g) Quality assurance.** On and after July 1, 2002, data collected for purposes of use support assessment shall be collected using documented programmatic quality assurance and quality control methods substantially in accordance with those required by "Quality Assurance Project Plan Standard," EPA Directive No: CIO 2105-S-02.0 (July 2023). The sampling and testing methods used shall protect the integrity of the sample and provide detailed documentation of analysis.

[Source: Added at 40 Ok Reg 329, eff 10-25-22 (emergency); Added at 40 Ok Reg 2062, eff 9-15-23; Amended at 41 Ok Reg, Number 23, effective 9-15-24]

**252:740-15-4. Default protocols**

(a) **General.** The protocols prescribed in this Section shall apply whenever the more specific protocols prescribed elsewhere in this Subchapter do not apply.

**(b) Short-term average numerical parameters.**

(1) Short-term average numerical parameters are based upon exposure periods of less than seven days. Short-term average parameters to which this Section applies include, but are not limited to, sample standards and turbidity.

(2) A beneficial use shall be deemed to be fully supported for a given parameter whose criterion is based upon a short-term average if 10% or less of the samples for that parameter exceed the applicable screening level prescribed in this Subchapter.

(3) A beneficial use shall be deemed to be fully supported but threatened if the use is supported currently but the appropriate state environmental agency determines that available data indicate that during the next five years the use may become not supported due to anticipated sources or adverse trends of pollution not prevented or controlled. If data from the preceding two-year period indicate a trend away from impairment, the appropriate agency shall remove the threatened status.

(4) A beneficial use shall be deemed to be not supported for a given parameter whose criterion is based upon a short-term average if at least 10% of the samples for that parameter exceed the applicable screening level prescribed in this Subchapter.

**(c) Long-term average numerical parameters.**

(1) Long-term average numerical parameters are based upon exposure periods of seven days or longer. Assessment decisions shall be based upon the mean of all data meeting the temporal and

spatial data requirements described elsewhere in this Subchapter.

(2) A beneficial use shall be deemed to be fully supported for a given parameter whose criterion is based upon a long-term average if the mean of the sample results does not exceed the long-term criterion.

(3) A beneficial use shall be deemed to be fully supported but threatened if the use is supported currently, but the appropriate state environmental agency determines that available data indicate that, during the next five years, the use may become not supported due to anticipated sources or adverse trends of pollution not prevented or controlled. If data from the preceding two-year period indicate a trend away from impairment, the appropriate agency shall remove the threatened status.

(4) A beneficial use shall be deemed to be not supported for a given parameter whose criterion is based upon a long-term average if the mean of the sample results exceeds the criterion or screening level.

[Source: Added at 40 Ok Reg 329, eff 10-25-22 (emergency); Added at 40 Ok Reg 2062, eff 9-15-23]

### **252:740-15-5. Assessment of Fish and Wildlife Propagation support**

(a) **Scope.** The provisions of this Section shall be used to determine whether the beneficial use of Fish and Wildlife Propagation or any subcategory thereof designated in OAC 252:730 for a waterbody is supported.

(b) **Dissolved oxygen.** For purposes of assessment, listing and reporting under sections 303(d) and 305(b) of the federal Clean Water Act as amended, the procedure for determining use support of the Fish and Wildlife Propagation beneficial use or any subcategory thereof with respect to dissolved oxygen shall be as follows:

#### **(1) Support tests for HLAC streams.**

(A) The HLAC subcategory of the Fish and Wildlife Propagation beneficial use designated for a stream shall be deemed to be fully supported with respect to the DO criterion if 10% or less of the samples across all life stages and seasons exhibit DO concentration below the following season-specific thresholds:

(i) April 1 through June 15: 4.0 mg/L

(ii) June 16 through March 31: 3.0 mg/L

(B) The HLAC subcategory of the Fish and Wildlife Propagation beneficial use designated for a stream shall be deemed to be not supported with respect to the DO criterion if more than 10% of the samples across all seasons exhibit DO concentrations below the following season-specific thresholds due to other than naturally occurring conditions:

(i) April 1 through June 15: 4.0 mg/L

(ii) June 16 through March 31: 3.0 mg/L

#### **(2) Support tests for WWAC streams.**

(A) The WWAC subcategory of the Fish and Wildlife Propagation beneficial use designated for a stream shall be deemed to be fully supported with respect to the DO criterion if 10% or less of the samples across all life stages and seasons exhibit DO concentration below the following season-specific thresholds:

(i) April 1 through June 15: 6.0 mg/L

(ii) June 16 through March 31: 5.0 mg/L

(B) The WWAC subcategory of the Fish and Wildlife Propagation beneficial use designated for a stream shall be deemed to be undetermined with respect to the DO criterion if more than 10% of the samples across all life stages and seasons exhibit DO concentrations below the upper DO threshold and 10% or less of the samples across all seasons exhibit DO concentrations below the lower DO threshold considering the following season-specific ranges:

(i) April 1 through June 15: 5.0 mg/L to 6.0 mg/L

(ii) June 16 through October 15: 4.0 mg/L to 5.0 mg/L

(C) The WWAC subcategory of the Fish and Wildlife Propagation beneficial use designated for a stream shall be deemed to be not supported with respect to the DO criterion if more than 10% of the samples across all life stages and seasons exhibit DO concentrations below the following season-specific thresholds due to other than naturally occurring conditions:

- (i) April 1 through June 15: 5.0 mg/L
- (ii) June 16 through October 15: 4.0 mg/L
- (iii) October 16 through March 31: 5.0 mg/L

**(3) Support tests for CWAC and Trout streams.**

(A) The CWAC or Trout subcategory of the Fish and Wildlife Propagation beneficial use designated for a stream shall be deemed to be fully supported with respect to the DO criterion if 10% or less of the samples across all life stages and seasons exhibit DO concentrations below the following season-specific thresholds:

- (i) March 1 through May 31: 7.0 mg/L
- (ii) June 1 through last day of February: 6.0 mg/L

(B) The CWAC or Trout subcategory of the Fish and Wildlife Propagation beneficial use designated for a stream shall be deemed to be undetermined with respect to the DO criterion if more than 10% of the samples across all life stages and seasons exhibit DO concentrations below the upper DO threshold and 10% or less of the samples across all seasons exhibit DO concentrations below the lower DO threshold considering the following season-specific ranges:

- (i) March 1 through May 31: 7.0 mg/L to 6.0 mg/L
- (ii) June 1 through October 15: 6.0 mg/L to 5.0 mg/L

(C) The CWAC or Trout subcategory of the Fish and Wildlife Propagation beneficial use designated for a stream shall be deemed to be not supported with respect to the DO criterion if more than 10% of the samples across all life stages and seasons exhibit DO concentrations below the following season-specific thresholds due to other than naturally occurring conditions:

- (i) March 1 through May 31: 6.0 mg/L
- (ii) June 1 through October 15: 5.0 mg/L
- (iii) October 16 through the last day of February: 6.0 mg/L

**(4) Support tests for WWAC lakes.** The WWAC subcategory of the Fish and Wildlife Propagation beneficial use designated for a lake shall be deemed to be fully supported with respect to the DO criterion if both the Surface and Water Column criteria prescribed in (5)(A) and (6)(A) of this subsection (b) are satisfied. If either of the Surface or Water Column criteria prescribed in (5)(B) or (6)(B) produce a result of undetermined, then the WWAC subcategory of the Fish and Wildlife Propagation beneficial use designated for a lake shall be deemed to be undetermined with respect to the DO criterion; provided, if either of the Surface or Water Column criteria prescribed in (5)(C) or (6)(C) produce a result of not supported, then the WWAC subcategory of the Fish and Wildlife Propagation beneficial use designated for a lake shall be deemed to be not supported with respect to the DO criterion.

**(5) Surface criteria for WWAC lakes.**

(A) The WWAC subcategory of the Fish and Wildlife Propagation beneficial use designated for a lake shall be deemed to be fully supported with respect to the DO criterion if 10% or less of the surface samples across life stages and all seasons exhibit DO concentrations below the following season-specific thresholds:

- (i) April 1 through June 15: 6.0 mg/L
- (ii) June 16 through March 31: 5.0 mg/L

(B) The WWAC subcategory of the Fish and Wildlife Propagation beneficial use designated for a lake shall be deemed to be undetermined with respect to the DO criterion if more than 10% of the surface samples across all life stages and seasons exhibit DO concentrations below the upper DO threshold and 10% or less of the surface samples across all seasons exhibit DO concentrations below the lower DO threshold considering the following season-specific ranges:

- (i) April 1 through June 15: 5.0 mg/L to 6.0 mg/L
- (ii) June 16 through October 15: 4.0 mg/L to 5.0 mg/L

(C) The WWAC subcategory of the Fish and Wildlife Propagation beneficial use designated for a lake shall be deemed to be not supported with respect to the DO criterion if more than 10% of the surface samples across all life stages and seasons exhibit DO concentrations

below the following season-specific thresholds due to other than naturally occurring conditions:

- (i) April 1 through June 15: 5.0 mg/L
- (ii) June 16 through October 15: 4.0 mg/L
- (iii) October 16 through March 31: 5.0 mg/L

(D) "Surface", when used in this Section, means surface waters or the mixed surface layer, typically represented by a sample taken at least 0.5 m below the surface.

**(6) Water column criteria for WWAC lakes.**

(A) The WWAC subcategory of the Fish and Wildlife Propagation beneficial use designated for a lake shall be deemed to be fully supported with respect to the DO criterion if less than 50% of the volume (if volumetric data is available) or 50% or less of the water column (if no volumetric data is available) of all sample sites in the lake are less than 2.0 mg/L.

(B) The WWAC subcategory of the Fish and Wildlife Propagation beneficial use designated for a lake shall be deemed to be undetermined with respect to the DO criterion (if no volumetric data is available) if 50% or more, but not greater than 70%, of the water column at any given sample site in the lake is less than 2.0 mg/L due to other than naturally occurring conditions.

(C) The WWAC subcategory of the Fish and Wildlife Propagation beneficial use designated for a lake shall be deemed to be not supported with respect to the DO criterion if 50% or more of the water volume (if volumetric data is available) or more than 70% of the water column (if no volumetric data is available) at any given sample site is less than 2.0 mg/L.

(D) If a lake specific study including historical analysis produces a support status which is contrary to an assessment obtained from the application of (A), (B) or (C) of (b)(6) of this section, then that lake specific result will control.

**(7) Additional application/exercise when support undetermined.** In instances where application of the tests in this subsection (b) initially produce a result that the pertinent subcategory is undetermined with respect to the DO criterion, such shall be subject to additional investigation that considers diurnal data for further application of such tests in order to resolve the determination of use support.

**(c) Toxicants.**

**(1) Test for Full Support.**

(A) The Fish and Wildlife Propagation beneficial use designated for a waterbody shall be deemed to be fully supported with respect to any individual toxicant parameter if no more than one of the sample concentrations from the waterbody exceeds the acute criterion for that toxicant prescribed in the numerical criteria for toxic substances in OAC 252:730-5-12(f)(6)(D) and (E) and OAC 252:730 Appendix G, Table 2.

(B) The Fish and Wildlife Propagation beneficial use designated for a waterbody shall be deemed to be fully supported with respect to any individual toxicant parameter if not more than 1 sample concentration or not more than 10% of the sample concentrations from the waterbody exceeds the chronic criterion for that toxicant prescribed in the numerical criteria for toxic substances in OAC 252:730-5-12(f)(6)(D), (E) and OAC 252:730 Appendix G, Table 2.

**(2) Test for Non-Support.**

(A) The Fish and Wildlife Propagation beneficial use designated for a waterbody shall be deemed to be not supported with respect to any individual toxicant parameter if more than one of the sample concentrations from the waterbody exceed the acute criterion for that toxicant prescribed in the numerical criteria for toxic substances in OAC 252:730-5-12(f)(6)(D) and (E) and OAC 252:730 Appendix G, Table 2.

(B) The Fish and Wildlife Propagation beneficial use designated for a waterbody shall be deemed to be not supported with respect to any individual toxicant parameter if more than 10 % of the sample concentrations from the waterbody exceed chronic criterion for that toxicant prescribed in the numerical criteria for toxic substances in OAC 252:730-5-12(f)(6)(D) and (E) and OAC 252:730 Appendix G, Table 2

**(d) pH.**



(1) The Fish and Wildlife Propagation beneficial use designated for a waterbody shall be deemed to be fully supported with respect to pH occurring other than by naturally occurring conditions if no more than 10% of the sample concentrations from that waterbody fall outside the criteria range prescribed in OAC 252:730-5-12(f)(3).

(2) The Fish and Wildlife Propagation beneficial use designated for a waterbody shall be deemed to be not supported with respect to pH occurring other than by naturally occurring conditions if greater than 10% of the sample concentrations from that waterbody fall outside the criteria range prescribed in OAC 252:730-5-12(f)(3).

(e) **Turbidity.** The criteria for turbidity stated in OAC 252:730-5-12(f)(7) shall constitute the screening levels for turbidity. The tests for use support shall follow the default protocol in OAC 252:740-15-4(b).

(f) **Oil and grease.**

(1) The Fish and Wildlife Propagation beneficial use designated for a waterbody shall be deemed to be fully supported with respect to oil and grease if a visible sheen or bottom deposits of oil or grease are observed on that waterbody in 10% or less of the observations.

(2) The Fish and Wildlife Propagation beneficial use designated for a waterbody shall be deemed to be not supported with respect to oil and grease if a visible sheen or bottom deposits of oil or grease are observed on that waterbody in more than 10% of the observations.

(g) **Suspended and bedded sediments.**

(1) If a stream is supporting the biological criteria assigned to that stream as provided in (e) and (i) through (n) of this section, then that stream will be deemed to be supporting its assigned Fish and Wildlife Propagation beneficial use with respect to suspended and bedded sediments.

(2) If a stream is not supporting the biological criteria assigned to that stream as provided in (e) and (i) through (n) of this section, then a habitat assessment must be conducted using the habitat assessment protocols found in OWRB Technical Report TRWQ2001-1, "Unified Protocols for Beneficial Use Assignment for Oklahoma Wadable Streams." The results of the habitat assessment shall then be compared to either historical conditions or regional reference conditions in order to determine attainment with respect to suspended and bedded sediments in that stream.

(3) The method for establishing reference conditions shall meet the following requirements:

(A) a minimum of five (5) reference streams or reaches shall be assessed;

(B) all of the reference streams or reaches must be within the same ecoregion as the test stream;

(C) all of the reference streams or reaches must be streams with similar flow regimes no more than two (2) stream orders removed from the test stream; and

(D) the reference streams shall be selected from the least impacted streams in the ecoregion whose watersheds contain soils, vegetation, land uses, and topography typical of the watershed of the test stream(s).

(4) The Fish and Wildlife Propagation beneficial use will be considered to be not supported with respect to suspended and bedded sediments if any of the following habitat parameters deviate from the reference conditions by the specified amount:

(A) The total percent of clay, silt, and loose sand in the pool bottom substrate of the test stream is increased by more than 30% over the reference condition;

(B) Cobble embeddedness in the test stream is increased by 15% or more over the reference condition;

(C) The percentage of the length of the reach containing fresh (non-vegetated) point bars and/or islands in the test stream is 20 or more percentage points above that of the reference condition; or

(D) The percentage of the length of the reach dominated by pools of a depth of 0.5 meters or more in the test stream is less than 70% of that of the reference condition.

(5) If all of the habitat parameters identified in (h)(4) of this section deviate from the reference conditions by less than the amounts specified in (h)(4) of this section, then the Fish and Wildlife Propagation beneficial use is not impaired due to suspended and bedded sediments.

(h) **Metals.** The Fish and Wildlife Propagation beneficial use designated for a waterbody may be assessed using either total recoverable or dissolved metals. When available, the concentrations of dissolved metals shall be compared following the provisions of (c) of this subsection to the criteria in OAC 252:730

Appendix G converted to dissolved criteria by multiplying the total metal criterion listed in table 2 by the appropriate conversion factor listed in Table 3. Preference shall be given to the beneficial use determinations based upon dissolved metals. For those metals criteria requiring a hardness component, individual assessment results may be calculated using the average of all hardness data meeting the requirements of OAC 252:740-15-3. The segment-averaged hardness in Appendix B of this Chapter shall be used in the determination of the criterion if there is insufficient site-specific data to determine stream hardness.

**(i) Biological criteria.**

- (1) If data demonstrate that an assemblage of fish or macro invertebrates from a waterbody is significantly degraded, according to OAC 252:730-5-12(f)(5), from that expected for the subcategory of Fish and Wildlife Propagation designated in OAC 252:730 for that waterbody, then that subcategory may be deemed by the appropriate state environmental agency to be not supported.
- (2) All physical assessments and biological collections shall be performed in accordance with the requirements set forth in OWRB Technical Report No. 99-3 entitled "Standard Operating Procedures for Stream Assessments and Biological Collections Related to Biological Criteria in Oklahoma".
- (3) Evaluation of the biological collections shall include identification of fish samples to species level. Determinations of tolerance level shall be made according to Jester et al. 1992, "The Fishes of Oklahoma, Their Gross Habitats, and Their Tolerance of Degradation in Water Quality and Habitat", Proceedings of Oklahoma Academy of Sciences, 72:7-19.
- (4) The determination of whether the use of Fish and Wildlife Propagation is supported in wadable streams in Oklahoma ecoregions shall be made according to all of the requirements of this subsection (e), the application of Appendix C of this Chapter, and the special provisions in subsections (i) through (o), where applicable, of this Section. Streams with undetermined use support status shall be subject to additional investigation that considers stream order, habitat factors and local reference streams before the use support determination is made. A finding of impairment for biocriteria due to any one of the parameters listed in this section shall trigger an evaluation of all likely causes, not precluding monitoring, assessment, and subsequent support determination of the Fish and Wildlife beneficial use for any of the other parameters in this section

**(j) Special provisions for Ouachita Mountains wadable streams.** The determination of whether the use of Fish and Wildlife Propagation is supported for wadable streams located in the Ouachita Mountains ecoregion shall be made according to the application of Appendix C of this Chapter, together with this subsection, as follows:

- (1) Where designated, the subcategory of Warm Water Aquatic Community shall be deemed fully supported if the application of Appendix C produces a score of 35 or more. Such subcategory shall be deemed not supported if the application of Appendix C produces a score of 24 or less. If a score is 25 to 34 inclusive, the issue of whether this subcategory is supported shall be deemed undetermined.
- (2) Where designated, the subcategory of Habitat Limited Aquatic Community shall be deemed fully supported if the application of Appendix C produces a score of 27 or more. Such subcategory shall be deemed not supported if the application of Appendix C produces a score of 18 or less. If a score is 19 to 26 inclusive, the issue of whether this subcategory is supported shall be deemed undetermined.

**(k) Special provisions for Arkansas Valley wadable streams.** The determination of whether the use of Fish and Wildlife Propagation is supported for wadable /streams located in the Arkansas Valley ecoregion shall be made according to the application of Appendix C of this Chapter, together with this subsection, as follows:

- (1) Where designated, the subcategory of Warm Water Aquatic Community shall be deemed fully supported if the application of Appendix C produces a score of 35 or more. Such subcategory shall be deemed not supported if the application of Appendix C produces a score of 24 or less. If a score is 25 to 34 inclusive, the issue of whether this subcategory is supported shall be deemed undetermined.

(2) Where designated, the subcategory of Habitat Limited Aquatic Community shall be deemed fully supported if the application of Appendix C produces a score of 27 or more. Such subcategory shall be deemed not supported if the application of Appendix C produces a score of 18 or less. If a score is 19 to 26 inclusive, the issue of whether this subcategory is supported shall be deemed undetermined.

**(l) Special provisions for Boston Mountains and Ozark Highlands wadable streams.** The determination of whether the use of Fish and Wildlife Propagation is supported for wadable streams located in the Boston Mountains and Ozark Highlands ecoregions shall be made according to the application of Appendix C of this Chapter, together with this subsection, as follows:

(1) Where designated, the subcategory of Cool Water Aquatic Community shall be deemed fully supported if the application of Appendix C produces a score of 37 or more. Such subcategory shall be deemed not supported if the application of Appendix C produces a score of 29 or less. If a score is 30 to 36 inclusive, the issue of whether this subcategory is supported shall be deemed undetermined.

(2) Where designated, the subcategory of Warm Water Aquatic Community shall be deemed fully supported if the application of Appendix C produces a score of 31 or more. Such subcategory shall be deemed not supported if the application of Appendix C produces a score of 22 or less. If a score is 23 to 30 inclusive, the issue of whether this subcategory is supported shall be deemed undetermined.

**(m) Special provisions for Central Irregular Plains wadable streams.** The determination of whether the use of Fish and Wildlife Propagation is supported for wadable streams located in the Central Irregular Plains ecoregion shall be made according to the application of Appendix C of this Chapter, together with this subsection, as follows:

(1) Where designated, the subcategory of Cool Water Aquatic Community shall be deemed fully supported if the application of Appendix C produces a score of 35 or more. Such subcategory shall be deemed not supported if the application of Appendix C produces a score of 28 or less. If a score is 29 to 34 inclusive, the issue of whether this subcategory is supported shall be deemed undetermined.

(2) Where designated, the subcategory of Warm Water Aquatic Community shall be deemed fully supported if the application of Appendix C produces a score of 30 or more. Such subcategory shall be deemed not supported if the application of Appendix C produces a score of 22 or less. If a score is 23 to 29 inclusive, the issue of whether this subcategory is supported shall be deemed undetermined.

(3) Where designated, the subcategory of Habitat Limited Aquatic Community shall be deemed fully supported if the application of Appendix C produces a score of 25 or more. Such subcategory shall be deemed not supported if the application of Appendix C produces a score of 16 or less. If a score is 17 to 24 inclusive, the issue of whether this subcategory is supported shall be deemed undetermined.

**(n) Special provisions for Central Oklahoma - Texas Plains wadable streams.** The determination of whether the Warm Water Aquatic Community subcategory of the Fish and Wildlife Propagation beneficial use is supported for wadable streams located in the Central Oklahoma - Texas Plains ecoregion shall be made according to the application of Appendix C of this Chapter, together with this subsection, as follows:

(1) Such subcategory shall be deemed fully supported if the application of Appendix C produces a score of 26 or more.

(2) Such subcategory shall be deemed not supported if the application of Appendix C produces a score of 19 or less.

(3) If the application of Appendix C produces a score of 20 to 25 inclusive, the issue of whether this subcategory is supported shall be deemed undetermined.

**(o) Special provisions for Central Great Plains wadable streams.** The subcategory of Warm Water Aquatic Community of the beneficial use of Fish and Wildlife Propagation in the wadable streams located in the Central Great Plains ecoregion shall be deemed fully supported if the application of Appendix C of this Chapter produces a score of 22 or more. Such subcategory shall be deemed not supported for the streams in the ecoregion if the application of Appendix C produces a score of 18 or less. If the application of Appendix C produces a score of 19 to 21 inclusive, the issue of whether this subcategory is supported

for the streams in this ecoregion shall be deemed undermined. Provided, however, this subsection does not apply to the area bounded by State Highway 54 on the west, U.S. Highway 62 on the south, U.S. Highway 281 on the east and State Highway 19 on the north.

[Source: Added at 40 Ok Reg 329, eff 10-25-22 (emergency); Added at 40 Ok Reg 2062, eff 9-15-23]

#### **252:740-15-6. Assessment of Primary Body Contact Recreation support**

(a) **Scope.** The provisions of this Section shall be used to determine whether the subcategory of Primary Body Contact of the beneficial use of Recreation designated in OAC 252:730 for a waterbody is supported during the recreation season from May 1 through September 30 each year. Where data exist for multiple bacterial indicators on the same waterbody or waterbody segment, the determination of use support shall be based upon the use and application of all applicable tests and data.

##### **(b) *Escherichia coli* (*E. coli*).**

(1) The Primary Body Contact Recreation subcategory designated for a waterbody shall be deemed to be fully supported with respect to *E. coli* if the geometric mean of 126 colonies per 100 ml is met. These values are based upon all samples collected over the recreation period in accordance with OAC 252:740-15-3(c).

(2) The Primary Body Contact Recreation subcategory designated for a waterbody shall be deemed to be not supported with respect to *E. coli* if the geometric mean of 126 colonies per 100 ml is not met. These values are based upon all samples collected over the recreation period in accordance with OAC 252:740-15-3(c).

##### **(c) Enterococci.**

(1) The Primary Body Contact Recreation subcategory designated for a waterbody shall be deemed to be fully supported with respect to enterococci if the geometric mean of 33 colonies per 100 ml is met. These values are based upon all samples collected over the recreation period in accordance with OAC 252:740-15-3(c).

(2) The Primary Body Contact Recreation subcategory designated for a waterbody shall be deemed to be not supported with respect to enterococci if the geometric mean of 33 colonies per 100 ml is not met. These values are based upon all samples collected over the recreation period in accordance with OAC 252:740-15-3(c).

[Source: Added at 40 Ok Reg 329, eff 10-25-22 (emergency); Added at 40 Ok Reg 2062, eff 9-15-23]

#### **252:740-15-7. Assessment of Public and Private Water Supply support**

(a) **Scope.** The provisions of this Section shall be used to determine whether the beneficial use of Public and Private Water Supply or any subcategory thereof designated in OAC 252:730 for a waterbody is supported.

##### **(b) Toxicants.**

(1) The Public and Private Water Supply beneficial use designated for a waterbody shall be deemed to be fully supported with respect to any substance with criteria for such use listed in OAC 252:730 Appendix G if the sample concentrations from that waterbody do not exceed the criterion for that substance prescribed in OAC 252:730 Appendix G in more than 10% of the measurements, or if drinking water use restrictions are not in effect.

(2) The Public and Private Water Supply beneficial use designated for a waterbody shall be deemed to be not supported with respect to any substance with criteria for such use listed in OAC 252:730 Appendix G if the sample concentrations from that waterbody exceed the criterion for that substance prescribed in OAC 252:730 Appendix G in more than 10% of the measurements, or if drinking water use restrictions are put in effect by an agency with jurisdiction that require closure of the water supply.

(c) **Bacteria.** The screening level for total coliform bacteria shall be 5000 colonies per 100 ml. The tests for use support shall follow the default protocol in OAC 252:740-15-4.

(d) **Threatened water supplies.** Waters of the state designated in OAC 252:730 as Public and Private Water Supply shall be presumed to be threatened when toxicants are detected but do not exceed the applicable criteria prescribed in OAC 252:730 Appendix G, or some drinking water use restrictions have

been put into effect by an agency with jurisdiction, or the potential for adverse impacts to water quality exists, or more than one such conditions exist.

**(e) Oil and grease.**

(1) The Public and Private Water Supply beneficial use designated for a waterbody shall be deemed to be fully supported with respect to oil and grease if a visible sheen or bottom deposits of oil or grease are observed on that waterbody in 10% or less of the observations, and drinking water use restrictions that require more than conventional treatment related to oil and grease have not been put into effect by an agency with jurisdiction.

(2) The Public and Private Water Supply beneficial use designated for a waterbody shall be deemed to be not supported with respect to oil and grease if a visible sheen or bottom deposits of oil or grease are observed on that waterbody in more than 10% of the observations, or drinking water use restrictions that require more than conventional treatment related to oil and grease have been put into effect by an agency with jurisdiction.

[Source: Added at 40 Ok Reg 2062, eff 9-15-23; Added at 40 Ok Reg 329, eff 10-25-22 (emergency)]

**252:740-15-8. Assessment of Agriculture support**

(a) **Scope.** The provisions of this Section shall be used to determine whether the beneficial use of Agriculture designated in OAC 252:730 for a waterbody is supported.

**(b) General support tests for chlorides, sulfates and TDS.**

(1) The Agriculture beneficial use designated for a waterbody shall be deemed to be fully supported with respect to chloride if the mean of all chloride sample concentrations from that waterbody do not exceed the yearly mean standard prescribed in Appendix F or site-specific criteria promulgated in Appendix E of OAC 252:730 and no more than 10% of the sample concentrations from that waterbody exceed the sample standard prescribed in Appendix F or site-specific criteria promulgated in Appendix E of OAC 252:730.

(2) The Agriculture beneficial use designated for a waterbody shall be deemed to be not supported with respect to chloride if the mean of all chloride sample concentrations from that waterbody exceeds the yearly mean standard prescribed in Appendix F or site-specific criteria promulgated in Appendix E of OAC 252:730, or greater than 10% of the sample concentrations from that waterbody exceed the sample standard prescribed in Appendix F or site-specific criteria promulgated in Appendix E of OAC 252:730. Provided, if the chloride sample concentrations are each less than 250 mg/L, then the Agriculture beneficial use shall be deemed to be fully supported with respect to chloride.

(3) The Agriculture beneficial use designated for a waterbody shall be deemed to be fully supported with respect to sulfate if the mean of all sulfate sample concentrations from that waterbody do not exceed the yearly mean standard prescribed in Appendix F or site-specific criteria promulgated in Appendix E of OAC 252:730 and no more than 10% of the sample concentrations from that waterbody exceed the sample standard prescribed in Appendix F or site-specific criteria promulgated in Appendix E of OAC 252:730.

(4) The Agriculture beneficial use designated for a waterbody shall be deemed to be not supported with respect to sulfate if the mean of all sulfate sample concentrations from that waterbody exceeds the yearly mean standard prescribed in Appendix F or site-specific criteria promulgated in Appendix E of OAC 252:730, or greater than 10% of the sample concentrations from that waterbody exceed the sample standard prescribed in Appendix F or site-specific criteria promulgated in Appendix E of OAC 252:730. Provided, if the sulfate sample concentrations are each less than 250 mg/L, then the Agriculture beneficial use shall be deemed to be fully supported with respect to sulfate.

(5) The Agriculture beneficial use designated for a waterbody shall be deemed to be fully supported with respect to TDS if the mean of all TDS sample concentrations from that waterbody do not exceed the yearly mean standard prescribed in Appendix F or site-specific criteria promulgated in Appendix E of OAC 252:730 and no more than 10% of the sample concentrations from that waterbody exceed the sample standard prescribed in Appendix F or site-specific criteria promulgated in Appendix E of OAC 252:730.

(6) The Agriculture beneficial use designated for a waterbody shall be deemed to be not supported with respect to TDS if the mean of all TDS sample concentrations from that waterbody exceeds the yearly mean standard prescribed in Appendix F or site-specific criteria promulgated in Appendix E of OAC 252:730, or greater than 10% of the sample concentrations from that waterbody exceed the sample standard prescribed in Appendix F or site-specific criteria promulgated in Appendix E of OAC 252:730. Provided, if the TDS sample concentrations are each less than 700 mg/L, then the Agriculture beneficial use shall be deemed to be fully supported with respect to TDS.

(c) **Use of site-specific data.** If the appropriate state environmental agency determines that the stream segment averages prescribed in Appendix F of OAC 252:730 are not appropriate for the entirety of a given stream segment or there is no value listed in Appendix F or site-specific criteria promulgated in Appendix E for the stream segment average for the parameter of concern, then yearly mean standards and sample standards developed from site-specific data may be used to assess whether the use of Agriculture is supported for that waterbody.

(d) **Use of data for lakes.**

(1) **Lakes with one WBID segment.** For support assessment in lakes with a single WBID segment, the segment averaged value prescribed in Appendix F to that same WQM segment shall be used.

(2) **Lakes with multiple WBID segments.** For support assessment in lakes with multiple WBID segments, each segment shall use the segment averaged value prescribed in Appendix F to that same WQM segment when available. If a WBID segment in a lake has no corresponding WQM segment data available in Appendix F, the segment averaged value prescribed in Appendix F to the WQM segment immediately downstream of the lake shall be used.

[Source: Added at 40 Ok Reg 2062, eff 9-15-23; Added at 40 Ok Reg 329, eff 10-25-22 (emergency)]

### **252:740-15-9. Assessment of Fish Consumption support**

(a) **Scope.** The provisions of this Section shall be used to determine whether the beneficial use of Fish Consumption designated in OAC 252:730 for a waterbody is supported.

(b) **Support tests.**

(1) The Fish Consumption beneficial use designated for a waterbody shall be deemed to be partially supported if restricted consumption as imposed by an agency with jurisdiction is in effect or if a fish or shellfish ban is in effect for a sub-population thereof.

(2) The Fish Consumption beneficial use designated for a waterbody shall be deemed to be not supported if an aquatic life closure or if a "no consumption" advisory imposed by an agency with jurisdiction is in effect.

(3) The water column criteria for protection of the Fish Consumption beneficial use stated in OAC 252:730 Appendix G Table 2 shall be used according to the default protocol in OAC 252:740-15-4(c) to determine use support.

[Source: Added at 40 Ok Reg 2062, eff 9-15-23; Added at 40 Ok Reg 329, eff 10-25-22 (emergency)]

### **252:740-15-10. Nutrients**

(a) **General.** OAC 252:730-3-2(c) prohibits water quality degradation by nutrients which will interfere with the attainment or maintenance of any existing or designated beneficial use. OAC 252:740-13-3(a)(1) requires maintenance of any existing or designated beneficial use. This Section provides a framework which shall be used in assessing threats or impairments to beneficial uses and waterbodies and watersheds caused by nutrients, and the consequences of such assessments.

(b) **Determining whether a stream is nutrient-threatened.** The dichotomous process stated in this subsection shall be used in the determination of whether a stream is nutrient-threatened.

(1) The stream order shall be identified. If the stream order is 1, 2 or 3, then proceed to paragraph

(2). If the stream order is not 1, 2 or 3, then proceed to paragraph (9).

(2) The stream slope shall be identified. If the stream slope is greater than or equal to 17 feet per mile, then proceed to paragraph (3). If the stream slope is less than 17 feet per mile, then proceed to paragraph (4).

- (3) Subject to the application of the foregoing paragraphs of this subsection, if phosphorus concentrations in the stream are greater than 0.24 mg/L or if nitrite plus nitrate concentrations in the stream are greater than 4.95 mg/L, then proceed to paragraph (5). If such nutrient concentrations are less than the levels specified in this paragraph, then the stream is not threatened by nutrients.
- (4) Subject to the application of the foregoing paragraphs of this subsection, if phosphorus concentrations in the stream are greater than 0.15 mg/L or if nitrite plus nitrate concentrations in the stream are greater than 2.4 mg/L, then proceed to paragraph (5). If such nutrient concentrations are less than the levels specified in this paragraph, then the stream is not threatened by nutrients.
- (5) Subject to the application of the foregoing paragraphs of this subsection, if the percentage of canopy shading is greater than or equal to 80%, then the stream is not threatened by nutrients. If the percentage of canopy shading is less than 80%, then proceed to paragraph (6).
- (6) Subject to the application of the foregoing paragraphs of this subsection, if the stream's turbidity is organic, then proceed to paragraph (7). If the stream's turbidity is inorganic, then proceed to paragraph (8).
- (7) Subject to the application of the foregoing paragraphs of this subsection, if turbidity measured at seasonal base flow conditions is less than 20 NTU, then the stream is not threatened by nutrients. If turbidity measured at seasonal base flow conditions is 20 or more NTU, then the stream is threatened by nutrients.
- (8) Subject to the application of the foregoing paragraphs of this subsection, if turbidity measured at seasonal base flow conditions is less than 20 NTU, then the stream is threatened by nutrients. If turbidity measured at seasonal base flow conditions is 20 or more NTU, then the stream is not threatened by nutrients.
- (9) Subject to the application of the foregoing paragraphs of this subsection, if the stream slope is greater than or equal to 17 feet per mile, then proceed to paragraph (10). If the stream slope is less than 17 feet per mile, then proceed to paragraph (11).
- (10) Subject to the application of the foregoing paragraphs of this subsection, if phosphorus concentrations in the stream are greater than 1.00 mg/L, or if nitrite plus nitrate concentrations in the stream are greater than 4.65 mg/L, then proceed to paragraph (12). If such nutrient concentrations are less than the levels specified in this paragraph, then the stream is not threatened by nutrients.
- (11) Subject to the application of the foregoing paragraphs of this subsection, if phosphorus concentrations in the stream are greater than 0.36 mg/L, or if nitrite plus nitrate concentrations in the stream are greater than 5.0 mg/L, then proceed to paragraph (12). If such nutrient concentrations are less than the levels specified in this paragraph, then the stream is not threatened by nutrients.
- (12) Subject to the application of the foregoing paragraphs of this subsection, if the stream's inorganic turbidity measured at seasonal base flow conditions is greater than or equal to 20 NTU, then the stream is not threatened by nutrients. If the stream's inorganic turbidity measured at seasonal base flow conditions is less than 20 NTU, then the stream is threatened.

**(c) Alternative to dichotomous process for streams.**

- (1) A wadable stream shall be deemed threatened by nutrients if the arithmetic mean of benthic chlorophyll-a data exceeds 100 mg per square meter under seasonal base flow conditions, or if two or more benthic chlorophyll-a measurements exceed 200 mg per square meter under seasonal base flow conditions. A non-wadable stream shall be deemed threatened by nutrients if planktonic chlorophyll-a values in the water column indicate it has a Trophic State Index (TSI) of 62 or greater.
- (2) If clear and convincing evidence indicates a result for a stream different from that obtained from application of the dichotomous process in (b) of this Section, then the appropriate state environmental agency may, after completing the public participation process developed by the Secretary of Environment pursuant to 27A O.S. § 1-2-101, accordingly identify the stream as threatened or not threatened by nutrients.

**(d) Demonstration that nutrients may be adversely impacting a beneficial use.** If it is demonstrated by the Trophic State Index or by other relevant data as provided in OAC 252:740-15-1(c) that nutrient loading

in a waterbody may be adversely impacting a beneficial use designated for that waterbody, then DEQ may determine that the waterbody and its watershed is an NLW, and shall identify the waterbody and watershed as NLW in Appendix A of OAC 252:730.

(e) **Consequence of identification as NLW.** If a waterbody or its watershed is identified as NLW in Appendix A of OAC 252:730, then DEQ or other appropriate state environmental agency may cause an impairment study to be performed. Provided, if an impairment study demonstrates that the uses are not threatened, then DEQ shall consider deleting the NLW identification.

(f) **Consequence of assessment that use is threatened by nutrients.** If it is determined that one or more beneficial uses designated for a waterbody are threatened by nutrients, then that waterbody shall be presumed to be nutrient-threatened. If it is determined or presumed, in accordance with this Section, that a waterbody is nutrient-threatened, then before the waterbody is determined to be nutrient-impaired, an impairment study must be completed by the appropriate state environmental agency.

(g) **Result of impairment study.**

(1) **Impaired.** If, independent of or in addition to the process set forth in this Section, an impairment study of a waterbody demonstrates that any beneficial use designated for a waterbody is impaired by nutrients, then the appropriate state environmental agency shall initiate the appropriate listing procedure in accordance with the public participation process developed by the Secretary of Environment pursuant to 27A O.S. § 1-2-101 for each such beneficial use.

(2) **Not impaired.** If, independent of or in addition to the process set forth in this Section, an impairment study of a waterbody demonstrates that all beneficial uses designated for that waterbody are not impaired by nutrients, then the appropriate state environmental agency shall initiate the appropriate de-listing procedure in accordance with the public participation process developed by the Secretary of Environment pursuant to 27A O.S. § 1-2-101.

[Source: Added at 40 Ok Reg 2062, eff 9-15-23; Added at 40 Ok Reg 329, eff 10-25-22 (emergency)]

#### **252:740-15-11. Assessment of Navigation support**

The beneficial use of Navigation designated for a waterbody shall be deemed to be fully supported for the purpose of water quality reporting.

[Source: Added at 40 Ok Reg 2062, eff 9-15-23; Added at 40 Ok Reg 329, eff 10-25-22 (emergency)]

#### **252:740-15-12. Assessment of Aesthetics support**

(a) **General provisions for all waterbodies other than Scenic Rivers.** The tests prescribed in OAC 252:740-15-4 may be used to determine whether the beneficial use of Aesthetics designated in OAC 252:730 for a waterbody other than the Scenic Rivers is supported.

(b) **Special provisions for Scenic River reaches of Mountain Fork River, Lee Creek and Little Lee Creek.**

(1) **Scope and applicability.** This subsection shall be used to determine whether the Aesthetics beneficial use designated in OAC 252:730 is supported with respect to the total phosphorus criterion for Mountain Fork River, Lee Creek and Little Lee Creek.

(2) **Data and procedure.**

(A) The data used shall satisfy all of the requirements of OAC 252:740-15-3 except subsection (f) thereof. Notwithstanding such requirements, the data shall include samples collected from stream flow of at least six (6) storm events per calendar year or, if fewer than nine (9) storm events occurred in that year, then the majority of the storm events that occurred that year.

(B) Whenever multiple samples are taken from a single storm event, the event mean concentration shall be determined and used as representative of that storm event.

(C) A three-calendar-month geometric mean concentration shall be determined each month using the total phosphorus data from that month together with such data from the preceding two calendar months.

(3) **Support tests.**



(A) The Aesthetics beneficial use designated for a segment of a Scenic River shall be deemed to be supported with respect to total phosphorus if less than 25% of the monthly determinations made in accordance with (b)(2)(C) of this Section exceed 0.037 mg/L total phosphorus.

(B) The Aesthetics beneficial use designated for a segment of a Scenic River shall be deemed to be not supported with respect to total phosphorus if 25% or greater of the monthly determinations made in accordance with (b)(2)(C) of this Section exceed 0.037 mg/L total phosphorus.

**(c) Special provisions for Scenic River reaches of Illinois River, Flint Creek, and Barren Fork Creek.**

(1) **Scope and applicability.** This subsection shall be used to determine whether the Aesthetics beneficial use designated in OAC 252:730 is supported with respect to the total phosphorus criterion for Illinois River, Flint Creek, and Barren Fork Creek.

(2) **Data and procedure.**

(A) The data used must satisfy all the requirements of OAC 252:740-15-3, unless otherwise specified in this subsection.

(B) A rolling 6-month arithmetic mean must be calculated based on data from the current month and the five (5) preceding months. The calculation of a rolling 6-month arithmetic mean must include at least four values from four separate months. All available individual data values from any given month must be included in the rolling 6-month arithmetic mean calculation.

(C) A minimum of ten (10) rolling 6-month arithmetic means are required to assess the Aesthetic beneficial use within a one-year period. The minimum of ten (10) rolling 6-month arithmetic means shall not be required upon affirmation that the beneficial use is not supported per of OAC 252:740-5-14(c)(3)(B).

(D) A minimum of thirty (30) rolling 6-month arithmetic means are required to assess the Aesthetic beneficial use within a five-year period. The minimum of thirty (30) rolling 6-month arithmetic means shall not be required upon affirmation that the beneficial use is not supported per of OAC 252:740-5-14(c)(3)(B).

(3) **Support Tests.**

(A) If no more than one rolling 6-month arithmetic mean in any one-year period and not more than three rolling 6-month arithmetic means in any 5-year period exceed the total phosphorus criterion magnitude of 0.037 mg/L, the Aesthetic beneficial use is supported.

(B) If more than one rolling 6-month arithmetic mean in any one-year period or more than three rolling 6-month arithmetic means in any 5-year period exceed the total phosphorus criterion magnitude of 0.037 mg/L, the Aesthetic beneficial use is not supported.

[Source: Added at 40 Ok Reg 2062, eff 9-15-23; Added at 40 Ok Reg 329, eff 10-25-22 (emergency)]

## **SUBCHAPTER 17. IMPLEMENTATION OF DISSOLVED OXYGEN CRITERIA TO PROTECT FISH AND WILDLIFE PROPAGATION**

### **252:740-17-1. Applicability and scope**

Rules in this Subchapter are designed to implement the criteria for dissolved oxygen prescribed in OAC 252:730 Appendix G Table 1 for protection of the beneficial use of Fish and Wildlife Propagation.

[Source: Added at 40 Ok Reg 2062, eff 9-15-23; Added at 40 Ok Reg 329, eff 10-25-22 (emergency)]

### **252:740-17-2. Regulatory flows**

(a) The flow in the receiving stream,  $Q_{R}$ , shall be deemed to be the greater of the 7Q2 or 1 cfs. If the 7Q2 is unknown, then  $Q_{R}$  shall be deemed to be 1 cfs.

(b) For industrial dischargers with adequate data as determined by the permitting authority, the effluent flow,  $Q_{E}$ , shall be deemed to be the highest monthly averaged flow over the previous two years. For all other discharges, the effluent flow shall be deemed to be the design flow.

(c) Provided, in stream segments where dams or other structures have substantially affected the historic flow regime of the stream segment, including but not limited to the portions of the Verdigris and Arkansas Rivers constituting the McClellan-Kerr Arkansas River Navigation System, the appropriate regulatory low flow in the receiving stream,  $Q_U$ , shall be as determined on a site-specific basis pursuant to properly designed and implemented hydrologic study approved by the permitting authority and DEQ.

[Source: Added at 40 Ok Reg 2062, eff 9-15-23; Added at 40 Ok Reg 329, eff 10-25-22 (emergency)]

### **252:740-17-3. Reasonable potential determination**

(a) A permit limit for oxygen demanding substances is required if there is a reasonable potential that the dissolved oxygen criteria will not be satisfied. Such a reasonable potential is demonstrated whenever an existing discharger proposes to increase the concentration or load of oxygen demanding substances, a new discharge of oxygen demanding substances is created, or a receiving waterbody is reclassified to a subcategory of the Fish and Wildlife Propagation beneficial use with a more stringent dissolved oxygen criterion.

(b) The permitting authority may base its determination of the reasonable potential upon meeting the dissolved oxygen standard at the applicable regulatory low flow and at the applicable seasonal temperatures prescribed in Table 1 of Appendix G of OAC 252:730.

[Source: Added at 40 Ok Reg 329, eff 10-25-22 (emergency); Added at 40 Ok Reg 2062, eff 9-15-23]

## **APPENDIX A. [Reserved]**

[Source: Reserved at 40 Ok Reg 329, eff 10-25-22 (emergency); Reserved at 40 Ok Reg 2062, eff 9-15-23]

## **APPENDIX B. Mean Hardness (CACO<sub>3</sub>) and PH by Stream Segment**

Figure 1

<b>SEGMENT</b>	<b>MEAN pH</b>	<b>MEAN HARDNESS</b>
120400	7.87	197.40
120410	8.02	262.00
120420	7.77	267.83
121300	7.50	153.00
121400	7.62	170.41
121500	7.47	162.38
121510	7.67	186.00
121600	7.52	169.27
121610	7.40	133.65
121700	7.46	106.55
220100	6.96	25.76
220200	7.74	165.00
220600	7.66	253.48
250510	7.81	294.00
310800	7.89	532.00
310810	7.90	756.44
310830	7.84	924.35
310840	7.96	1137.00
311100	7.86	593.20
311200	7.78	532.94
311210	7.67	470.00
311300	7.65	268.33
311310	7.77	296.00
311500	8.04	838.12
311510	7.95	1041.00

Figure 2

<b>SEGMENT</b>	<b>MEAN pH</b>	<b>MEAN HARDNESS</b>
311600	7.95	1540.00
311800	7.81	2095.00
331510	8.03	1147.00
410200	6.82	32.00
410210	6.89	18.76
410300	7.17	28.42
410400	7.62	192.98
410600	7.84	234.00
520500	7.97	282.00
520520	7.70	344.00
520530	8.07	454.43
520600	8.04	380.00
520610	8.22	442.00
520620	8.08	612.00
520700	7.82	276.16
520710	7.80	272.00
520800	7.69	332.99
620900	8.10	506.01
620910	7.85	802.56
620920	7.99	1297.07
621000	8.08	512.06
621010	8.02	865.00
621100	7.80	367.00
621200	7.83	264.55
720500	8.16	622.00

[Source: Added at 40 Ok Reg 329, eff 10-25-22 (emergency); Added at 40 Ok Reg 2062, eff 9-15-23]

### **APPENDIX C. Index of Biological Integrity**

Figure 1

		5	3	1	SCORE
Sample Composition	Total no. of species	See figure 1			
	Shannon's diversity* based upon numbers	>2.50	2.49-1.50	<1.50	
	No. of sunfish species	>3	2-3	<2	
	No. of species comprising 75% of sample	>5	4-3	<3	
	No. of intolerant species <100mi <sup>2</sup> area >100mi <sup>2</sup> area	>5	3-5	<3	
		See figure 2			
	Percentage of tolerant species	See figure 3			
Fish Condition	Percentage of lithophils	>36	18-36	<18	
	Percentage of DELT anomalies**	<0.1	0.1-1.3	>1.3	
	Fish numbers (total individuals)	>200	200-75	<75	

$$* d = - \sum \frac{n_i}{N} \ln \frac{n_i}{N}$$

\*\* DELT = deformities, eroded fins, lesions, tumors

Figure 2

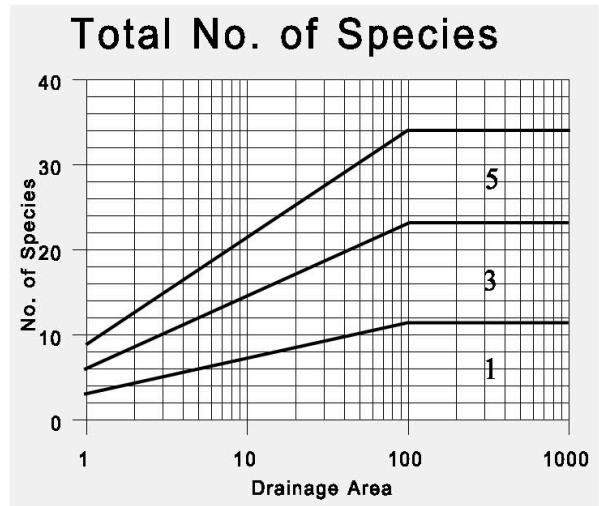


FIGURE 1. Total No. of Species

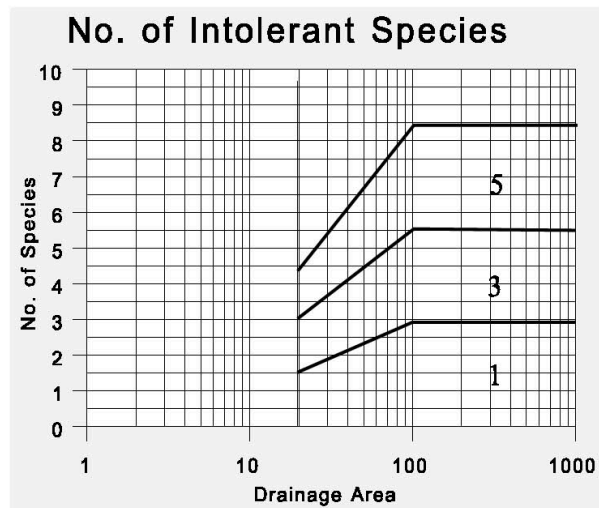
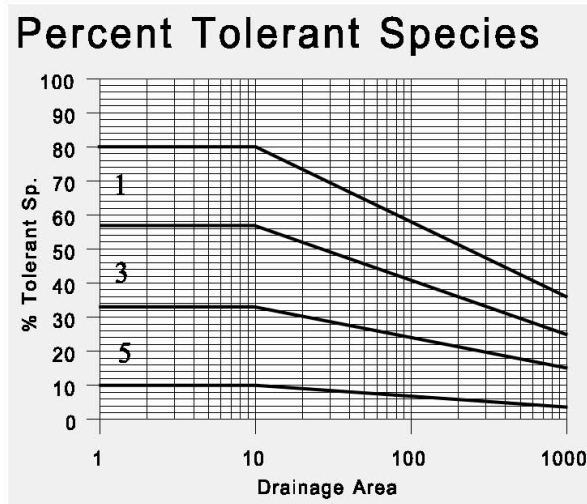


FIGURE 2. No. of Intolerant Species



**FIGURE 3. Percent Tolerant Species**